



STATE BOARD OF EQUALIZATION

October 15, 1951

Dear Mr. ---:

This is in reply to your letter of September 18, 1951, in which you ask concerning the application of State sales tax to certain excessive charges your client makes for city sales tax reimbursement. You state that your client's salesman sometimes erroneously charge 3½% sales tax on sales outside the city limits of Los Angeles. Of this amount 3% is paid to the State, and your client apparently retains the excessive ½% in cases where the city tax is inapplicable.

Section 6012 of the Sales and Use Tax Law defines "gross receipts" subject to tax so as to include "all receipts, cash, credits, and property of any kind", except that, among other items, there may be excluded "the amount of any tax imposed by any city" upon retail sales. The exclusion is with respect to the amount of tax imposed. Accordingly, it is our opinion that only the actual amount of tax imposed by the city may be excluded from "gross receipts" taxable by the State.

Where amounts are erroneously charged by your client from city sales tax in excess of the tax due the city, it is our opinion that the excess is a part of the gross receipts subject to the State tax.

Very truly yours,

E. H. Stetson
Tax Counsel

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cc: