

**STATE BOARD OF EQUALIZATION**

(916) 44-6493

October 14, 1988

L--- G---  
Sales Tax Coordinator  
I---, Inc.  
P. O. Box XXXX  
---, Nebraska XXXXX

I---, Inc. – SC OH XX-XXXXXX  
Delivery of property in state for use out of state

Dear L--- G---:

In your August 24, 1988 letter to the Board's legal staff, you write:

“We would like to address the issue of sales tax exemptions in the State of California. The problem we have encountered is in regard to Invoice #145156 (copy attached). The order was sold and shipped to M--- G--- in care of [A---], San Diego. Our customer states this order is exempt because it will be used in Mexico.

“Since we have not received any type of exemption certificate, we feel we should regard this order as a taxable situation. We would appreciate a legal interpretation of the above stated transaction as to its taxability or non-taxability.”

The invoice which you enclosed with your letter indicates that the property sold was shipped from your factory in [city], Nebraska to the purchaser.

Opinion

You are correct in regarding this transaction as taxable in the absence of an appropriate exemption certificate. Revenue and Taxation Code Section 6241 provides in part that:

“It shall be presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use, or other consumption in this State until the contrary is established.”

This sale to your customer is not exempt merely because the customer states the property will be used in Mexico. However, it is possible that your customer’s use of the property may qualify for an exclusion from the use tax provided under Revenue and Taxation Code Section 6009.1 and Regulation 1620(b)(5). For example, if your customer will merely temporarily store the property in California for the purpose of subsequently transporting it to Mexico for use thereafter solely outside of California (whether in Mexico or elsewhere), then your customer will not be liable for the use tax, nor will you be liable for the collection of the use tax from your customer.

If this exclusion applies, your customer must issue to you an exemption certificate under the provisions of Regulation 1667 – Exemption Certificates. Since there is no particular form for the exclusion from the use tax provided in Regulation 1620(b)(5), the exemption certificate must contain the information set out in subdivision (c)(1) of Regulation 1667.

I enclose copies of Regulations 1620 and 1667 for your information. Please feel free to contact me if you have any further questions or comments about this letter.

Sincerely,

John Abbott  
Tax Counsel

JA:jb  
Enclosures