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**STATE BOARD OF EQUALIZATION**

0952 Interstate commerce sales need not be supported by resale certificates

January 27, 1950

Gentlemen:

This is in answer to your letter of January 20, addressed to the Governor, with respect to the necessity of furnishing your vendor in this State with a resale certificate in connection with your purchases of merchandise for resale, which has been referred to this office for attention.

The California Sales and Use Tax Law imposes a tax upon the gross receipts of all retailers in this State derived from the sale of tangible personal property at retail. It also provides that for the proper administration of the Act all gross receipts are subject to the tax until the contrary is established and that the burden of proving the contrary is upon the seller, unless he takes a resale certificate from the purchaser. Without this latter provision it would be impossible to segregate, by audit, the taxable sales and the non-taxable sales for resale with respect to property sold and delivered in this State.

Where, however, the property is sold to an out-of-State purchaser in the course of interstate commerce, as defined by Sales and Use Tax Ruling 55, copy enclosed, the seller may support his claim for exemption from sales tax by retention of bills of lading or other documentary evidence of the delivery of the property to a carrier or forwarding agent for shipment outside of this State. In this case, it is not necessary for the seller to obtain a resale certificate as the sale is exempt as a sale in interstate commerce, whether sold at retail or for the purpose of resale.

Very truly yours,

R. G. Hamlin Associate  
Tax Counsel

RGH:HB

cc: Governor's Office