

**M e m o r a n d u m****557.0508**

To: San Francisco – Auditing (AHT)

December 22, 1970

From: Tax Counsel (JKM) - Headquarters

Subject: B--- of A---

SC -- XX XXXXXX

This is intended to supplement my December 17, 1970 memorandum to you concerning the taxability of delivery charges included in sales prices of personalized checks.

In part, we advised that the delivery charges are taxable unless the deliveries occurred after title to the checks passed to the Bank's customers. In this regard, California Commercial Code section 2401(2) provides that unless otherwise explicitly agreed, title passes to the buyer at the time and place at which the seller completes his performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place; and in particular and despite any reservation of a security interest by the bill of lading (a) if the contract requires or authorizes the seller to send the goods to the buyer but does not require him to deliver them at destination, title passes to the buyer at the time and place of shipment; but (b) if the contract requires delivery at destination, title passes on tender there. As we understand that there was not explicit agreement between the Bank and its customers as to when title to the checks passed to the customers, section 2401(2) would be applicable. Since the Bank apparently was only required to send the checks to its customers but was not required to deliver the checks to them, title to the checks passed to the customers at the time and place of shipment pursuant to section 2401(2)(a).

With regard to the attached order list to which I referred, further review disclosed that it is an order list for Bank of C--- checks and that proces apparently do not include delivery.

JKM:smb  
Attachment