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**STATE BOARD OF EQUALIZATION**

September 23, 1954

A restaurant owner sold his car at retail for \$700.00. The vehicle was shown on his books and Income tax returns as being one-half for business purposes and one-half for personal purposes with the resultant allocation of gasoline, repairs, depreciation, etc. You inquire whether his taxable gross receipts from the sale of the car are \$700.00 or \$350.00.

Section 6006.5 (a) of the California Sales and Use Tax Law defines an Occasional sale, in part, as a sale of property not held or used by a seller in the course of an activity for which he is required to hold a seller's permit. Under Section 6367, occasional sales are exempt from the sales tax. If an asset is at all held or used in an activity for which a seller's permit is required, for example a restaurant activity, the entire gross receipts from its retail sale constitutes the measure of the sales tax liability resulting from the sale. There is no provision in the Law which provides for any allocation.

Yours very truly,

W. W. Mangels  
Assistant Counsel

WWM:ja  
cc: San Diego - Auditing