



---

**STATE BOARD OF EQUALIZATION**

March 4, 1981

916-445-3237

Your letter of February 10, 1981 to --- of the San Jose District office has been referred to the legal staff for reply. Your inquiry concerns the correct application of tax to your sale of tangible personal property to the Federal Republic of Germany.

We understand that --- has several contracts with the Federal Republic of Germany's Ministry of Defense (BWB). --- representative within the U.S.A., the German Military Representative (GMR), operates a transportation warehouse and shipping facility in Sun Valley, California. The GMR claims that their shipping facility is operated in such a manner that shipment from within the State of California to the facility are exempt from California sales tax.

Revenue and Taxation Code Section 6387 exempts from sales tax the "gross receipts from sales of tangible personal property purchased for use solely outside the United States and delivered to a forwarding agent, export packer, or other person engaged in the business of preparing goods for export or arranging for their exportation, and actually delivered to a port outside the continental limits of the United States prior to making any use thereof."

It is our opinion that the requirements of Section 6387 are not met under the facts you describe. Although the effect of GMR's operations in California may be similar to the operations of a forwarding agent, delivery to a purchasing entity in California will in all cases render the exemption found in Section 6387 inapplicable.

In conclusion, it is the position of this Board that sales of tangible personal property to the Federal Republic of Germany's Ministry of Defense which are delivered to the Ministry's representatives in California, the GMR, for later export to Germany, are subject to sales tax.

If you have further questions concerning this matter, please write this office.

Very truly yours,

Mary c. Armstrong  
Staff Counsel