



STATE BOARD OF EQUALIZATION

July 21, 1958

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Manager, Auditing Division

Gentlemen:

Your letter of July 10 addressed to Mr. Harry L. Say, Sales Tax Administrator, has been referred to me for reply. You ask to be advised with respect to inter-city and inter-county transactions within California "How the Bradley-Burns Uniform Local Sales and Use Tax Law affects our constitutional exemption from use tax".

The precise nature of your inquiry is apparently not clear to us. The constitutional prohibition of the imposition of a use tax directly upon insurance companies would prevent the imposition of a local use tax, in our opinion, to the same extent that it prevents the application of the State use tax. Similarly, we believe that in transactions involving retail sales to insurance companies the seller is liable for payment of local sales taxes imposed by ordinances adopted under the Bradley-Burns Law to the same extent as in the case of sales to other purchasers. As these ordinances impose the tax upon the retailer, the situation would seem to be no different than the State sales tax imposed upon the retailer, which has been held by the California Supreme Court to apply with respect to sales to banks, notwithstanding the constitutional exemption of banks from a use tax. See Western Lithograph Company v. State Board of Equalization, 11 Cal. 2d 156.

If you wish to amplify your inquiry, we shall be glad to endeavor to give you an answer to such specific questions as you may have.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:tl

cc: San Francisco - Administrator



STATE BOARD OF EQUALIZATION

July 25, 1958

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Attention: Mr. [B]
Secretary-Treasurer

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Gentlemen:

This is in answer to your letter of July 16 requesting a ruling concerning the application of state-administered local sales tax with respect to sales to banks and insurance companies.

Under the California Constitution, banks pay taxes on their net income and on their real property in lieu of all other State and local taxes, and insurance companies pay taxes on gross premiums and on their real property in lieu of all other State and local taxes. The California Supreme Court, in the case of Western Lithograph Co. v. State Board of Equalization, 11 Cal. 2d 156, has held that the provisions of the Constitution relating to taxes on banks do not prohibit the State from imposing a sales tax on a retailer making a sale to a bank, even though the bank pays more to get the goods because of the tax.

Before July 1, 1958, the 1% local tax imposed in San Francisco was a purchase tax legally imposed on the purchaser and required to be collected by the retailer. It thus could not, under the Constitution, be imposed upon a bank or insurance company. Since July 1, however, the tax is a sales tax legally imposed on the retailer identical in this respect to the 3% State tax.

Accordingly, the tax, being legally imposed on the retailer, is applicable to sales to banks and insurance companies to the same extent as the State tax.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:tl

cc: San Francisco - Administrator