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March 11, 1993

Ms. T--- P---
S--- Dodge/BMW
XXX East --- Street
---, CA XXXXX

Dear Ms. P---:

This is in response to your memorandum faxed to the Board on February 1, 1993. According to your memorandum, a factory issues to its customers coupons which the customers may bring to your business to receive a "free" filter with an oil change. We assume that a customer who redeems the coupon with your business pays an amount that is less than the amount you normally charge for an oil change. You are reimbursed the cost of the filter by the factory.

You ask about the application of sales tax to these transactions. In answering your inquiry, we assume that the factory is a separate entity from S--- Dodge and that the factory does not charge its customers for the coupons.

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. Although the sales tax is imposed upon the retailer, the retailer may collect sales tax reimbursement (usually itemized on the invoice as "sales tax") from the purchaser if the contract of sale so provides. Civ. Code § 1656.1.

Sales and Use Tax Annotation 295.0430 provides:

"Redemption of Coupons. Amounts paid by a manufacturer to a retailer in redemption of coupons pursuant to an agreement permitting the retailer to publish the coupons in newspapers and handbill advertisements to be used by the retailer's customers in purchasing the product of the manufacturer, are includable in the retailer's gross receipts. 5/9/73."

This annotation also applies where the manufacturer issues the coupons.

In the instant case, S--- Dodge is the retailer of the filters, and therefore S--- Dodge must pay tax measured by the amount it is entitled to from the factory as reimbursement for the filters. The customer, not the factory, is regarded as the purchaser. S--- Dodge may, by contract, charge the customer sales tax reimbursement on the sale of the oil filter. If S--- Dodge intends to charge sales tax reimbursement on the filters, the coupons should indicate that the customers will be required to pay applicable sales tax on the filters.

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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