



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
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(916) 445-2705

April 7, 1977

A--- S---
Controller's Office
XXX --- Plaza
--- ---, California XXXXX

IN REPLY REFER TO:

SR -- XX XXXXXX

Attention: Mr. J--- C. R---
Controller

Gentlemen:

Your letter of March 30 to Mr. Brown has been forwarded to this office. Your letter first asks:

“We wish to offer all of our customers a discount on selected lines of merchandise purchased in the --- Students’ Store. For purposes of administrative convenience we would set the discount rate of 6% of the regular (marked price) and simply not charge sales tax to the customer. All of the sales at selected cash registers would be discounted. In reporting the sales to the State of California, we would divide the total sales per the cash register by 1.06 and report the quotient as the taxation sales. That is, for cash register total sales of \$100.00 we would report \$94.34. As long as we advise our customers by appropriate signing at the cash registers that this particular merchandise is priced to include sales tax will run afoul of any sales tax laws or regulations?

No. So long as you fully advise your customers before the sale that the particular merchandise sold at the particular registers will receive a discounted price and that a resulting price of taxable items do include reimbursement for sales tax computed to the nearest mil you will not be violating the Sales and Use Tax Laws or its regulations.

Your second question is:

“An alternative to the direct cash register discount program, is a “bonus” program. Under this program customers save their cash register receipts for two months and

then turn them in to a central processing unit. There the receipts are totaled (including sales tax) and a rebate calculated on the total.

If the rebate is set at 11% and the receipts total \$106.00 we send the customer a bonus check in the amount of \$11.66. Under this program we have reported taxable sales in the amount of \$100 and treated the \$11.66 as an operating expense. You have indicated informally that it may be appropriate to report sales of only \$89 since we have in effect rebated a pro-rata portion of the original sale and sales tax. What is the proper sales tax handling of these transactions? For your additional information, we enclose a copy of the "Receipt Saver" envelope which outlines the essentials of the program and a "flyer" that went to all bonus recipients."

Although the issue is complex, we have always concluded that these programs constitute patronage dividends rather than trade or cash discounts. Accordingly, no reduction in the gross receipts from the sale will occur if the A--- S--- rebate 11% in the manner you have outlined.

Very truly yours,

Philip R. Dougherty
Tax Counsel

PRD:jw