



STATE BOARD OF EQUALIZATION

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April 25, 1995

Mr. J--- M---
Controller, C--- of America
XXXXX --- Blvd., Suite XXX
--- ---, CA XXXXX

RE: Tax Rate on Purchases
of Construction Materials
and Equipment
[No Permit Number]

Dear Mr. M---:

I am responding to your letter to the Legal Division dated March 2, 1995, in which you indicate that you are a construction contractor and ask about the tax rate to be applied when you purchase equipment and materials. Your understanding is that the applicable rate is that in effect in the place where the jobsite is located, but that one of your vendors states that, if you pick up the items at its place of business, the applicable rate is that in effect at that location (8.25%).

A. Local and District Taxes

In California, there is a statewide tax rate of 7.25%. This rate is made up from the California Sales and Use Tax (§§ 6051 et seq. and §§ 6201 et seq.) and the Bradley-Burns Uniform Local Sales and Use Tax (§§ 7200-7212). In 1969, the Legislature enacted the Transactions and Use ("District") Tax Law. (§ 7251 et seq.)

Under enabling statutes in various codes, local jurisdictions may impose transactions (sales) and use taxes at rates of 0.25% or 0.5% of the gross receipts from the sales within the jurisdiction of tangible personal property sold at retail, or of the sales price of property whose use, storage, or consumption within the jurisdiction is otherwise subject to tax. (§§ 7261(a) and 7262(a).) Although counties and a few cities may impose such taxes, for the sake of convenience, we refer to all entities imposing such taxes as "districts." No matter where the enabling authority is found, all district taxes are administered by the Board under the District Tax Law.

Regulation 1826 discusses the application of district tax arising from the sale of fixtures and use of materials as follows:

"The jobsite is regarded as the place of business of a contractor and is the place of sale of 'fixtures' furnished and installed by a contractor. The place of use of 'materials' is the jobsite."

These provisions apply to the "use" of materials at the jobsite, i.e. when the materials were originally purchased tax-free (commonly, as either being for resale or from an out-of-state vendor) and their use at the jobsite causes C--- to accrue use tax. When they are purchased tax-paid, the district tax consequences are the same as in a normal retail transaction. If you pick up the materials at the vendor's place of business, the vendor owes the transactions (sales) taxes in effect there. (Reg. 1823(a)(1).) If the vendor delivers the materials to the site, the district tax at its place of business does not apply (Reg. 1823(a)(2)(B)), but C--- is liable for the use tax of the district (if any) in which the jobsite is located. (Reg. 1823(b).) The vendor must collect that use tax if engaged in business there. (Reg. 1827(a).)

Here, C--- purchases materials from a vendor located in Los Angeles County, which has a combined tax rate of 8.25%, and picks them up at the vendor's place of business. The vendor thus owes the transactions (sales) tax in effect at its place of business. Therefore, we agree with the vendor that 8.25% is the correct rate on those transactions.

Something similar happens when C--- sells machinery and equipment. Regulation 1826 does not apply to those sales at all. C--- is the retailer of machinery and equipment, which we assume it buys ex tax for resale. (Reg. 1521(b)(2)(C).) --- --- is in Los Angeles County. C--- is considered to make its sales of machinery and equipment at its place of business. (Reg. 1822(a)(1).) Thus, the total rate in effect in Los Angeles County (8.25%) applies to its sales of machinery and equipment used at jobsites located there. When it delivers the items to a jobsite outside of Los Angeles County, under the above authority the district taxes in effect in Los Angeles County do not apply, but the use taxes, if any, in effect in the county in which the jobsite is located do. C--- is considered as engaged in business in that county and must collect such district taxes as are in effect there.

Mr. J--- M---

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April 25, 1995
800.0005.200

For your information, I have included copies of Regulation 1822, 1823, 1826, and 1827. I hope the above discussion has answered your questions. If you need anything further, please do not hesitate to write again.

Sincerely,

John L. Waid
Tax Counsel

JLW:sr

Encs.