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May 9, 2006

BURTON W. OLIVER
Executive Director

Ms. S--- D---
Office Manager
P--- U--- Equipment Co.
P. O. Box XXX
--- ---, CA XXXXX

Dear Ms. D---:

Re: SR -- XX-XXXXXX

This is in response to your letter dated October 21, 1993, in which you ask how tax applies to freight charges. You state:

"We are located in --- ---, CA and receive an order from San Francisco. We call our factory in Texas and they direct ship it to our customer. Since the merchandise did not go to us first is the freight taxable or not? We do always show freight as a separate billing portion on our invoices."

Sales tax is imposed on all retailers measured by their gross receipts from retail sales of tangible personal property in this state, unless the sales are specifically excluded from tax by statute. (Rev. & Tax. Code § 6051.) The exclusion relevant to your questions is explained in Regulation 1628 (a copy of which is enclosed).

If the transportation is not by your own facilities (e.g., by common carrier) and you do not sell the property for a delivered price (explained further in Reg. 1628(b)(1)), tax does not apply to your charges for transportation: (1) if they are separately stated on a document such as a retailer's invoice; and (2) if the property is transported directly to the purchaser. The amount excluded from tax cannot exceed the cost of such transportation. (Reg. 1628(a).) If the property is transported by your own facilities or is sold for a delivered price, then the freight charges are

taxable unless the requirements above are satisfied and the charges are for transportation occurring after the sale of the property is made to the purchaser. When the delivery is by your own facilities, the amount that can be excluded from the measure of tax cannot exceed a reasonable charge for transportation. (Reg. 1628(b)(2).)

In summary, based on your statement that your factory ships the merchandise directly to your customer and that the freight charges are always listed separately on your invoice, those separately stated transportation charges not exceeding your costs, are not taxable if you transport the merchandise by common carrier and you do not sell it for a delivered price. In addition, if the merchandise is transported by your own facilities or sold for a delivered price, your separately stated transportation charges, not exceeding a reasonable charge, are not taxable if the charges are for transportation after the property is sold to the purchaser.

If we can be of further assistance, please do not hesitate to write again.

Sincerely,

Rachel M. Aragon
Staff Counsel

RMA:jlh

bc: --- --- - District Administrator (--)