



STATE BOARD OF EQUALIZATION

April 15, 1958

Mr. M--- B---
Attorney at Law
--- ---
XXXXX W--- Boulevard
--- ---, California -----

Dear M---:

It appears that the client mentioned in your letter of April 7 sells uniforms in a retail store to students of a private school. The store pays over to the school a percentage of the sales price received for the sale of the uniforms. You state it is the store's position that the amount thus paid over to the school constitutes a reduction of the sales price of the article.

Under the California Sales and Use Tax Law, the tax is clearly imposed upon the total amount of the sales price. No deduction is allowable on account of the amount paid over to the school. I think you will find this quite clear from the definition of "gross receipts" as set forth in Section 6012 of the Revenue and Taxation Code. The section defines "gross receipts" as the total amount of the sales price without any deduction on account of any of the following: "The cost of the materials used, labor or service cost, interest paid, losses, or any other expense", and provides that the total amount of the sale price includes "any services that are a part of the sale".

The tax applies to the amount paid by the purchaser as the purchase price of the merchandise. It is immaterial what the seller may do with the proceeds. A retailer cannot deduct commissions or any other selling expense or amounts paid to accountants or anyone else rendering assistance in the operation of his business. Thus, the retailer will be accountable for the sales tax on the entire sales price, without deduction on the amount of the so-called rebate to the school.

Where a discount is given to the purchaser, the retailer may exclude the amount of the discount thus allowed to the purchaser. In your case, it does not appear that the purchaser receives any discount or price deduction.

I too missed our class reunion in San Francisco last year. I have not been to such a reunion for a long time. I suppose it was about time I attended, although I did attend a University of California Law School Association dinner last spring, and met quite a number of old classmates and friends.

Kindest regards,

E. H. Stetson
Tax Counsel

EHS:tl