



**STATE BOARD OF EQUALIZATION**

2020 N STREET, SACRAMENTO, CALIFORNIA  
(P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808)  
(916) 445-4982

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**DOUGLAS D. BELL**  
Executive Secretary

No. 78/50

March 29, 1978

TO COUNTY ASSESSORS:

LISTING OF FEDERAL INSTRUMENTALITIES

Assessors' letter No. 78/32, dated March 3, 1978, recommended that sales tax be excluded from value computations for equipment leased to Federal Instrumentalities.

To aid the assessors' staff in determining which entities are affected by this ruling, we enclose a list containing (A) agencies qualifying for sales tax exemption; (B) agencies not qualifying for exemption; and, (C) state and local agencies receiving federal funds but which do not qualify for exemption.

Sincerely,

Jack F. Eisenlauer, Chief  
Assessment Standards Division

JFE:ebv  
Enclosure

A. AGENCIES QUALIFYING FOR SALES TAX EXEMPTION

Aero Clubs. Air force base aero clubs organized under Air Force Regulations 34-14 are instrumentalities of the United States.

Air Base Skeet and Trap Club. The Travis Air Force Base Skeet and Trap Club was held to be exempt from sales tax under Section 6381(a) of the Revenue and Taxation Code as an unincorporated instrumentality of the United States Government under the control of the Secretary of the Air Force and the Commander of the Travis Air Force Base.

Almond Control Board is regarded as an unincorporated agency or instrumentality of the United States.

Civilian Welfare Funds. Civilian Welfare Funds at Air Force bases, if properly conducted and operated in accordance with Air Force regulations, are unincorporated instrumentalities of the United States.

County Agricultural Conservation Association. Such an association, formed under Federal law for the purpose of cooperating with the United States Department of Agriculture is an exempt agency or instrumentality of the United States.

Federal Credit Unions. To support a claimed exemption from sales tax for a sale to a Federal credit union, the retailer should obtain from a representative of the credit union a written statement certifying that the purchaser is a Federal credit union formed under Sections 1752-1790 of Title 12 of the United States Code and that the purchase is exempt under Section 6352 of the Sales and Use Tax Law. The statement should contain the name and address of the credit union and should be signed and dated by its representative.

Federal Home Loan Banks. Sales to Federal Home Loan Banks, including leases defined as sales, are exempt from sales or use tax in view of the decision by the United States Supreme Court in Diamond National Corp., et al. v. State Board of Equalization to the effect that the incidence of the sales tax is on the purchaser, for federal purposes, and in view of 12 U.S.C. § 1433, providing that Federal Home Loan Banks are exempt from state and local taxes, except real property taxes. Unless there is evidence of Congressional intent that a purchasing federal instrumentality is to be subject to state and local taxes, sales to the instrumentality are exempt.

Federal Housing Administration. The FHA is an unincorporated instrumentality of the United States.

Federal Housing Administration--FHA-Owned Property and Funds. Purchases of supplies and equipment used by a private reality company to manage foreclosed property held by the Federal

Housing Administration are exempt as sales to the United States because the United States paid for the purchases and all purchases were made by purchase orders approved by the FHA.

Federal National Mortgage Associations and Federal Credit Unions. Sales to Federal National Mortgage Associations and Federal Credit Unions are exempt in view of the decision by the United States Supreme Court in Diamond National Corp., et al. v. State Board of Equalization (44 U.S.L.W. 3591) to the effect that the incidence of the California sales tax is on the purchasing federal instrumentality, together with 12 U.S.C. § 1723a and 1768, exempting those organizations, respectively, from state and local taxes, except property taxes.

Federal Reserve Banks. Sales to Federal Reserve Banks are exempt in view of the decision by the United States Supreme Court in Diamond National Corp., et al. v. State Board of Equalization (44 U.S.L.W. 3591), together with 12 U.S.C. § 531, which exempts Federal Reserve Banks from state and local taxes, except real property taxes.

"General Agent" for an Instrumentality of the United States. Section 6381 of the Sales and Use Tax Law exempts from the sales tax sales to the "United States, its unincorporated agencies and instrumentalities." Since the National Shipping Authority is a unit within the Department of Commerce, sales to the Authority are exempt. Accordingly, sales of petroleum products to a General Agent, Agent for the National Shipping Authority are exempt from the California sales tax.

Guam. Sales to the Government of Guam, an agency of the United States, are exempt from tax.

Military Food Contracts. Sales under military food contracts for meals served to members of the armed forces are sales to the U. S. Government and are tax exempt.

National Guard. Sales of property purchased from funds administered by the Department of the Army and the Air Force National Guard Bureau for the support of the California National Guard are exempt sales to the United States when the purchase documents clearly indicate that the purchaser is the United States and that the funds from which payment is made are actually appropriated Federal funds.

Olive Administrative Committee. Olive Administrative Committee is an unincorporated agency of the United States and is exempt from sales tax under Section 6381.

Post Restaurants and Cafeteria Associations. Civilian post restaurants and cafeteria associations organized and operated under

regulations of the armed services are agencies or instrumentalities of the United States and sales to or by such restaurants or associations are exempt.

Postal Service. The "Postal Reorganization Act," Public Law 91-375, 84 Stat. 719, 39 U.S.C.A. Sections 101, 46 seq., created the United States Postal Service and the Postal Rate Commission as independent establishments of the executive branch of the United States Government and did not incorporate the Postal Service or the Postal Rate Commission. Therefore, the Postal Service and the Postal Rate Commission are unincorporated instrumentalities of the federal government.

Production and Marketing Administration County Committee of Yolo County is an unincorporated instrumentality of the United States and sales to such committee are exempt.

Smithsonian Institution. A sale of property to the Smithsonian Institution, an agency of the United States, is exempt from the sales tax.

Trustee in Bankruptcy as Federal Instrumentality. As a result of an administrative order of the referee in bankruptcy of the United States District Court for the Central District of California, all administrative cases filed under Chapter XIII in Integral Commercial Area No. 1 will be performed by the Office of the Trustee, the title of that office shall be Chapter XIII Trustee, and all trust bank accounts, goods, services, and taxes will be in the title of that office with the appointed Trustee as the authorized signatory. As a consequence, purchases of tangible personal property by that Office of the Trustee for use in the specified administration of Chapter XIII of the Bankruptcy Act, purchased with trust funds administered by that office, are purchases by an unincorporated instrumentality of the United States, the Office of the Chapter XIII Trustee in that area, and are exempt from sales and use taxes.

Unincorporated Agencies or Instrumentalities. Sales of tangible personal property to the following committees and boards are exempt sales to unincorporated agencies or instrumentalities of the United States under Section 6381(a):

Navel Orange Administrative Committee  
Valencia Orange Administrative Committee  
Grapefruit Administrative Committee  
Lemon Administrative Committee  
Nectarine Administrative Committee

Pear Commodity Committee  
Peach Commodity Committee  
Plum Commodity Committee  
Winter Pear Control Committee

} Commonly known as the  
"California Tree Fruit  
Agreement Control  
Committee"

Tokay Industry Committee  
Olive Administrative Committee  
Oregon-California Potato Committee  
Almond Control Board  
Walnut Control Board  
California Date Administrative Committee  
Raisin Administrative Committee  
Raisin Advisory Board  
Hop Administrative Committee  
Prune Administrative Committee

B. AGENCIES NOT QUALIFYING FOR EXEMPTION

American Legion Posts. Sales of personal property to American Legion Posts operating in Federal areas are subject to sales tax. Such Posts are not Federal instrumentalities.

Amtrak. Sales to the National Railroad Corporation, now known as Amtrak, are taxable since it is not an agency of the United States Government.

Civil Air Patrol. Sales to the Civil Air Patrol (CAP) are not exempt from sales tax, because the CAP is a private corporation, not an incorporated agency owned by the United States. Fuel purchased by the government for use by the CAP is exempt from tax. However, fuel purchases made by the CAP are subject to sales tax even though the government subsequently reimburses the amount paid by the CAP.

Community Action Organizations. Community action organizations under Title II of the Economic Opportunity Act of 1964 (PL 88-452) are not agencies or instrumentalities of the United States. However, purchases made by such organizations through the United States General Services Administration are sales to the United States and not subject to the sales tax.

District Agricultural Association. A District Agricultural Association is an agency of the State of California, is not an instrumentality of the United States, and sales to such agencies are subject to sales tax.

Federal Savings and Loan Associations. Sales to Federal Savings and Loan Associations are taxable regardless of the decision by the United States Supreme Court in Diamond National Corp., et al. v. State Board of Equalization, since 12 U.S.C. § 1464(h) simply provides that such associations shall not be subject to state or local taxes greater than imposed on similar local institutions.

Irrigation Districts, organized in connection with federal reclamation projects, are not federal instrumentalities.

Job Corps Centers. Sales to a Job Corps Center are taxable since it is not an agency of the United States.

Legal Services Corporation. Section 1005(e)(1) of the Legal Services Corporation Act specifically states that the Corporation shall not be considered a department, agency, or instrumentality of the Federal Government.

Legal Services Foundation. The Contra Costa Legal Services Foundation, a community action organization organized pursuant to Title II of the Economic Opportunity Act of 1964, is not classified as an instrumentality of the United States Government.

National Banks. Sales or leases to National Banks would be subject to sales tax.

National Guard. Until such time as the National Guard is called to federal duty, it operates pursuant to state authority and sales to members thereof and to members of R.O.T.C. units are subject to sales tax.

National Guard Unit Funds. Purchases by National Guard Unit Funds are not exempt from sales tax as sales to instrumentalities of the United States Government.

Navy Relief Societies. Sales made to Navy Relief Societies are not sales to an agency or instrumentality of the United States.

C. STATE OR LOCAL AGENCIES RECEIVING FEDERAL FUNDS

Economic Opportunity Council. Sales to a local Economic Opportunity Council, not itself an agency or instrumentality of the United States, are not exempt as sales to the United States even though federal funds are used in whole or in part to pay for the goods purchased.

Generally. Where a United States Department merely furnishes funds with which a vendee makes a purchase the sale is not to the United States.

Generally. Tangible personal property purchased with federal food stamps are subject to California sales or use tax.

Generally. State or local government agency, merely in using funds supplied by Federal Government to make purchases does not become entitled to benefit of exemption of sale to United States.

Generally. In accordance with opinions of the State Attorney General, and the Comptroller General of the United States, tax is applicable notwithstanding that the state agency making the purchase used federal funds allotted to it for that purpose.

Housing Authority of Long Beach City. Tax applies to sales of tangible personal property to the Housing Authority of the City of Long Beach. The Housing Authority is not an agency or instrumentality of the United States Government. It is immaterial that the Authority is financed entirely by federal funds.

National Guard. Funds obtained by California National Guard Units as their share of so-called PX dividends from the United States, become funds of the state and purchases made out of such funds are subject to sales tax, even though the source of the funds was the United States and subject to regulation by the latter.

R.O.T.C. Uniforms. The sales tax applies to R.O.T.C. uniforms purchased by a university and for which the university is reimbursed by the Government under a contract contemplating that the university is to purchase the uniforms in its own name and on its own credit, the university not having the power to act as agent of the government or to pledge the government's credit.