



**STATE BOARD OF EQUALIZATION**

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Executive Director

April 4, 1997

Mr. D--- M. D---, CPA  
Vice President  
--- --- --- --- Incorporated  
XXXX --- Road, Suite XXX  
---, California XXXXX

Re: Transportation Charges

Dear Mr. D---:

This is in response to your letter dated March 4, 1997 in which you ask how tax applies to separately stated transportation charges billed by a California interior design firm which maintains a design studio but no showroom or warehouse. You state:

“Part of the firm’s business involves sales of custom furniture. These sales are by special order from suppliers around the world. The suppliers ship the furniture directly to customers through one or more common carriers. The design firm pays the carriers and then bills the freight charges to its customers. The charges to customers are the actual freight costs and are separately identified as such on the invoices.

“When the merchandise arrives from a foreign destination, it is picked up by a regional carrier at the dock in California and taken to an independent public warehouse in the taxpayer’s home city. The warehouse, which also is a common carrier, notifies the design firm and the customer and then delivers the merchandise to the customer’s home. The design firm never handles or takes possession of the furniture, directly or through an agent, at any point in the stream of commerce.”

As you know, transportation charges made in connection with the retail sale of tangible personal property are includible in the measure of tax unless meeting the requirements of subdivision (c)(7) or Revenue and Taxation Code section 6011 (use tax) or subdivision (c)(7) of Revenue and Taxation Code section 6012 (sales tax). These provisions exclude from tax:

“Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the retailer. However, if the transportation is by facilities of the retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the purchase of the property is made.”

In your example, the transaction satisfies the requirement that the charge be separately stated and that the amount of the exclusion is limited to the actual cost of transportation by common carrier. The remaining question is whether the transportation charge meets the requirement that it be for shipment directly to the customer.

The fact that a shipment is made by using more than one carrier as part of a continuous and unbroken journey to the purchaser does not mean that the shipment is not made directly to the customer for purposes of the transportation charge exclusion. However, if a retailer ships property to its own warehouse and from there ships the property to the customer, only the transportation charge for shipment from the warehouse would qualify as a shipment “made directly to the purchaser.” The charge for shipment to the warehouse would not be excludable from the measure of tax even if the shipment was specifically pursuant to an order placed by the customer (as opposed to simply restocking the warehouse for potential sales).

Be this as it may, when a freight forwarder arranges the shipment, and uses a warehouse as a necessary incident of the shipment to the customer, and not as a means of storage of any sort on behalf of the retailer or the purchaser, the entire transportation charge would be nontaxable.

It would appear that the warehouse/carrier in your case does not store the goods for the retailer but completes the carriage from the foreign point of origin to the purchaser. In other words, the charge for shipment to the in-state carrier does not constitute taxable “freight in” but nontaxable “freight out.”

Sincerely,

Gary J. Jugum  
Assistant Chief Counsel

GJJ:sr

cc: Sacramento District Administrator - KH