



STATE BOARD OF EQUALIZATION

(916) 324-8208

January 9, 1992

Mrs. M--- B---
Assistant Manager
The F--- P---
XXXX --- --- Avenue
--- ---, California XXXXX

Re: Application of Sales Tax to Sales of Guns for Private Parties
SR -- XX-XXXXXX

Dear Mrs. B---:

Your letter dated October 10, 1991, has been forwarded to me for a response. In your letter you state as follows:

“We are writing to find out if we are required to collect sales tax on guns that are sold by private parties who use our shop to do the state paperwork.”

We assume that these guns are sold by your business on consignment for the owners, that you have possession of the guns until they are sold, and that you have the power to transfer title to the guns to the buyer without any further action on the part of the owners. If this is the case, then you are the retailer of the guns if the guns are sold at retail, and your business is liable for the sales tax on these sales. (Regulation 1569, “Consignees and Lienors of Tangible Personal Property for Sale.”)

If our assumptions are incorrect, please write to us and give us a detailed description of the sales your business makes for private parties. We are enclosing a copy of Regulation 1569 for your information.

Sincerely,

Elizabeth Abreu
Tax Counsel

EA:cl
0543E
Enclosure



STATE BOARD OF EQUALIZATION

(916) 324-8208

February 20, 1992

Mrs. M--- B---
The F--- P---
XXXX --- --- Avenue
--- ---, California XXXXX

Re: Application of Sales Tax to Sales of Firearms
SR -- XX-XXXXXX

Dear Mrs. B---:

By letter January 11, 1992, you responded to my earlier letter in which I concluded that you were liable for sales tax as the consignee for sales of guns owned by private parties. In your January letter you state:

“We provide a service to the public since the change in the law requiring private parties to sell firearms only through licensed dealers. This service is simply to file the required state paperwork to the Department of Justice, for which there is a fee of \$20.00. Our question is, must we charge sales tax on the \$20.00 fee? Or, is this a service charge, and therefore non-taxable?”

We assume that the firearm statutes you are referring to are sections 12072(c) and 12082 of the Penal Code which provide that when neither party to a transaction for the sale of a firearm is a licensed dealer, the parties must complete their transaction through a licensed dealer. The seller must deliver the firearm to the dealer who retains possession until he or she follows certain statutory requirements. After the requirements have been met, the dealer delivers the firearm to the purchaser. The dealer may require the purchaser to pay a fee not to exceed \$10 plus the fee which the Department of Justice may require. As used in these statutes, “firearm” means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of an explosion or other form of combustion. It does not include an antique firearm or certain curios or relics as defined by federal law. Penal Code 12001.

Whether you are liable for sales tax on these transactions depends upon whether you are the retailer of the firearm. If an owner of a firearm and a purchaser have negotiated the terms of the sale in advance and then bring the firearm to you to meet the statutory requirements of the Penal Code, you are not the retailer of the gun and you do not owe tax on the \$20 fee or the owner's other charges for the firearm. If, however, an owner of a firearm brings the gun to you and requests you to find a buyer, you are the consignee and retailer of the firearm and are liable for sales tax on the sale. In that case, you must include all fees in the measure of tax.

I hope this answers your question. If you have further questions regarding sale and use tax law, please do not hesitate to write again.

Sincerely,

Elizabeth Abreu
Tax Counsel

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