



STATE BOARD OF EQUALIZATION

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Executive Director

September 23, 1996

Mr. J--- K--- Fleet Sales Manager
S--- F---
P. O. Box XXXX
---, CA XXXXX

**Re: S--- F--- Inc.
SR -- XX-XXXXXX**

Dear Mr. K---:

This is in response to your letter dated July 10, 1996, in which you inquire of the sales tax liability of S--- F--- as it applies to the delivery of a vehicle on behalf of F--- - L---, Inc. You state:

“We (S--- F---, Inc.) are in possession of a new 1996 Ford Ranger Truck. The truck was ordered by F--- - L---, from V--- Ford of ---, Texas. The truck was built and shipped to S--- F--- in ---, Ca. for delivery to the winner of a raffle held by F--- - L---, Inc.

“The winner of the raffle was Mr. K--- K--- of ---, CA. Our instructions from F--- - L--- and V--- Ford is to deliver the vehicle to Mr. K---, and to collect the California Sales Tax and License Fees from Mr. K---.

“However, Mr. K--- does not wish to take delivery of this truck. Instead, Mr. K--- has asked us to transport the truck to H--- Ford Motors in ---, CA. Mr. K--- will then take delivery of a different truck and will pay the cost difference to H--- Ford Motors. H--- Ford will then collect sales tax and license fees on the replacement truck and offer the original raffle prize truck for sale.

“We (S--- F---) need a ruling as to our liability for collection of California Sales Tax. Does the transporting and transfer of the unit to H--- Ford Motors for resale relieve us of the sales tax collection liability? Does S--- F--- need to collect sales taxes from the raffle winner even though he never took delivery of the truck?”

For the purposes of this opinion we assume that V--- Ford of ---, Texas is not engaged in business in California.

Retail sales of tangible personal property in California are subject to sales tax, measured by gross receipts, unless the sale is specifically exempt from taxation by statute. (Rev. & Tax. Code § 6051.) When tangible personal property is delivered to a person for redelivery to a consumer pursuant to a retail sale made by a retailer not engaged in business in this state, the person making the delivery is the retailer of that property. That person shall include the retail selling price of the tangible personal property in his or her gross receipts. (Rev. & Tax. Code § 6007.) Although the retailer owes the sales tax, the retailer may collect sales tax reimbursement from the purchaser if the contract of sale so provides. (Civ. Code § 1656.1.)

We understand that when V--- Ford sold the vehicle to F--- - L---, V--- Ford ordered the vehicle from the factory which delivered it to S--- F--- for redelivery to Mr. K---. Therefore, the transaction falls within the above cited provision and S--- F--- is considered the retailer of that vehicle and owes sales tax on that sale. S--- F--- may collect sales tax reimbursement if the contract so provides. F--- - L--- may be able to obtain payment from Mr. K--- for taxes it pays as a result of its contract and the rules of the raffle. In any case, the Board will look to S--- F--- for payment of the sales tax on the transaction.

S--- F--- does not make a sale for resale when it transports the vehicle to H--- Ford at Mr. K---'s request since the vehicle belongs to Mr. K--- regardless of whether he takes physical delivery from S--- F---. Mr. K---'s purchase of a more expensive vehicle is nothing more than a car purchase with a trade-in. H--- Ford will be obligated to pay tax on the sale of the replacement vehicle. H--- Ford may, if the contract so provides, collect sales tax reimbursement for that sale from Mr. K---.

We made an assumption in order to provide this advice. If the assumption we made is incorrect the advice contained in this letter may also be incorrect. If you have any further questions in regard to the matter contained herein, please do not hesitate to write again.

Yours very truly,

Anthony I. Picciano
Tax Counsel

AIP:cl

cc: --- District Administrator