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June 8, 1995

Ms. S--- L---  
B--- E---  
P. O. Box XXX  
---, TX XXXXX-XXXX

Re: S--- O--- P--- Company  
(No Permit Number)

Dear Ms. L---:

This is in response to your letter dated February 14, 1995 regarding the application of tax to your purchases of items used to paint offshore rigs. You state:

“Our company S--- O--- P--- Company (CA Corp # XXXXXXXX) is headquartered in --- ---, Texas. We have several jobs in federal waters off the coast of California in which we perform painting on offshore rigs. The material and consumables (i.e., items used up at the job) are either transported directly to the rig or are shipped to a dock warehouse. If they are transported to the dock warehouse, the materials and consumables may remain at the warehouse until needed at the rig.”

You indicate that you purchase materials and consumables both inside and outside of California, and you ask whether the items purchased and shipped to the dock warehouse inside California come within the storage and use exclusion provided in Revenue and Taxation Code section 6009.1.

DISCUSSION

Retail sales of tangible personal property in California are subject to sales tax, measured by gross receipts, unless specifically exempt by statute. (Rev. & Tax. Code § 6051.) A retail sale is a sale for any purpose other than resale in the regular course of business. (Rev. & Tax. Code § 6007.) When sales tax does not apply, such as when sales take place outside of California, the use tax, measured by the sales price of the property sold, applies to the use of

property purchased from a retailer for storage, use, or other consumption in California. (Rev. & Tax. Code §§ 6201, 6401, Reg. 1620.)

When you purchase property outside of California and the property is shipped directly to the rig located in waters outside of California, no sales or use tax applies. When you purchase the property inside of California, the applicable tax is sales tax owed by the retailer, for which it may collect reimbursement from you if the contract of sale so provides. (Civ. Code § 1656.1.) The storage and use exclusion provided in section 6009.1 is an exclusion from use tax, not from sales tax; therefore, when the sale takes place in California, the storage and use exclusion does not apply.

If property is purchased outside this state for storage or use in California, use tax applies unless the storage or use is excluded or exempt from tax by statute. Section 6009.1 provides the relevant exclusion:

“‘Storage’ and ‘use’ do not include the keeping, retaining, or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.”

You state that property transported to the dock warehouse may remain at the warehouse until needed at the rig. The keeping of property at the warehouse for the purpose of subsequently transporting it to the rig outside California for use solely outside this state comes within the section 6009.1 exclusion. You will therefore not be regarded as making a taxable use of such property in California and will not owe use tax. However, you will owe use tax if you make any use of the property in California other than storage for the purpose of shipment outside this state for use solely outside this state.

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

Sincerely,

Kelly W. Ching  
Staff Counsel

KWC:cl

cc: Out-of-State District Administrator