STATE BOARD OF EQUALIZATION

November 30, 1966

Law Offices of
W--- S---
XXXX --- Street
---, CA XXXXX

Attention: Mr. A--- R. W---, Esq.

SY -- XX XXXXXX
G--- J. N---
G--- N--- Beauty Salon

SY -- XX XXXXXX
G--- N--- Beauty and
Wig Salons, Inc.

Gentlemen:

You will recall that a preliminary hearing on the above named taxpayers' petitions for Redetermination was held on November 3, 19XX. After hearing the facts and reviewing the law presented at the hearing and in your letter of November 4, I am forced to conclude that the charges for the cutting, sizing, styling, and coloring new wigs were properly included in the measure of tax determined against your client. Therefore, it will be my recommendation to the board that the measure be redetermined without change.

As you have stated in your letter of November 4, the facts are not in dispute. We have given close attention to an analysis of the provisions of § 6012 of the Revenue and Taxation Code and to your proposed application of the law to the operations of your client. It has been the long standing position of the board that the law does not exempt charges for all services without exception. Both § 6012 and 6011, together defining gross receipts and sales price, twice refer to services in other parts of the sections than that part speaking of installation labor or services (paragraph 3(c) of each section). In those instances, the provisions establish that the presence of the services does not serve to diminish the measure of tax. Thus, to establish that part of the charge should be excluded from gross receipts, it is not enough to show that the charge was for a service or attributable to service activities. It is necessary that the services be specifically classified with reference to the organization of the Sales and Use Tax Law.

Nor can we recognize ruling 3 as an authority for your position. It recognizes that beauty shop operators and certain others perform services; it does not state that some or all of those services are exempt. Further, it specifically states that those persons are retailers of tangible personal property they sell to consumers in the regular course of business.

It is our opinion that the contract for the purchase of a wig is a contract for the purchase of tangible personal property. The price may vary with each contract because the customer has specific requirements for the final make-up of the wig. Section 6012 requires the total amount of the sales price be included in the measure of gross receipts.

We understand your position to be that the amount charged for the wig styling, etc., is specifically excluded from the measure of gross receipts by part (c) of the third paragraph of § 6012 because it is "the price received for labor or services used in installing or applying the property sold." It is our position that this exemption applies only to charged for labor expended in attaching or adapting the purchased property to or for a specified site; in other words, emplacement.

The styling services of the petitioner are comparable to charges for alterations of new clothing. The rulings of the board clearly state that charges for alteration of new clothing are subject to tax. Comparable to the rule exempting charges for the restyling of used wigs is the rule that charges for alteration of used clothing are, likewise, exempt. We do not think that wig vendors may be given special exemptions not available to vendors of other kinds of tangible personal property.

When this matter is scheduled for board hearing, you will be notified of the time and place of the hearing. Should you desire to waive a hearing before the board, we are enclosing a copy of the waiver form for that purpose.

Very truly yours,

Philip R. Dougherty
Associate Tax Counsel

PRD:em
Enclosures

cc: --- – District Administrator: Attached are two copies each of hearing officer's reports dated 11-22-XX, which have been approved. These hearings were held in Sacramento on November 3, 19XX.