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**STATE BOARD OF EQUALIZATION**

May 8, 1972

X-----

Attention: X-----

Dear X-----:

This is with reference to the petition of X----- of California and the hearing held on the matter last April 6 in Hollywood.

The item under protest was identified as sales for resale that were disallowed. The disallowed sales were of items deemed by the auditor not to have been resold by the purchasers. However, they were purchased under valid resale certificates taken in good faith by X----- representatives who made the sales.

We are satisfied that if any of the items purchased ex tax for resale were not resold by the purchasers, but were instead consumed by them, the auditors who audit the purchasers would pick up the use tax on such purchases.

As far as X----- is concerned, we must look to the language of Section 6092 of the Revenue and Taxation Code, which provides that the certificate (resale certificate) relieves the seller from liability for sales tax only if taken in good faith from a person who is engaged in the business of selling tangible personal property and who holds a seller's permit.

The record indicates that the X----- auditors honored the resale certificates in audits of X----- that were made in X----- when the books and records were kept in X----- . It is our opinion that this was the correct thing to do, and we are recommending that it be done in the audit made in California too.

(Large Redaction)

Very truly yours,

Robert H. Anderson  
Tax Counsel

RHA:lb