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LEGAL DIVISION (MIC:82)
450 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0082)
Telephone: (916) 322-2976
FAX: (916) 323-3387

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June 9, 1995

Ms. J--- K. W---
T--- --- ---, Inc.
Administrative Center
P. O. Box XXXXX
--- ---, MO XXXXX

Re: T--- --- ---, Inc.
SZ -- XX-XXXXXX

Dear Ms. W---n:

This is in response to your letter dated March 6, 1995 regarding the application of tax to your sales of aircraft parts. You state:

"We sold aircraft parts to an Oregon vendor who requested that they be shipped to California via common carrier for repair. After repair they were shipped to Oregon via common carrier.

"We billed California sales tax and the vendor is refusing to pay since the end use was not in California. We are requesting a letter from the State of California verifying that sales tax does not apply to this transaction."

DISCUSSION

Retail sales of tangible personal property in California are subject to sales tax, measured by gross receipts, unless specifically exempt by statute. (Rev. & Tax. Code § 6051.) A retail sale is a sale for any purpose other than resale in the regular course of business. (Rev. & Tax. Code § 6007.) When sales tax does not apply, such as when sales take place outside of California, the use tax, measured by the sales price of the property sold, applies to the use of property purchased from a retailer for storage, use, or other consumption in California. (Rev. & Tax. Code §§ 6201, 6401, Reg. 1620.)

It appears from the information you have provided that the sale of the aircraft parts took place outside of California; if so, the use tax, rather than the sales tax, applies. The purchaser will owe use tax if the parts were purchased for use in California unless the use is exempt or excluded from tax by statute.

The relevant exclusion is set forth in Revenue and Taxation Code section 6009.1, which provides as follows:

"'Storage' and 'use' do not include the keeping, retaining, or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state."

Since the aircraft parts were brought to California for repair and were then sent to the purchaser in Oregon, the repair in California will come within the section 6009.1 storage and use exclusion if, after the repaired parts are shipped to Oregon, they do not return to California during the six-month test period but are instead used solely outside this state. (See Business Taxes Law Guide Annotation 570.1040 (2/3/66).) If the parts return to California, the exclusion does not apply.

If you have further questions, please feel free to write again.

Sincerely,

Kelly W. Ching
Staff Counsel

KWC:cl

cc: Out-of-State District Administrator