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August 4, 1994

Ms. C--- G---  
Tax Counsel  
G--- Corporation  
XXX --- Boulevard, Suite XXX  
---, CA XXXXX-XXXX

BURTON W. OLIVER  
Executive Director

Re: **G--- Corporation**

Dear Ms. G---:

This is a response to your letter dated June 21, 1994 regarding the application of sales tax to G---'s purchases of property when that property is eventually shipped to destinations outside the state.

Few facts were provided about G---'s purchase and shipment operations. I assume that G--- purchases children's clothing in bulk from various manufactures within the state. These purchases are apparently delivered to a G--- distribution warehouse in California for separation, repackaging and shipment of a significant portion of these goods to G--- locations outside the state. I assume these goods are distributed and not sold by G--- to the out-of-state locations since you state that "our items are not held for resale. ..." You ask, "Is there an exemption certificate available to give to our vendors so that we may continue to receive goods during the transit process for repackaging but not taken for use within California?"

Discussion

Sales tax is imposed on a retailer's gross receipts from the retail sale of tangible personal property in California unless the sale is specifically exempted from taxation by statute. (Rev. & Tax. Code § 6051.) Thus, when G--- purchases children's clothing in California from a California vendor, the vendor's sale to your company is subject to sales tax unless an exemption applies. The tax on such a sale would be a sales tax on the clothing vendor. The amount itemized by the vendor to G--- as "sales tax" is actually a sales tax reimbursement, which the vendor may collect from G--- by contract. (See Civ. Code § 1656.1.)

Your letter indicates an understanding that sales to G--- in this state will be subject to sales tax unless the sales tax exemption for interstate shipments applies. Revenue and Taxation

Code section 6396 provides this exemption from sales tax where, pursuant to the contract of sale, tangible personal property is required to be shipped and is shipped out-of-state by either the retailer or a carrier, customs broker or forwarding agent. This exemption does not apply if your company receives deliveries of children's clothing within the state even if the goods are ultimately repackaged and shipped to G--- locations outside the state. (See, Reg. 1620(a)(3)(B). A copy of this regulation is enclosed for your review.) Thus, G---'s purchase and receipt of goods inside the state are retail sales of tangible personal property subject to sales tax. The interstate shipment exemption only applies if G--- contracts with its vendors for direct shipments to its out-of-state locations without receiving any possession of the property within this state. You have provided no facts indicating that any other sales tax exemptions are relevant to G---'s situation.

Your letter also indicates that you recognize that other states may provide G--- a credit against their taxes for the tax or tax reimbursement you pay to California vendors. You express a concern, however, in your ability to track such credits. If all your purchases take place in California, G--- should have no difficulty tracking tax reimbursements paid on goods shipped to out-of-state locations since you would have paid California sales tax reimbursement with respect to your entire inventory. If this is not the case, we recognize that it will be more difficult to track the property on which you paid California tax reimbursement. This added difficulty does not, however, form the basis for an exemption from the California sales taxes owed by your vendors. We suggest that you contact the states in which you will use this property and ask what type of documentation those states require in order to obtain a credit for tax reimbursement paid to California vendors.

In summary, there are no exemptions to sales tax that appear relevant to G--- based on the facts of your letter. In particular, there is no "sales tax exemption certificate" that G--- can give its vendors in order to receive goods at its warehouse ex-tax for repackaging and later shipment out-of-state.

If you have any further questions or facts which may alter the above analysis, feel free to write again.

Sincerely,

Warren L. Astleford  
Staff Counsel

WLA:plh

Enclosure - Reg. 1620

Ms. C--- G---

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August 4, 1994  
325.0685

cc: --- --- District Administrator - - -