



STATE BOARD OF EQUALIZATION

July 20, 1951

Dear Mr.

This office has been furnished with a report of certain contacts made with your association by our representative, Mr. Robert Paine, together with certain questions which it appears you are desirous of having answered by this office. We are requested to furnish you with two copies of Sales and Use Tax Ruling 8, Morticians, and two copies of the Sales and Use Tax Law. These are enclosed.

In answer to the several questions submitted in Mr. Paine's report, we give the following answers after repeating the question as presented to us.

1. Death in Nevada - preparation of remains in Nevada, burial in California, through ashes in urn, entombment in a mausoleum or ground burial. These are returned to California by public carrier.

In view of the fact that pursuant to Ruling 8, morticians are regarded as the retailers of the tangible personal property furnished in connection with rendering their services, a mortician would be considered to have sold the property for use in California where it is shipped to this State either by carrier or by the mortician's own facilities along with the shipment of the body or ashes of the deceased. Thus, the California use tax will be applicable with respect to such tangible personal property and the mortician's client as the purchaser thereof incurs liability for payment of the use tax directly to the State of California. It is assumed that the morticians do not maintain places of business in this State. If such should be the case in any instance, the mortician would be required to collect the use tax and return it to the State in the same manner that a California mortician collects reimbursement for the sales tax and returns that tax to the State. Should any of the morticians maintain a place of business in this State or should desire to secure authority to collect the use tax, thus relieving their customers of the obligation of returning it directly to the State, we shall be glad to provide applications for certificates of authority to collect the use tax either to you or to such morticians as you may designate. There is no fee for the issuance of a certificate. Where ashes are sent to California in an urn, it would appear that the only tangible personal property subject to the use tax would be the urn. In the event of a ground burial in California, the tangible personal property subject to the use tax would be that property indicated in Ruling 8 as subject to the sales tax in the event of a California funeral. It would be permissible for a Nevada mortician in computing the use tax to use the formula of fifty percent of the total charge in accordance with the provisions of Ruling 8.

2. The same set or circumstances but delivered in California by the personal hearse of the mortician.

Our answer to question 1 covers this situation.

3. Death in California with body preparation in Nevada.

(a) Not returned to California for burial.

The California sales or use tax is not applicable in the event the sale of the property by the mortician occurs in Nevada, there being no sale within the jurisdiction of this state and no taxable use of property here.

(b) Reno burial.

Same answer as for (a).

4. California death. California ambulance - for Reno body preparation - body returned to California for burial by either public carrier or mortuary hearse.

Again, assuming that the sale of the property furnished by the mortician occurs in Nevada, the use tax will be applicable with respect to the property shipped or brought to this State, to remain here.

5. Death in Nevada of Nevada residents, burial taking place in California.

Same answer as to number 4. The place of death is immaterial if the burial occurs in California, which thus becomes the place in which the tangible personal property purchased from the mortician is to be used within the meaning of the law.

6. Deceased bodies from Coleville, California, embalming in Reno, purchased burial caskets, and return by own conveyance. This particularly refers to the method of Indian burial along the border.

Same answer as to number 5. It appears that the burial caskets are purchased in Nevada, but are sent to California with the body for burial. You mention that this question refers particularly to Indian burials. In the event the United States Government pays the mortician and thus is the purchaser of the caskets and other tangible personal property, there is no use tax applicable since the United States is not subject to payment of the use tax.

Very truly yours,

E. H. Stetson
Tax Counsel

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