State of California Board of Equalization

## Memorandum

490.0100

March 27, 1951

To: Mr. J. C. Ingle (DB)

From: R. G. Hamlin

Subject: D--- S. M--- Co. -- XXXXX

XXXX South --- Street
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You have inquired with respect to the validity of the claim for refund filed by the above-named taxpayer for the recovery of the tax which he paid to the State upon the sale of a used printing press to the C--- T--- and L--- Co., of --- ---, which was subsequently rescinded.

Although the facts contained in the taxpayer's claim are incomplete, it appears that the purchaser's checks bounced and that the seller rescinded the sale for nonpayment. It appears that the printing press is a heavy piece of equipment and that the purchaser is not storing the equipment for the seller.

It is our opinion that it the seller receives no consideration other than the dishonored checks, he would be entitled to a refund if the rescission occurred within three months and if the purchaser has been merely storing the machine for the seller since that time. In other words, it is not absolutely necessary that he seller obtain physical possession of the machine. It is sufficient if, as of a date within ninety days after the date of sale, the sale is rescinded and the purchaser from that date on stores the property on behalf of the seller.

RGH:HB