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Tax Permittee

Use of "XYZ" Letter Procedure to Verify Claimed Sales for Resale

This letter summarizes the recommended XYZ email letter procedure explained to you by our auditor. The auditor questioned certain sales or netted transactions claimed on your tax returns as sales for resale because they were not supported by a valid resale certificate taken in good faith at the time of sale.

Under the California Sales and Use Tax Law, you as the seller are liable for payment of the tax unless you can present satisfactory evidence that the property was purchased by your customer for resale or that your customer paid the tax directly to this state.

If the auditor has also questioned sales in interstate and foreign commerce, sales to the United States Government, or transportation charges, documentation to support the claimed exemption must also be provided. The auditor will provide you with information describing how the sales and use tax law applies and the type of documentation required to support a transaction as an exempt sale.

The "XYZ" email letter procedure outlined in this document is recommended by the California Department of Tax and Fee Administration (CDTFA) as a method by which you, the seller, can help to satisfy the burden of proving that a sale was not at retail even though a resale certificate was not timely obtained, or your customer paid the tax directly to the state. This procedure should only be used when you cannot locate the appropriate supporting documentation, such as resale certificates, purchase orders, sales contracts, etc., within your company records.

The "XYZ" response forms should be returned directly to the CDTFA via email or by regular mail. Use of the email procedure is recommended as it will expedite processing of these requests. However, you may elect to mail these forms to your customers. In either case, the auditor will review all documentation submitted. Because the XYZ letter is not a substitute for a timely resale certificate, you or your customer may be required to submit additional documentation or information on a questioned transaction to your auditor.

The attached sample letter and statement form are provided for your convenience. If the statement form does not fit your particular circumstances, the auditor will work with you to customize the form. You may email the statement form to the customers in question to obtain their statements regarding the disposition of the purchased property. If you do not choose to have the forms emailed directly to the CDTFA, the auditor will provide return envelopes.

In order to communicate fully with your customers, you may:

- Customize the sample letter by placing the text in an email and adding attachments.
- Use the recommended procedure to have the statements emailed directly to the CDTFA, and include a request to your customer asking that they copy you on the response to the email.
- Ask your customer to forward payment of tax directly to you when the transaction is identified as taxable, if your agreement of sale permits it. *You should clearly indicate that the tax should be forwarded to you and not to the CDTFA.*

For confidentiality purposes, when sending your email to your customer, you may add the following statement to the email:

Confidential information of the California Department of Tax and Fee Administration (CDTFA) - unauthorized use or disclosure is strictly prohibited by law. If you receive this email in error, please immediately notify the CDTFA by return email and delete this message from your computer, without printing the message, and without disclosing its contents to any person other than the sender or recipient. Persons who copy or disclose such confidential information are subject to applicable legal penalties.

Please note that any changes you make to the sample content must be approved by CDTFA staff before emailing.

The auditor will allow a four-week period for you to send the statements and for your customers to reply. If you have chosen the recommended procedures to have the responses emailed directly to the CDTFA, you may receive timely notice by asking your customer to forward you copies of their response. While the auditor will carefully consider the statements received within the allowed period, late responses may be reviewed and allowed if appropriate.

Please be aware that a statement will not be accepted as satisfactory proof if incomplete, if found to be untrue, or if the CDTFA has or receives information that refutes the statement. Unlike a valid resale certificate, a purchaser's statement of resale taken after the sale does not relieve the seller of liability for the tax if it is found that the property was purchased for the buyer's use and the applicable tax was not paid to the state prior to the date of your letter to your customer.

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Business Tax and Fee Division