

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
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June 14, 1989

Mr. R--- K. P---
Vice President
T--- C---, Inc.
XXXX --- Street, #-X
--- ---, CA XXXXX

SR -- XX-XXXXXX

Dear Mr. P---:

This is in reply to your April 4, 1989 letter regarding the application of sales tax to charges to T--- C---, Inc., by lessor of tangible personal property. T--- provides the property to its clients in connection with events which T--- caters for the client.

We understand that you receive a request for a bid for your various products and services from potential clients who present you with different situations. Sometimes you provide only food, beverages and service staff while the client arranges for all of the other event services, and the client rents property from rental companies. More frequently, the client requests you to purchase flowers, party favors, and other non-food items. You may also rent from the rental companies decorative props, lighting, sound systems, video systems, and other rented party hardware for the event. You note that each such rental is unique and includes only those particular items a client lacks for his or her event. The rental company delivers the rented equipment directly to the client for one-time use and returns the following day to pick up the equipment.

You consider that your entire charge is subject to sales tax. You issue your resale certificate to rental companies and see nothing in Sales and Use Tax Regulation 1603, Taxable Sales of Food Products, to direct you otherwise. However, during a recent audit of T--- by the San Francisco District office, the audit staff disallowed your issuance of the resale certificates to the rental companies, and asserted use tax on your use of the property.

When you cater an event, tax applies to your entire charge including your charge for the use of dishes, silverware, glasses, chairs, tables, champagne fountains, and other property you use in connection with your serving the meals. You cannot issue a resale certificate on your purchase or renting of such items, because you do not sell or rent such items to your clients. Rather, you use such items in connection with your sale of the meals. (Sales and Use Tax Reg. 1603, subd. (h).)

On the other hand, it is our opinion that you may issue a resale certificate to a rental company to lease tangible personal property which you in turn sublease to your clients when the clients have specifically ordered such property and the property is property not customarily provided in connection with the preparation and furnishing of food. Such property could be decorative props, such as artificial floral displays; lighting for guest speakers; sound systems; and video systems. (Cf. BTLG Annot. 550.0380.) We do not know what you mean by "other rented party hardware". If the party hardware is an item such as a champagne fountain or a punch bowl, which would be customarily used by you in serving meals or drinks, you are the consumer of such an item, and you may not issue a resale certificate to the rental company.

By a copy of this letter, we are recommending that the audit staff delete from the audit the cost of items that you subleased to your clients in accordance with this letter.

Very truly yours,

Ronald L. Dick
Tax Counsel

RLD:sr

bc: --- --- – District Administrator
Mr. E. L. Sorensen, Jr.