

557.0260**Memorandum**

To: San Bernardino – Auditing (WDF)

Date: December 16, 1963

From: Tax Counsel (EHS/PM) - Headquarters

Subject: REDACTED TEXT

This is in reference to your memorandum of October 24 concerning the taxability of moving charges in connection with houses sold for removal by REDACTED TEXT Movers and REDACTED TEXT Sales.

It is our opinion that there is sufficient evidence that title is intended to pass prior to delivery where the contract of sale provides that the house is being sold “as is and where is.” Accordingly, when a house is sold on this basis, we do not believe the moving charges are includible in taxable gross receipts, at least where the charges do not exceed a reasonable amount. This would exclude from the taxable gross receipts the moving charges in connection with the first three agreements attached to your memorandum.

The fourth agreement does not include the provision that the buyer agrees to purchase the house “as is and where is.” In view of the fact that there is no other statement clearly indicating the intent of the parties, it must be presumed that title was intended to pass upon delivery. The fact that the buyer, in this instance, agreed to pay \$250 upon execution of the agreement and another \$250 upon delivery of the house to his premises would support this conclusion.

The sale under the fourth agreement happened to be made by REDACTED TEXT Movers, which also agreed to move the house. However, we would reach the same conclusion if separate agreements were made for sale and removal by REDACTED TEXT Sales and REDACTED TEXT Movers, respectively. On the basis of the facts presented to us, we believe these companies must be regarded as a single entity.

PM:spg