



STATE BOARD OF EQUALIZATION

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November 28, 1995

Ms. C--- A---
C--- A---
P.O. Box XXXXX
--- ---, CA XXXXX

Re: C--- A---
Account No. SR --- XX-XXXXXX

Dear Ms. A---:

This is in response to your letter dated September 22, 1995 asking how tax applies to business activities undertaken by C--- A---.

You state:

“C--- A--- . . . is a marketing and event planning service. As a sole proprietor I market and represent various caterers and restaurants that cater. I market these businesses and corporations, acting almost as a broker. In some cases I also act as an event planner to coordinate a larger function.

“When an event is booked, the restaurant or caterer sends C--- A--- an invoice and C--- A--- in turn sends an invoice to the business or corporation who makes the check payable to C--- A---. My compensation is with the caterer or restaurant as I receive a certain percentage of the total cost of food and beverage. When I charge for event planning service that cost is directly charged to the business or corporation.”

Discussion

Retail sales of tangible personal property in California are subject to sales tax, measured by the gross receipts, unless the sale is specifically exempt from taxation by statute. (Rev. & Tax. Code § 6051.) The term “sale” means any transfer of title or possession of tangible personal property for consideration. (Rev. & Tax. Code § 6006(a).) A sale at retail means a sale for any purpose other than resale in the regular course of business. (Rev. & Tax. Code § 6007.) Although the retailer owes the sales tax, the retailer may collect sales tax reimbursement from the purchaser if the contract of sale so provides. (Civ. Code § 1651.1.)

A caterer is a person engaged in the business of serving meals, food, and drinks on the premises of her customers or on premises supplied by the customers. (Reg. 1603(h).) Tax applies to the entire charge made by the caterer for serving meals, food, and drinks, including all charges for food, use of dishes, silverware, glasses, chairs, and tables used in conjunction with serving meals, as well as the charge for the labor of planning and serving the meals, whether performed by the caterer or by the caterer's employees or subcontractors. (Id.) Similarly, tax applies to the sales of meals or hot prepared food products furnished by restaurants whether served on or off the premises. (Reg. 1603(a).)

First, you ask: “Who charges, collects and pays to the state sales tax: C--- A--- or the individual caterers and restaurants?” As discussed above, the person who owes the sales tax is the retailer. Thus, if you are the retailer, you would owe the sales tax and may collect sales tax reimbursement from the purchaser if the contract of sale so provides. Under the facts you describe, the restaurants or caterers would be the retailer only if you acted as their agent. You state that you acted “almost” as a broker. You are the person contracting with the businesses and corporations for the sale. We therefore understand that you are buying and selling for your own account and that you are not acting as an agent for the restaurants or caterers. Accordingly, the retail sale in this situation is the sale by you to the businesses and corporations. Since you are the retailer, you owe sales tax measured by the entire charge for catering collected from the businesses and corporations. You should issue the caterers and restaurants resale certificates in the form set forth in Regulation 1668, a copy of which is enclosed.

Next, you ask: “When I am charging for my services as an event planner do I charge sales tax?” Sales tax does not apply to charges for services which are not regarded as services that are part of the sale of tangible personal property and which do not themselves constitute the sale of tangible personal property. (Rev. & Tax. Code §§ 6006(b), 6012; Reg. 1501.) However, our understanding is that your event planning is a preliminary step in your contract to furnish the party supplies, meals, food, and beverages for the event. In this situation, sales tax applies to the entire charge for furnishing the party supplies, meals, food, and beverages, including the charge for your labor in planning the event because the charge for your labor would be regarded as a charge for services that are part of the sale of tangible personal property.

If you have any further questions, please write again. If you do so, please provide a detailed description of the activities undertaken by C--- A--- as an event planner, including a complete description of what is provided to your customers, along with copies of any contracts relevant to your inquiry.

Sincerely,

Sophia H. Chung
Staff Counsel

SHC:rz

Enclosures: Regs. 1501 and 1668

cc: --- District Administrator (--)