

M e m o r a n d u m**190.2700**

To: Headquarters – Audit Review (RN)

Date: August 10, 1966

From: Tax Counsel (EHS) - Headquarters

Subject: Sales of Materials to California Contractors
for Use Out of State

We offer the following comments regarding the subject of your memo of August 9, 1966.

Section 6386 does not require that a purchaser to obtain the exemption shall actually make retail sales. He need only be the “holder of a valid seller’s permit.” However, since the addition of § 6072, effective September 17, 1965, a person cannot hold a seller’s permit unless he is actively engaged in or conducting a business as a seller of tangible personal property. Therefore, a person not so engaged is not entitled to hold a permit and a California contractor could not legally be issued a permit solely to permit him to take advantage of § 6386. Any contractor holding an unrevoked permit would be entitled to the benefits of § 6386, but the permit is subject to revocation under § 6072 if the person is found to be not actively engaged in or conducting a business as a seller of tangible personal property.

EHS:fb