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**STATE BOARD OF EQUALIZATION**

January 18, 1965

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Gentlemen:

This is in reply to your letter of December 30, 1964, in which you inquire if nurserymen selling ornamental trees for landscaping on a contract basis are governed by Ruling 11.

Ruling 11 does apply to the operations of nurserymen. When nurserymen contract to dig, transport, and plant trees they buy for the purpose, and they quote the prices on a delivered and installed basis, the nurserymen are regarded as construction contractors selling "fixtures" (the trees). In some instances, nurserymen are considered to be consumers of materials used for improvements to realty; the installation of a lawn would be such a case.

If you have any further questions, please do not hesitate to write to us again.

Very truly yours,

E. H. Stetson  
Tax Counsel

By Philip R. Dougherty

PRD:md      [lb]