

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)

November 4, 1964

Mr. J--- K---
XXXX --- Avenue
--- ---, California XXXXX

-- XXXXX
K--- and R--- A--- P---

Dear Mr. K---:

This is to inform you the position we have taken with respect to your petition for redetermination of sales tax. We regret that we must recommend that the petition be denied.

As we discussed at the hearing, your present method of invoicing your customers when a "core deposit" is taken is proper. If the customer does not bring in the exchange part and thus forfeits the core deposit, tax applies to the total price. Therefore, to protect yourself, you should charge tax reimbursement upon the total of the exchange price plus the core deposit.

However, when you refund the core deposit to the customer and do not also refund that portion of the tax reimbursement attributable to the deposit, you obtain excessive reimbursement with the meaning of § 6054.5 of the California Sales and Use Tax Law (copy enclosed). You have represented to your customer that the amount of tax charged will be paid to the state. Accordingly, you must repay such amounts to your customer, or in the alternative pay them to the state as taxes otherwise due. In order to avoid this problem in the future, we suggest that you refund tax reimbursement on the core deposits. Otherwise, it will have to be paid to the state.

You did not specify in your petition for redetermination whether you wanted a board hearing or would be satisfied with the preliminary hearing held in West Los Angeles. If you disagree with our conclusions and desire an oral hearing before the board, we will schedule it upon request. Please let us know within 30 days so that we may make necessary arrangements. If you do not desire a board hearing, please sign and return two of the enclosed waiver of board hearing forms. The third copy is for your files.

Very truly yours,

John H. Knowles
Associate Tax Counsel

JHK:mm
Enc.
cc: --- -- Subdistrict Administrator

Memorandum

315.0400

To: Mr. W. E. Burkett

September 29, 1989

From: D. B. Furnish

Subject: Business Taxes Law Guide Annotation 314.0400

The subject annotation should be amended to delete references to excess tax reimbursement and Section 6054.5, which was repealed effective January 1, 1979.