STATE BOARD OF EQUALIZATION
(916) 445-3723

May 15, 1990

Mr. M--- D. B---
C--- A---, Inc.
--- --- ---, Suite XXX
XXX --- ---
---, CA XXXXX

Dear Mr. B---:

On April 24, 1990, we discussed application of the California sales tax to deductible charges made under mandatory warranty agreements.

We understand that new vehicles are sold with warranties which may typically provide as follows:

A) First 12 months or 12,000 miles, no deductible, complete coverage, and

B) Three years and up to 50,000 miles, major component coverage subject to a $100 deductible. It is this warranty that is in question. Note that the customer does not pay for this warranty coverage, it is included in the purchase price.

As you are aware, under our Regulation 1655, "Returns, Defects and Replacements," subdivision (c)(2), a sale of tangible personal property includes the furnishing, pursuant to the guaranty provisions of the contract of sale, or mandatory warranty, of replacement parts or materials. The sale of the replacement parts and materials to the seller furnishing them thereunder is a sale for resale and not taxable. To the extent that parts are furnished pursuant to a mandatory warranty, they are regarded as having been sold and taxed at the time the goods in question were originally sold. No additional tax is due.

We have reviewed our files and have found that since at least 1981 it has been our position that to the extent repair work is performed which is subject to a deductible, the parts which are furnished are not considered to be furnished pursuant to the mandatory warranty, but are considered to be furnished in exchange for the deductible amount paid by the customer. Tax is applied to the deductible, in accordance with the ration of parts to labor.

This interpretation has been applied on a statewide basis. This is not a new or revised interpretation of California law. We cannot ascertain to what extent actual notice may have been given to new car dealers, but our records indicate that major automobile manufacturers, including [A], were advised of our interpretation.

It seems to us, looking at the matter afresh, that this earlier interpretation is correct. Suppose that the work required to be done does not exceed the deductible. It would seem that there would be no reason to tax such a service for fee transaction any differently than any other repair transaction under our Regulation 1546. To the extent that parts and labor are furnished for an additional consideration, the parts and labor are not furnished pursuant to the original purchased protection.

Our apology for the delay in our response.

Very truly yours,

Gary J. Jugum
Assistant Chief Counsel

GJJ:sr

See proposed Reg. 1655 for further clarification.
7/28/00