STATE OF CALIFORNIA

130.0085

STATE BOARD OF EQUALIZATION
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September 20, 1995

[N], President
[S]
XXXX XXth Street, No. XXX
---, California XXXXX

Re: Regulation 1642

Dear Mr. [N]:

Gary Jugum has requested that I respond to your letter to him dated September 1, 1995, concerning Sales and Use Tax Regulation 1642.

In your letter, you state that Regulation 1642(a) states, in part, that a bad debt is allowable ". . . insofar as the measure of the tax is represented by accounts found worthless and charged off for income tax purposes . . . ." You ask if an account is "charged off" within the meaning of Regulation 1642 when the account is written off to the taxpayer's bad debt expense account or when the income tax return which includes the bad debt deduction is filed.

The bad debt deduction was added by the Legislature 1957. (See Stats. 1957, chap. 733). At that time, the deduction was limited to accounts which had "been found to be worthless and actually charged off for income tax purposes." In 1970, the Legislature amended Rev. & Tax. Code §§ 6055 and 6203.5 to allow the deduction for accounts "which have been found to be worthless and charged off for income tax purposes or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles." (See Stats. 1970, chap. 547, sec. 2.)

We find it significant that the Legislature removed the word "actually" when it amended these statutes in 1970.

It is our opinion that a taxpayer may take a bad debt deduction within the meaning of Regulation 1642 when an account has been found worthless and has been charged off on the taxpayer's accounting records. Any other interpretation would create a rule which would require

a taxpayer to determine if it will be required to file income tax returns for that particular year in order to know when a bad debt deduction can be taken.

Please feel free to call with any further questions or concerns.

Very truly yours,

Thomas J. Cooke
Staff Counsel

TJC/cmm