

**STATE BOARD OF EQUALIZATION**

(916) 445-5550

February 13, 1990

Mr. G--- O---  
XXXX --- --- #XXX  
--- ---, CA XXXXX

Dear Mr. O---:

This is in response to your letter dated January 20, 1990 regarding the following circumstances:

“In February of 1989, I purchased a VCR from M--- Stereo. The unit began to malfunction approximately 8 months later, so I took it to a [VCR] Service Center. They checked it over multiple times and the problem persisted, so they gave me an option to refund the price I paid for it. However, they deducted the sales tax from the amount refunded saying it was not up to them to refund the tax.”

Initially, we note that although M--- probably itemized an amount on the invoice to you as “sales tax,” this amount was actually sales tax reimbursement. The retailer (M---) is the person who owes the sales tax, but the retailer may collect sales tax reimbursement from the customer if their contract of sale so provides. The retailer may take a deduction on his sales tax return when he accepts a return of the merchandise and refunds the full sale price including that portion designated as “sales tax.” This means that when a transaction qualifies for this deduction, the retailer is, in effect, not out of pocket for the amount of “sales tax” he refunds to the customer.

As I understand the facts about which you inquire, it was not the retailer that refunded the money to you, but rather the manufacturer of the VCR. If the manufacturer were to refund the “sales tax” to you, the manufacturer would not be entitled to take a deduction on its sales tax return with respect to that refund since it paid no sales tax with respect to the sale of the VCR to you (M--- is the person paying the sales tax.) The only person who would have been entitled to take a deduction on its sales tax return with respect to a refund of “sales tax” to you is M---, the retailer, and only if M--- were the person giving you a full refund of your sale price plus “sales tax.” The refund given to you by the manufacturer does not qualify for the deduction. Although M--- or [VCR] may wish to refund the “sales tax” to you for business reasons, the Sales and Use Tax Law does not require that they do so and does not permit them a deduction on account of such refund.

I assume that this is not the answer that you had hoped for, but I hope that at least I have answered your question. If not, or if you have further questions, feel free to write again.

Sincerely,

David H. Levine  
Tax Counsel

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