



STATE BOARD OF EQUALIZATION

LEGAL DIVISION (MIC:82)
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December 3, 1993

BURTON W. OLIVER
Executive Director

Ms. B--- N---
Tax Accountant
B---, Inc.
XXXX East ---, Suite XXX
---, TX XXXXX

Re: SY -- XX-XXXXXX

Dear Ms. N--:

On May 15, 1991 the Legal Unit of the State Board of Equalization wrote you a letter regarding the application of sales tax to purchases in which the customer uses "B---Bucks." In that letter we concluded that the value of the B---Bucks should be included in gross receipts, which is the amount upon which sales tax is computed.

Since we wrote that letter, we have reconsidered our position on this matter and conclude that B---Bucks should not be included in gross receipts.

Revenue and Taxation Code section 6051 imposes a sales tax on all retailers measured by their gross receipts from retail sales of tangible personal property. "Gross receipts" is defined in Revenue and Taxation Code section 6012(a) as the total amount of the sale price of the retail sales of retailers, valued in money, whether received in money or otherwise. The total amount of the sale price includes any amount for which credit is allowed by the seller to the purchaser. Rev. & Tax. Code § 6012(b)(3). A cash discount, however, is not included in the measure of tax. Rev. & Tax. Code § 6012(c)(1).

The Board's staff issued and published an opinion on a question similar to yours in the Sales and Use Tax Annotations of the Business Taxes Law Guide. In Annotation 295.0920 a retailer had a Christmas Club Plan in which customers received a discount upon the purchase of merchandise between December 1 and December 24 in the amount of 2.5% of the aggregate

sales slips presented by the customer for purchases between January 1 and November 30 of the current year. The staff determined that the discount should be treated as a trade discount.

As in the annotation, B--- gives price discounts to A--- Customers based upon prior purchases. We regard these discounts as trade discounts which should not be included in the measure of tax.

A copy of our prior letter is enclosed. You should begin following the advice in this letter no later than the second quarter of 1994. If you have further questions regarding Sales and Use Tax Law, please do not hesitate to write again.

Sincerely,

Elizabeth Abreu
Tax Counsel

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