



STATE BOARD OF EQUALIZATION

July 11, 1974

Mr. [L]
Vice President
[W]
XXXX --- ---
--- ---, CA XXXXX

Dear Mr. [L]
Re: S- -- XX XXXXXX

Your letter of June 21, 1974 has been referred to me for review. I wrote to Mr. [X] following Mr. [G]'s letter, which you enclosed with your inquiry. Attached is a copy of the substance of my letter to Mr. [X] for your reference.

You ask:

“1. Can a client buy a \$1000 face value bag of silver combined with a purchase of 100 Mexican 50 Peso, and achieve a sales-tax-free purchase?”

Yes. A single sale of, for instance, 4,000, pre-1967, silver, United States quarters together with 100 Mexican 50-peso coins is a sale of monetized bullion with a face amount of about \$1,400 and a sale in bulk within the meaning of subsection (b) of Section 6355. Assuming the transaction also meets the other requirements of Section 6355, neither the sales tax nor the use tax would apply.

Note, however, that we do not regard a transfer of post-1970 “clad” coins as monetized bullion which is an increment in the face amount of the transaction within the meaning of subsection (b). We cannot ignore the fact that in today's market, post-1970 “clad” coins in general are not transferred for use other than as a medium of exchange. “Clad” coins' present trading value is a consequence of the United States' monetary power and not of the (lower) economic value of the coins themselves. Because the “clad” coins' function is circumscribed by the money value fixed by the government fiat, the coins' utility in such a transaction is viewed accordingly, and the price is indistinguishable from the “goods”. So a single sale of 4,000 “clad” United States quarters together with 100 Mexican peso coins is not considered to be a sale in bulk for the purposes of subsection (b) of Section 6355.

Your second question is:

“2. Is a purchase of two or more dissimilar coins on the same date considered a single transaction?”

The sale of two dissimilar coins on the same date will be considered a single transaction if the coins were in fact the subject of a single sale. This will be further discussed below.

You ask:

“3. If a customer begins with several separate transactions on margin, but then requests delivery of his coins at a single time, is this considered a single purchase? If so, then the ‘combining’ theory would come into play, would it not?”

No. The delivery of coins pursuant to separate margin (sales) contracts is not a single transaction for the purposes of Section 6355. Subsection (b) of that section requires the amount of monetized bullion “sold in the transaction” (emphasis added) to sum \$1,000 or more in face amount. Separate sales contracts constitute separate transactions notwithstanding one element of each execution (the delivery of the goods) may occur on the same day. Subsection (b) requires that each transaction have a face amount of \$1,000 to be a sale in bulk.

Finally you ask:

“4. Is this consistent with your position in paragraph two of your letter describing ‘...the collective face amounts of the coins constituting ‘monetized bullion?’”

These answers are consistent with the second paragraph of Mr. [O]’s letter of May 28, 1974. Note that subsection (b) contemplates a single transaction involving a number of coins; it requires the sum (collective face amount) of the monetized bullion in the transaction to total \$1,000 or more in face amount.

If you have any further questions, please do not hesitate to write directly to me at the above address.

Very truly yours,

Philip R. Dougherty
Tax Counsel

PRD:lb