



STATE BOARD OF EQUALIZATION

(916) 445-3723

June. 23, 1977

Re:

Dear

As I previously informed you we would do, we have given further consideration to the question of whether a sale on approval in California results in sales tax on the out of state seller or use tax on the instate purchaser.

We have concluded that, if the conditions specified in regulation 1620 (a) (2) (B) are met, sales tax will not apply to a sale on approval. For purposes of applying the regulation, we would regard the contract to sell on approval as being equivalent with the "contract of sale" referred to in the regulation. We are persuaded that in the absence of a nexus such as is described in the regulation, the Due Process Clause, if not the Commerce Clause, of the United States Constitution would prohibit the imposition of the sales tax. The cases that we have found persuasive in this regard are Norton Co. v. Department of Revenue, 340 US 537; American Oil Co. v. Neill, 380 US 451; Standard Pressed Steel Co. v. Department of Revenue of Washington, 419 US 560; and National Geographic Society v. California Board of Equalization ---.

--- to you of June 3 _____ believe, sufficiently answers your letter of May 17 which came to my attention only a few days ago.

Very truly yours,

Thomas P. Putnam
Assistant Chief Counsel

TPP : po

bc: R. H. Anderson; R. Hunes; D. F. Brady; G. J. Jugum;
J. H. Hurray; G. L. Rigby
West Los Angeles - Dist. Admin.
Out-of-State - Dist. Admin.