

**STATE BOARD OF EQUALIZATION**

LEGAL DIVISION - MIC 82
450 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)

Telephone No.: (916) 324-3828
Fax No: (916) 323-3387

JOHAN KLEHS
First District, Hayward

DEAN ANDAL
Second District, Stockton

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

BRAD SHERMAN
Fourth District, Los Angeles

KATHLEEN CONNELL
Controller, Sacramento

December 13, 1995

BURTON W. OLIVER
Executive Director

Mr. M--- M---
M--- Catering
XXX --- Drive
---, California XXXXX

RE: SR -- XX-XXXXXX
City Tax Deduction

Dear Mr. M---:

Mr. Rick Wall of the Return Analysis Section has asked the Legal Division to reply to your letter to Mr. B. H. Watson, Section Supervisor, dated March 11, 1995, in which you replied to his letter to you dated February 21, 1995, asking for information supporting your deduction on line 10(f) of your Sales and Use Tax Return for the Third Quarter 1994 tax period for "City Tax." In your letter you explained the your business is located in the Los Angeles Equestrian Center and, as a condition of your lease, you pay a city tax based on 3% of gross sales. That is the amount deducted on line 10(f). In reviewing your file, I note that you have consistently deducted this amount on subsequent returns.

Unfortunately, this is not a legal deduction. Sales tax is measured by the gross receipts from sales. "Gross receipts" is defined as "the total amount of the sale... price..., of the retail sales of retailers, valued in money...." (Rev. & Tax. Code § 6012(a). All statutory citations are to the Revenue and Taxation Code.) No deductions are provided for costs of doing business. Local taxes imposed by the city and the county pursuant to sections 7200 et. seq.--that is, the tax amounts you compute on lines 14(b) and 17--are excluded from gross receipts (§ 6012(c)(6)), but all other locally-imposed taxes are included.

I hope the above discussion has answered your question. If you need anything further, please do not hesitate to write again.

Sincerely,

John L. Waid
Senior Staff Counsel

JLW:sr