



STATE BOARD OF EQUALIZATION

November 23, 1951

The N--- O---
XXX --- XXth Street
--- ---, California

Attention: Mr. A. K---, Publisher

Account No. C-XXXXXX

Gentlemen:

With further reference to our letter to you of November 8 we are now in receipt of a report from our --- District Office setting forth the facts upon the basis of which the sale of the Duplex flat-bed press made to Mr. J--- H--- of the S--- N--- in November 1950 was included in the measure of the Board's deficiency determination of May 23, 1951.

This report indicates that the sale was included because it was one of three sales of printing equipment made between November 1, 1950 and February 14, 1951. The other two sales were made on December 1, 1950, to F. W--- and on February 14, 1951 to C--- J---. Actually two items were sold to Mr. W--- and it is not clear whether this was one or two sales. Accordingly, even assuming that the press sold to Mr. H--- was used exclusively in the printing of a newspaper, thus bringing it within that part of Section 6006.5 of the Sales and Use Tax Law defining an occasional sale as a sale of property not held or used in the course of an activity for which a seller's permit is required, the fact that it was one of several sales made within the period indicated brings it, in our opinion, within the provision of Section 6006.5(a) that a sale is not an occasional sale if it is one of a series of sales sufficient in number, scope, and character to constitute an activity requiring the holding of a seller's permit. It is our administrative position that the making of three or more sales in any twelve-month period is generally sufficient to constitute an activity requiring the holding of a seller's permit. In the matter at hand, three or possibly four sales in the total amount of \$12,684.00 were made within a period of less than four months.

Accordingly, it does not appear that we are in a position to recommend to the Board that your claim for refund of tax paid with respect to the press sold to Mr. H--- be approved.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:ph

cc: Mr. John B. Evans (CLH)