



STATE BOARD OF EQUALIZATION

December 26, 1958

Attention:

Gentlemen:

This is in reply to your letter of November 13 addressed to Mr. Harry L. Say, Sales Tax Administrator. We regret the delay in giving you the ruling requested.

It is our opinion that the tax applies with respect to the sales price of the equipment sold by the taxpayer to the customer, exclusive of the increased amount of the contract covering customer-owned equipment. You state that in order to satisfy the finance company, the taxpayer will take a bill of sale from the customer for the customer's own equipment and prepare a sales contract covering the new equipment, as well as the customer's own equipment.

The proceeds from the finance company that are in excess of the price of the new merchandise sold is then remitted to the customer. The taxpayer only records the sale of his own merchandise and pays the tax thereon and not on the full amount of the contract as reported to the finance company. The including in the sales contract of property already belonging to the customer in order to satisfy the finance company is apparently in order to provide the finance company with additional security and is not in any realistic sense sold by the taxpayer to the customer.

The taxpayer should keep sufficient records to show the sales price or the equipment actually sold by him. We recommend that he secure from the purchaser and from the finance company affidavits stating the actual facts, in view of the circumstance that for tax purposes, one of the records; i.e., the sales contract, as reported to the finance company, is sought to be disregarded.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:fb

cc: Los Angeles - Administrator