



STATE BOARD OF EQUALIZATION
916-445-2242

June 26, 1986

[X]
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Dear Ms. [A]:

This is in response to your letter of May 19, 1986 requesting clarification of the Sales and Use Tax Law as it applies to the sale of gold nuggets. On occasion [X] purchases natural gold nuggets from goldminers. The nuggets have a purity range between 82 and 89 percent. Specifically you request a legal opinion as to the application of sales or use tax to purchases of gold nuggets with a value in excess of \$1,000.

Tax applies to the sales of all tangible personal property within the State of California unless otherwise exempted (Rev. & Tax. Code §6051). Tangible personal property as defined by Revenue and Taxation Code §6016, means personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses. Gold nuggets are tangible personal property and sales of gold nuggets are subject to tax unless otherwise exempted.

Prior to January 1, 1986, Section 6355 of the Revenue and Taxation Code exempted from sales and use tax, sales in bulk of monetized bullion which were substantially equivalent to transactions in securities or commodities through a national securities or commodities exchange. Effective January 1, 1986 section 6355 was amended to include as exempt transactions sales in bulk of non-monetized gold and silver bullion and numismatic coins. Section 6355(b) defines sales in bulk as a sales transaction in which the market value equals or exceeds \$1,000.

Regulation 1599, which interprets Revenue and Taxation Code Section 6355, was recently amended to reflect the changes in the statute and will become effective July 4, 1986. A copy of the revised Regulation 1599 is enclosed for you information. Section (a)(3) of revised Regulation 1599 defines non-monetized bullion as gold or silver which has been smelted or refined and has a value dependent primarily upon its gold or silver content and not upon its form.

The sales of "natural gold nuggets" does not constitute the sale of non-monetized bullion pursuant to the definition found in Regulation 1599(a)(3). Even relatively pure gold nuggets, such as those which have a purity range between 82 and 89 percent, have not been smelted or refined and, therefore, do not constitute non-monetized bullion. It therefore follows that bulk

sales of gold nuggets will not qualify for the exemption contained in Revenue and Taxation Code 6355.

Nevertheless, it is our understanding that [X] always purchases the gold nuggets for resale. If so, the sale to [X] is not a retail sale and sales tax is not applicable. To avoid paying sales tax reimbursement on the purchase of the nuggets, a resale certificate may be given to the seller (Rev. & Tax. Code §§6091 & 6092). An example of a resale certificate is shown in Regulation 1668, copy of which is enclosed for your information. If our understanding is not correct, and if the gold nuggets are to be held for investment, a resale certificate may not be given and sales tax is due on the sale of the gold nuggets to [X].

If you have any further questions, please contact us again.

Sincerely,

Teresa Armstrong
Legal Counsel

TA:ba
Enc.

bc: Sacramento – District Administrator