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September 8, 1994

 BURTON W. OLIVER
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Mr. J--- M---
 Director of Operations
 XXst C--- P--- P---
 XXXX --- Avenue, Suite -
 --- ---, CA XXXXX

Dear Mr. M---:

I am responding to your letter of May 4, 1994. I apologize for the delay in our response. You ask whether a "handling charge" is taxable on an invoice which is composed of only taxable items, only non-taxable items, or a mixture of taxable and non-taxable items.

When you make a taxable retail sale of tangible personal property in California, you owe sales tax measured by your gross receipts from that sale. (Rev. & Tax. Code § 6051.) Your taxable gross receipts include all charges related to the taxable sale of tangible personal property except those charges specifically excluded from taxation by statute. (Rev. & Tax. Code § 6012.)

There is no provision which would exempt or exclude handling charges from taxation. Thus, a handling charge is subject to tax when part of a taxable sale of tangible personal property, even if separately stated. Therefore, if you make a taxable sale of tangible personal property, the handling charge is subject to tax. If you make a sale of property that is not subject to sales tax, such as a sale where all items are purchased for resale, the handling charge is not subject to tax. If you make a sale, part of which is a taxable retail sale and part of which is a nontaxable sale (such as partly for resale), the handling charge is prorated between the taxable part of the sale and the nontaxable part of the sale, provided that the handling charge relates to both parts of the sale.

For example, if you make a taxable retail sale of property for \$100 plus \$3 handling, your taxable gross receipts from that sale are \$103. The charge for handling cannot be deducted from the measure of tax even if separately stated. If you make a sale for resale for \$100 plus \$3 handling, tax applies to none of your charges because the entire charge relates to a nontaxable sale for resale. If you make a sale of property for \$100 plus \$3 handling where one-half the

charge is for a sale of property subject to sales tax (e.g., beauty products to be used by the purchasing salon) and one-half the charge is for a sale of property for resale (e.g., beauty products to be resold by the salon), assuming the handling charge relates to all items sold, one-half of the handling charge would be attributable to the taxable sale and one-half would be attributable to the nontaxable sale for resale. Your taxable gross receipts from the retail portion of that sale would be \$51.50. However, as noted above, if the handling charge relates solely to the retail sale of tangible personal property, it is fully taxable even if part of a mixed invoice. For example, you make a taxable sale of tangible personal property for \$50 and provide a nontaxable service for \$50 unrelated to the taxable sale. You add a \$3 handling charge to the invoice which relates to your handling of the tangible personal property. Your taxable gross receipts would be \$53 since the handling charge relates solely to the taxable sale.

If you have further questions, feel free to write again.

Very truly yours,

Victor G. Matl
Tax Counsel

VGM:cl

cc: San Jose District Administrator