



STATE BOARD OF EQUALIZATION

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Executive Director

September 22, 1995

X-----

Dear X-----,

This is in response to your letter dated July 12, 1995, regarding suggested minimum donations. You state:

"I need to obtain from you in writing the reasons why the little leagues that I service have to pay sales tax on their 'donation' received from each player through an added amount to the price of each package. In other words, my price that I need is \$15 per package, sales tax included. The league then adds \$2 'donation' or commission to that amount. Instead of turning over that amount to them, I deduct the sales tax and pay it to you. Then, I give them their donation minus the sales tax. They want to see the reasons for this IN WRITING. So, please send this to me so that I can show them that I am doing it right. Thanks!"

**DISCUSSION**

Retail sales of tangible personal property in California are subject to sales tax, measured by gross receipts, unless specifically exempt by statute. (Rev. & Tax. Code § 6051.) Although it is not clear from your letter, our understanding is that you sell packages of photographs for \$17.00 and that you have an agreement with the little leagues that you will donate \$2. From the sale of each purchase to the little leagues. That is, it appears that the selling price of each package is \$17., and that the purchaser cannot purchase a package for \$15. by withholding the \$2. "donation." As such, the entire charge for the package is subject to tax. (See Business Taxes Law Guide Annotation 495.0370 (10/16/72.)

If you have further questions, please feel free to write again. If you do write again, please provide a step-by-step, detailed explanation of the transactions about which you inquire, and please also provide copies of any relevant contracts.

Sincerely,

Kelly W. Ching  
Staff Counsel