



STATE BOARD OF EQUALIZATION

January 20, 1965

Gentlemen:

In reply to your letter of January 15, we advise that under the facts stated in your letter the individual will not be liable for sales tax on the one sale of the shelves, fixtures and equipment used in the retail business of a corporation in which the individual owns more than 80 percent of the stock. This is because although the individual operates a separate retail business in another city the equipment in question was not held or used in that business.

In this case the sale in question appears to fall within the definition of an "occasional sale" as defined in Section 6006.5(a) of the Sales and Use Tax Law. It will not be considered one of a series of sales if the only other sales which the individual has made in his individual capacity over the preceding 12 months are normal sales of stock-in-trade made in the business which the individual operates in another city.

It should be understood that we have answered your hypothetical question without knowledge of the actual case because you do not name the parties involved. We would prefer that you give us the name of the corporation and the individual so that we could check our records relative to the business operations of each. Our answer herein is, of course, subject to any differences in the actual facts that might be ascertained upon reviewing the files of the businesses concerned.

Your other letter of the same date concerning the use tax with respect to automobiles has been referred for reply to Mr. Robert H. Anderson of our legal staff.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:fb [lb]