



STATE BOARD OF EQUALIZATION

August 25, 1969

S--- M--- Co., Inc.
P. O. Box XXXX
XXX --- ---
---, Nevada XXXXX

Attention: Mr. J. L. C---

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Gentlemen:

Your letter of July 29, 1969, has been referred to the legal staff of the board for attention.

We understand that you have made sales in Nevada to California customers and have collected and paid California use tax. The State of Nevada proposes to impose Nevada sales tax on these past transactions, and you wish to offset that tax against future California use taxes pursuant to section 6406 of the California Revenue and Taxation Code.

Section 6406 allows a credit against the California use tax "...imposed on any person...to the extent that the person has paid a retail sales or use tax, or reimbursement therefore, imposed with respect to that property by any other state, ...prior to the storage, use, or other consumption of that property in this state."

Under the section, the credit is to be taken by the purchaser against California use tax imposed with respect to the use of the particular property as to which he has paid tax, or reimbursement therefore, imposed by another state. The California use tax is imposed on the purchaser. The seller merely collects and remits it.

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Accordingly, it would not be permissible for you, as the seller, to take a credit for Nevada sales tax on past transactions against California use tax on future transactions with other purchasers. For convenience, we do permit a seller to offset the Nevada sales tax against the California use tax at the time of sale. Under those circumstances, however, the conditions of section 6406 are met in that the purchaser pays Nevada tax reimbursement and gets the benefit of the credit against California use tax with respect to the particular property that is sold.

Very truly yours,

T. P. Putnam
Tax Counsel

TPP:cc