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**STATE BOARD OF EQUALIZATION**

November 5, 1952

Mr. E--- J. M---  
Executive Secretary  
C--- A--- of N---  
XXX --- Building  
---, XX, California

Dear Mr. M---:

Upon further consideration of the problem discussed at our recent conference in this office we have reached the conclusion that the sales of metal cans to nurseries is exempt from sales tax as sales of nonreturnable container where the nurseries place plants in the containers and sell the containers along with the plants.

It is understood that no other use of the cans is made by the nurseries and that the plants remain in the cans until sold. The fact that the plant, after being placed in the can, grows in the can until it is large enough to be offered for sale will not be considered a use of the cans inconsistent with their status as exempt nonreturnable containers.

We are advising our Los Angeles District Office to this effect, calling specific attention to the current audit of M--- N---.

Very truly yours,

E. H. Stetson  
Tax Counsel

EHS:ph

cc: Pasadena - Auditing