Memorandum

To: Headquarters – Audit Review (RN)  
From: Tax Counsel (EHS) - Headquarters  
Subject: Sales of Materials to California Contractors for Use Out of State

Date: August 10, 1966

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