

purchaser in this state from a point outside this state, the transaction is subject to the local use tax ordinance of the participating jurisdiction where the first functional use is made. Operative July 1, 1996, for transactions of \$500,000 or more, except with respect to persons who register with the Board to collect use tax under Regulation 1684(b) (18 CCR 1684), the seller shall report the local use tax revenues derived therefrom directly to such participating jurisdiction.

“(2) Operative July 1, 1996, if a person who is required to report and pay use tax directly to the Board makes a purchase in the amount of \$500,000 or more, that person shall report the local use tax revenues derived therefrom to the participating jurisdiction in which the first functional use of the property is made.”

As you note, (A) uses the word “transactions,” and (B) uses the word “purchase.” The language difference is derived from the terms of art that apply to sales by sellers and purchases by consumers, but, for our purposes, they apply to the same kinds of activities.

We agree with you that an invoice is, standing alone, not a contract. (India Paint Co. v. United Steel Prod. Corp. (1954) 123 Cal.App.2d 597, 607.) Neither, however, is a purchase order, as that term is commonly understood. (Cal.U.Comm.Code § 2206; Tomlinson v. Wander Seed & Bulb Co. (1960) 177 Cal.App.2d 462, 471; See, Annot. 190.2825 (12/6/93).)

We understand, however, that the goods which are the subject of a sales contract may not all be shipped at once. They may be shipped in separate lots each with its own invoice. In such a case, the total value of the sales contract would determine if the retailer should be reporting local use tax directly to the jurisdiction of the purchaser under Regulation 1802(c)(1) rather than to the jurisdiction through the medium of the countywide pool.

I hope the above discussion has answered your question. If you need anything further, please do not hesitate to write again.

Sincerely,

John L. Waid
Senior Tax Counsel

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cc: Mr. Larry Micheli (MIC:27)
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