



STATE BOARD OF EQUALIZATION

October 30, 1950

H--
XXX --- Street
--- ---, California

Attention: Mr. G. K. B---
Manager

Account: --- - XXXX

Gentlemen:

This is in reply to your letter of October 21 concerning your claim that certain sales to Mexican Nationals made at your store in --- --- are exempt from sales tax under Sales and Use Tax Ruling 55.

We have received from our --- --- Office a detailed statement of how these transactions are handled. We understand that you deliver the merchandise to the purchasers at your store who thereafter transport the merchandise to Mexico.

In order to claim exemption from sales tax upon the ground that the sales are immune from taxation as sales in foreign commerce or as export sales, it is essential that all of the conditions of such exemption be present and adequately supported by proper proof.

It is our opinion that none of the Court decisions pertaining to this subject are authority for the proposition that the sales tax does not apply where the goods are delivered to the purchaser in this State, even though the purchaser may subsequently transport the goods outside the State. The case of *Richfield Oil Company v. State Board of Equalization*, 329 U.S. 69, stands for the proposition that where the goods are delivered by the vendor into an exporting carrier sent to this country for the express purpose of receiving the goods and carrying them abroad, title to the goods passing to the buyer upon delivery into the exporting carrier, the sale was exempt upon the grounds that at the same time title passed the goods became exports. The basis and reasoning of the Court's opinion does not in our opinion, warrant us in concluding that the Court would have adopted the same conclusion had the goods been delivered to the purchaser prior to the time they were placed upon the exporting carrier.

Ruling 55, A-1-(e), [now see, Reg. 1620(a)(3)(C)(2)(c), eff. 2/8/86. DJH], expressly provides as a condition of exemption that the goods shall be delivered to the conveyance furnished by the purchaser for the purpose of carrying the goods abroad. Accordingly, we are unable to recommend allowance of the sales in question as exempt export sales.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:ph

cc: Mr. J. S. Knight