

**505.0370**

## Memorandum

To: Mr. Arden Taube  
Audit Evaluation and Planning

Date: March 26, 1991

From: Victoria Lani Arena  
Tax Counsel

Subject: Tax Exempt Status of Western Farm Credit Bank

This is in response to your memorandum of January 17, 1991, requesting written verification that sales to Western Farm Credit Bank are exempt from California Sales and Use Tax.

Western Farm Credit Bank is a Farm Credit Bank, and as such, it is a federally chartered instrumentality of the United States pursuant to Section 1.3 of the Agricultural Credit Act of 1987 (the "Act") which is codified at Title 12 United States Code Section 2011(a). Farm Credit Banks are exempt from state sales and use taxes pursuant to Section 1.15 of the Act (12 U.S.C. § 2023), which provides:

The Farm Credit Banks and the capital, reserves, and surplus thereof, and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by a Farm Credit Bank to the same extent according to its value, as other similar property held by other persons is taxed. The mortgages held by the Farm Credit Banks and the notes, bonds, debentures, and other obligations issued by the banks shall be considered and held to be instrumentalities of the United States and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 3124).

California law also provides that retail sales to federal instrumentalities are exempt from sales tax. Section 6381 of the California Revenue and Taxation Code provides:

United States. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of any tangible personal property to:

(a) The United States, its unincorporated agencies and instrumentalities;

(b) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States;

(c) The American National Red Cross, its chapters and branches.

California Sales and Use Tax Regulation 1614 interprets this exemption as including Federal Land Banks which were the predecessors-in-interest to the Farm Credit Banks. The Act merged the Federal Land Banks and the District Federal Intermediate Credit Banks into the Farm Credit Banks. (12 U.S.C. §2011.) Accordingly, the Board takes the position that the exemption is intended to include the Farm Credit Banks.

Regulation 1614(a) also provides a use tax exemption. It provides in relevant part: "Application of the use tax to the storage, use, or other consumption of tangible personal property by agencies or instrumentalities of the United States is prohibited unless federal law permits taxing the agency or instrumentality." As noted above, federal law does not permit taxing Farm Credit Banks. Additionally, the storage, use, or other consumption in California of tangible personal property purchased from federal instrumentalities, with the exception of certain surplus property, is exempt from use tax pursuant to Section 6402.

Regulation 1614(g) describes the documentation required to support the federal instrumentalities, with the exemption. It provides that:

"Any seller claiming a transaction as exempt from tax under section 6381 must obtain from the purchaser, and retain, a government purchase order or a government remittance advice to support his claim".

If Western Farm Credit Bank does not use such government purchase documents, we would be happy to write a letter directly to the Bank verifying its tax-exempt status. When making purchases, the Bank could then present a copy of such letter, in lieu of a government purchase order, to any seller. The seller would then retain the copy of the letter as verification of the tax exempt status of the sale. This would effectively satisfy the requirements of Regulation 1614(g).

Please contact me if you have any further questions.

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