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STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

(916) 445-3723

October 7, 1980

Dear Governor:

Commonwealth of Puerto Rico

This is in regard to the question of whether California sales tax applies to sales to the Economic Development Administration (EDA) of Puerto Rico. We regret our delay in responding. The inconclusive case law on this question necessitated extensive research.

While the case law on the question of the status of Puerto Rico after 1952 is inconclusive, the United States Department of Justice has now committed itself to the position that the Commonwealth of Puerto Rico is an unincorporated agency or instrumentality of the United States. We have received a letter dated May 5, 1980, from Assistant Attorney General M. Carr Ferguson agreeing with your position that California sales tax does not apply to the sales to the EDA. His opinion is based on the conclusion that Puerto Rico's fundamental political relationship to the United States was not changed by Puerto Rico's obtaining commonwealth status.

We have decided, pending further legislation or case law clarifying Puerto Rico's status, to accede to the United States Department of Justice's opinion that Puerto Rico is still an agency or instrumentality of the United States Government. Therefore, sales to the EDA are within the exemption provided by Section 6381 of the California Revenue and Taxation Code and are not subject to California sales tax.

Sincerely,

Gary J. Jugum
Assistant Chief Counsel