



STATE BOARD OF EQUALIZATION

April 18, 1952

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Attention: Mr. ---

Gentlemen:

We have been informed by our Vallejo office that you desire an opinion concerning the taxability of suit clubs. As we understand it, a merchant will organize a suit club in a service or fraternal organization. Such members as desire to join pay a specified amount each week for fifty weeks. At the end of the fifty weeks, the member is entitled to a suit. Each week a name is drawn and the lucky name wins a suit. The winner may then discontinue making the weekly payments or may continue them and at the end of the fifty weeks will receive another suit. The service or fraternal organization receives a percentage of the receipts with the balance going to the merchant furnishing the suit.

It is our opinion that the merchant is making taxable retail sales of all suits including those furnished to the weekly winner. The sales tax is a tax on the seller. The seller normally reimburses himself for the amount of the tax by adding such amount to the sales price. The tax is measured by the amount received by the seller. In this case, the amount received by the merchant is the amount paid in by the members less the percentage going to the service or fraternal organization. Normally a seller may not deduct from the measure of the sales tax labor or service costs or salesmen's commissions connected with the sale. However, it is our opinion that the amount going to the sponsoring organization should be considered as a contribution to the organization by its members rather than as a commission on sales.

Very truly yours,

E. H. Stetson  
Tax Counsel