

**STATE BOARD OF EQUALIZATION**

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June 10, 1994

 BURTON W. OLIVER
 Executive Director

Dear X-----,

I am responding to your letter of April 11, 1994. You inquire whether your company may accept direct payment certificates from your customers, in lieu of collecting use tax from them. You enclosed a letter from our Return Review Section, dated March 23, 1994, which states that direct payment by customers is contrary to the California Sales and Use Tax Law. You are confused by this statement since Revenue and Taxation Code section 7051.1 authorizes the Board to issue direct pay permits to qualified businesses.

When a California retailer or a retailer engaged in business in this state makes a retail sale to a California consumer, direct payment of tax by the consumer is generally not authorized by the California Sales and Use Tax Law. However, Revenue and Taxation Code section 7051.1 sets forth a special rule whereby the Board may issue a direct payment permit to a qualified applicant under the guidelines adopted by the Board. The Board has adopted such guidelines in Regulation 1699.5, a copy of which is enclosed. A person applying for a direct payment permit must have gross receipts from sales of tangible personal property of at least \$75,000,000 and purchases of tangible personal property subject to sales or use tax of at least \$75,000,000 in any calendar quarter during the twelve months immediately preceding the application for the permit. As of this time, no direct payment permits have been issued by the Board.

If you are making a retail sale to your customer, that sale is subject to sales or use tax. Since the Board has not issued any direct pay permits, your acceptance of a document characterized as a direct payment certificate will not relieve you of liability for the applicable tax.

If I can be of further help, please do not hesitate to write again.

Very truly yours,

Victor G. Matl
 Tax Counsel

Enclosure – Regulation 1699.5