



STATE BOARD OF EQUALIZATION

916-445-8485

February 9, 1988

X-----

Dear X-----,

This is in response to your letter of November 20, 1987. We apologize for any inconvenience caused you by the delay in our response.

You asked that we confirm your understanding that wheelchair parts and labor which you provide your customers in repairing their wheelchairs are not subject to tax.

Generally speaking, retailers in California are subject to tax based upon gross receipts from their retail sales of tangible personal property. (See Revenue and Taxation Code §§ 6051, 6012). An exception to this general rule is found in Section 6369.2 which exempts from tax sales of wheelchair replacement parts when sold to an individual for the personal use of that individual as directed by a physician.

As can be seen then, to the extent that you are the retailer of wheelchair replacement parts to customers for personal use as directed by a physician, such sales are not subject to tax. You should be aware, however, that under certain circumstances (discussed below) you may be considered the consumer rather than the retailer of the parts. In those cases, the sales to you of the parts are taxable. Those circumstances arise if the retail value of the parts and materials furnished in connection with the repair work is 10 percent or less of the total charge made to the customer and if no separate charge is made for the parts and materials (Regulation 1546(b)(2), copy enclosed). If you separately state the charges for parts and materials you remain the retailer regardless of the percentage allocable to such items. (Regulation 1546(b)(1)).

None of the labor charges made in connection with your repair operations are taxable. (Revenue and Taxation Code S 6012(c)(3): Regulation 1546(a)).

To avoid future audit problems, we suggest you retain evidence from your customers, such as doctors' notes or prescriptions, showing that the items you provide are for individual use as directed by a physician.

Sincerely,

E. L. Sorensen, Jr.
Senior Tax Counsel

ELS:jb
Enclosure

Bc: Robert J. Stipe