

**M e m o r a n d u m****395.1500**Sacramento, California  
January 24, 1955

To: San Diego – Auditing (RWS)

From: Headquarters – Sales Tax Counsel (JHM)

Subject: E--- R. B--- & I--- H---  
P--- S---  
XXX --- Avenue  
--- --- X, California

Account No. F-X-XXXXXX

You advise us that the above partnership transferred to a newly formed corporation all of its assets except building and land which approximated 22 ½% of the partnership assets. A note was given by the corporation to the partnership and the corporation also assumed accounts payable and accrued liabilities. 10% of the stock of the corporation was issued to a person who was not a member of the partnership but the remaining stock was issued to the partners in the same ratio as their holdings of partnership assets.

In determining whether all or substantially all of the property held or used in connection with an activity for which a seller's permit is required, we do not take into consideration real property. Thus, in the above transaction we would consider the all or substantially all requirement of Section 6006.5(b) to be met. Under the facts given, we would also consider that the ownership of the property is substantially similar to that which existed before the transfer because the ultimate owners of 90% of the corporation's property were the owners of all of the property prior to the transfer and their ownership of that 90% is in the same proportion as was their ownership of the partnership property.

John H. Murray

JHM:ja