



STATE BOARD OF EQUALIZATION

March 24, 1970

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Gentlemen:

This will confirm our telephone conversation of March 23. You ask whether it would be necessary to obtain exemption certificates from common carriers, public utilities, and operators of waterborne vessels with respect to certificates as applicable to the transactions (sales) and use tax. We think that you should obtain such certificates for the following reasons:

1. While it is generally true that a transaction exempt from the Bradley-Burns tax will also be exempt from the transactions (sales) and use tax, the converse is not necessarily true. In other words, some transactions may be exempt from the transactions (sales) and use tax but not be exempt from the Bradley-Burns Uniform Sales and Use Tax Law.
2. Section 6421 of the Revenue and Taxation Code which is incorporated into both the Bradley-Burns tax and the transactions (sales) and use tax ordinances, provides that if a purchaser certifies in writing to a seller that the property purchased will be used in a manner or for a purpose entitling the seller to regard the transaction as being exempted from sales tax and he uses the property in some other manner or for some other purpose the purchaser shall be liable for the payment of sales tax as if he were a retailer making a retail sale of the property at the time of use. Unless you obtain a certificate from your purchasers, this section did not apply if it is found that the transaction is subject to the transaction (sales) and use tax. In that case we would have to look to you for the payment of the transactions (sales) or use tax rather than to the purchaser.

If you have any further questions, please feel free to write to us.

Very truly yours,

John H. Murray
Tax Counsel

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