

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA  
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(916) 445-8485

November 14, 1985

Mr. J--- R. W---  
District Sales Manager  
F--- C---Corporation  
XXXX --- Place  
Suite XXX  
--- ---, CA XXXXX

Dear Mr. W---:

This is in response to your letter of October 2, 1985. We understand that F--- C--- Corporation (F---) is in the financing and leasing business.

One of F---'s customers owns several items of tangible personal property which it utilizes in its business and has approached F--- concerning the possibility of obtaining a loan secured by that property. The customer proposes to issue a "Bill of Sale" to F--- transferring all right, title and interest to the property to F--- in exchange for a sum of money. Simultaneous with issuance of the "Bill of Sale", F--- and the customer will enter into a "Conditional Sales Agreement" whereby the customer agrees to purchase the property from F---t through installment payments with F--- retaining a security interest in the property until all installment payments have been made.

You asked our opinion as to whether the foregoing transaction triggered application of sales or use tax. Assuming the customer retains benefits of property ownership such as state and federal income tax credits and depreciation deductions, the interest rate charged by F--- is nonusurious (see Cal.Const.Art. XV, §1), and F--- treats the transaction as a loan on its books and files appropriate UCC financing statements, it is our opinion that the described transaction is for a loan of money and is not a sale of tangible personal property subject to tax.

Sincerely,

E. Leslie Sorensen, Jr.  
Tax Counsel

ELS:rar