



STATE BOARD OF EQUALIZATION

November 2, 1950

S--- S--- H---
P.O. Box XXXX
---, California

Attention: Mr. L--- L. C---
Business Manager

E. H. Stetson
Tax Counsel

In your letter of September 20 you inquire concerning the applicability of the State sales tax to your sales of various items to purchasers who are unable to furnish you with valid resale certificates which sales, accordingly, would be deemed to be retail sales.

The tax will apply with respect to all such sales except those that are specifically exempted under the Sales and Use Tax Law. Sales of food products for human consumption are, of course, exempt. Also exempt are sales of feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption or are to be resold in the regular course of business. These two exemptions are more fully explained in the enclosed copies of Sales and Use Tax Rulings 52, Food Products, and 47, Animals and Feed. Thus, your sales of bone, fat, suet, scraps of meat, etc, are taxable unless purchased for a purpose which would bring the sales within one or the other of the aforementioned exemptions.

The sale of still-born or natural death animals, or the offal from slaughtered animals, would be subject to tax unless for use as feed under the conditions specified in Ruling 47 for exemption.

Sales of junk, rags, paper, bottles, cans, scrap metal, barrels, boxes, and non-returnable containers are taxable unless purchased for use as non-returnable containers of goods sold by the purchaser of the items mentioned. If such purchaser is engaged in selling food products exclusively so as not to be required to hold a seller's permit, he may nevertheless give you a resale certificate for such containers. Enclosed is a copy of Ruling 49 dealing with the taxability of sales of containers.

The sale of garbage would be exempt if sold for use as feed for hogs or other food producing animals, to the extent indicated in Ruling 47.

~~The sale of Malaria blood for inoculation would appear to be taxable. We may not fully understand the technical details of the use of this blood, but in general the tax applies to the sale of any form of medication, whether administered through inoculation or otherwise, although we have held that the tax does not apply to the sale of human blood or blood plasma for use in transfusions. *~~

The sale of livestock surplus to your needs sold to farmers would be taxable or not depending upon whether the requirements of Ruling 47 for exemption are fulfilled. You mention that surplus livestock may be sold [by one State agency] to other State agencies which, as you know, does not constitute a "sale" within the meaning of the Sales and Use Tax Law.

EHS:ph

cc: Mr. H. B. H---

*Now obsolete due to Section 6369, effective January 1, 1962. DJH.