

M e m o r a n d u m**395.0760**Sacramento, California
July 26, 1950

To: Mr. Wm. R. Thomson (LJR)

From: E. H. Stetson

This is in answer to your memorandum of June 5, 1950 requesting clarification of the following statement made in my memorandum of March 1, 1950 concerning the above company: "When G--- sells its own used or surplus material to the operators, tax is payable upon such a sale."

It is my opinion that if G--- sells tangible personal property to the operators, who become tenants in common of the property sold, the tax applies to the consideration received by G--- for the interest transferred by G---. If G--- is not one of the operators so that G--- transfers 100% of its interest, then the tax applies to the 100%. On the other hand, if G--- is one of the operators, then it appears that G--- retains a part ownership of the property and the tax could only be applied to the consideration for the interest actually transferred by G---.

I note the statement in Auditor Latham's memorandum, that:

"Mr. R--- and Mr. H--- have told me that they consider this (my statement) to mean that the measure of tax is 100% of the value of property transferred from the --- stock to the --- operation."

If Mr. R--- is of the opinion that this is true even where G--- retains ownership of a proportionate part of the property sold, I would be pleased to receive a statement from Mr. R---, clarifying his position in this regard. As you know, Mr. R--- and I attended the conference in Mr. S---'s office together and if he has any different recollection of the conclusions reached than I have, I should like to be so advised.

The various changes which Auditor Latham indicates, he believes, should be made in the audit as it now stands, appear proper to me in view of the conclusions reached at the conference.

Headquarters office Reviewing Section has raised a question as to the handling of sales made to --- from an operations owned jointly by --- and ---. This is point 5 on the last page of Mr. Latham's report. It appears that the audito of --- recommends an assessment against --- for tax measured by the sale of its transfer of its interest.

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The Reviewing Staff questioned me as to whether it would not be possible to assess the total tax due with respect to the transfer against one or the other of the co-owners, pointing out to the statement in my Memo of March 1, 1950 that --- would return the tax on taxable sales made by ---, the property owned by --- and the other operating companies.

Under the letter agreement of August 30, 1943 between --- and ---, --- operates the field and performs various services for the operators.

I understand that the operation jointly owned by --- and --- is a separate operation and, therefore, presumably --- does not necessarily act on behalf of this operation merely because it does so on behalf of the various members of the --- group. Unless there is an agreement designating --- as the operator it would seem appropriate to determine the tax as Latham suggests.

EHS:AMD