STATE BOARD OF EQUALIZATION

October 30, 1956

Mr. J--- C. S---
Attorney at Law
XXX --- --- --- Boulevard
--- --- XX, California

Dear Mr. S---:

In your letter of September 29 you requested a ruling on the applicability of the sales tax to charges made by a printer on the following facts:

1. a mail order house places an order with a local printer for the printing of advertising booklets;

2. the finished booklets are delivered to your client, a mailing concern, for mailing in accordance with a mailing list previously provided by the mail order house;

3. many of the booklets are to be mailed out-of-state.

It is our opinion that all of the printer's charges, including the charges for booklets which are to be ultimately mailed out-of-state, are subject to sales tax. The delivery of the booklets to your client constitutes a local delivery to an agent of the buyer which results in the passage of title to tangible personal property to a purchaser in this State. We do not believe that the mailing concern qualifies as a forwarding agent under Ruling 55 A-1-(c)-(3). This section refers to handlers of freight who receive property from various customers and consolidate them for shipment.

The printer delivered the property to the mailing concern on the instructions of the mail order house and thereby fulfilled his contract. The mailing concern received the property as the agent of the mail order house in accordance with a contract with said mail order house to stuff and mail said property.

Whether your client bills the printer who in turn bills the mail order house or the mail order house is billed direct will not affect a change in the taxability of this transfer of title unless the mailing concern is a subcontractor responsible to the printer.

We are aware of no federal cases which have gone so far as to hold that when manufactured property is forwarded to an agent of the buyer's for further handling and then shipped by the agent to an out-of-state point that the sale by the manufacturer would be considered to have occurred in interstate commerce.

Upon reading the case of Michigan-Wisconsin Pipe Line v. Calvert, 347 U. S. 157, we do not feel that the incident which was being taxed is analogous to the incident here involved. In that case the State of Texas attempted to impose a tax on the privilege of gathering gas. The court did not say that the privilege could not be subjected to taxation but only that when the gathering of gas was the first step in the interstate transmission would the tax violate the Commerce Clause of the Constitution. To make our situation come within that case it would be necessary to find that the tax was imposed on a carrier for accepting property which he is to transport in interstate commerce. Such is not the case.

In conclusion it is our opinion that the sale is complete when the booklets are delivered to the mailing concern. The taxable event has occurred prior to the entrance of the property into interstate commerce. We would like to point out that Ruling 55, paragraph A-1-(f), is not pertinent since it relates to foreign commerce which commerce is afforded a broader exemption from local tax than is interstate commerce.

If we may be of further assistance, please advise.

Very truly yours,

Bill Holden
Associate Tax Counsel

JJD:rc

cc: Los Angeles – Compliance