



STATE BOARD OF EQUALIZATION

August 25, 1958

X-----

Your letter of June 26

Dear Mr. X-----:

As we understand the facts, it appears that your client is a furniture wholesaler and that he is regularly engaged in the business of selling furniture to retail dealers. However, in many cases where a dealer does not stock an item desired by a customer, he sends the customer to your client who in turn undertakes to show the customer the item or items desired. If the customer desires to purchase an item, your client ships said item from his warehouse directly to the customer and receives payment therefore from said customer. The payment made to your client includes his wholesale price plus the profit desired by the dealer. Upon receiving the payment, your client retains so much thereof as constitutes his wholesale price and remits the balance to the dealer who sent the customer. The invoice sent out by your client shows the merchandise in question as being sold to the dealer and consigned to the customer.

The problem presented is whether this transaction constitutes a sale to the dealer for resale to the customer or a retail sale directly by your client to the customer sent by the dealer.

In view of the fact that your client's invoice, which is the only document evidencing the transaction, shows that the sale is made to the dealer and that copies of this invoice are given both to the customer and dealer, it is fair to conclude that it is the understanding of all of the parties that the dealer is the retail seller and that in transferring the merchandise to the customer and accepting payment therefore your client is acting on behalf of the dealer.

The past transactions, where your client has kept the sales tax reimbursement and reported the sales as part of his taxable gross receipts, will be accepted as reported. However, in order to be consistent with this position, your client in the future should in all such cases remit the sales tax reimbursement to the dealer and accept a resale

certificate from him rather than retain the sales tax reimbursement and report the gross receipts as part of his taxable sales on his own return.

Very truly yours,

Stanley G. Lerner
Assistant Counsel

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cc: Los Angeles – Administrator