

**STATE BOARD OF EQUALIZATION**

LEGAL DIVISION - MIC: 82
450 N STREET, SACRAMENTO, CALIFORNIA
(P. O. BOX 942879, SACRAMENTO, CA 94279-0082)
TELEPHONE: (916) 445-3723
FAX: (916) 323-3387

JOHAN KLEHS
First District, Hayward

DEAN F. ANDAL
Second District, Stockton

ERNEST J. DRONENBURG, JR.
Third District, San Diego

BRAD SHERMAN
Fourth District, Los Angeles

KATHLEEN CONNELL
Controller, Sacramento

E. L. SORENSEN, JR.
Executive Director

July 10, 1996

Honorable Peter Frusetta
Assemblyman, 28th District
321 First Street, Suite A
Hollister, CA 95023

Dear Assemblyman Frusetta:

This is in response to your letter of July 3, 1996, received here on July 9.

We understand that you recently received a letter from a constituent in Watsonville who objects to the imposition of sales tax upon the cash redemption value (CRV) portion of beverages purchased.

You are aware that our publication, "Tax Tips for Grocery Stores," identifies CRV amounts as subject to tax, and you inquire as to the rationale for this rule.

The California sales tax is imposed upon retailers of tangible personal property, although retailers normally pass on the cost of the tax to their customer as a separately billed amount identified as "sales tax."

Tax applies to gross receipts, that is, the entire amount of the charge made by the retailer to the customer for the goods sold, unless there is a specific exclusion, as there is typically for transportation charges. There is no exclusion for CRV amounts, even though those amounts may be itemized to the customer. The retailer cannot deduct from the amount subject to tax any expense that the retailer incurs. Legally, the CRV is imposed upon the wholesaler, who passes the cost on to the retailer, who passes the cost on to the consumer. So the CRV amount is an expense to the retailer, and a part of the "gross receipts" collected from the consumer.

The CRV program went into effect in September 1987. Initially, retailers were prohibited from separately stating the CRV amount to the customer

In 1989, the CRV law was changed to require retailers to separately state the CRV amount in advertising and on self-pricing, although retailers were permitted (but not required) to add the amount as a separate amount at the cash register.

This change in the CRV law did not change the sales and use tax analysis. The amounts in question are an expense of the retailer and part of the price of the goods to the customer.

The change has led to confusion, because the CRV amount looks like a deposit when separately stated. It is not a true deposit for sales and use tax purposes, because the CRV amount is not returned by the retailer to the customer, but is recovered from a third party at the recycling center.

Very truly yours,

Gary J. Jugum
Assistant Chief Counsel

GJJ:sr