



STATE BOARD OF EQUALIZATION

(to purchasing agent of county)

10-2-52

This concerns your claim dated 3-5-52, for refund of sales tax. As we understand the facts, the county of _____ makes available annually to the United States Forest Service approximately \$4,000 for expenditure by the Forest Service in purchasing equipment and other items useful in combating fires. The procedure by which the money is expended is for the Forest Service to notify the county purchasing agent of the items the Forest Service desires to purchase. The county purchasing agent then orders the items on a county purchase order, usually with a direction that delivery be made to a Forest Service garage. The seller sends the invoice to the county, and the invoice is paid by a county warrant.

The \$4,000 annually made available by the county is made available pursuant to an agreement entered into between the county and the Forest Service which recites in part, "In consideration of the benefits to be derived by both parties..." Pursuant to the agreement, the Forest Service maintains fire protection service in certain areas and the county provides \$4,000 of equipment and other items annually.

Since the sales involved are made pursuant to county purchase orders and are paid with county warrants and since the sellers understand that they are dealing only with the county, it is our opinion that all sales shall be regarded as being made to the county. Furthermore, we think that Sales and Use Tax Ruling 7 does not apply. We are of the opinion that the county is not to be regarded as reselling the equipment to the United States Forest Service in consideration of the fire protection service rendered by the Forest Service. It seems to us that this arrangement is more nearly analogous to that of a partnership. In this case, the county provides equipment and the United States Forest Service provides equipment, labor, and management, and both parties are benefited by the fire protection service which results from this arrangement.

In view of the above, it will be our recommendation that your claim for refund be denied. We shall delay final action, however, until after 11-15-52, in order that you may be afforded the opportunity of presenting additional facts, arguments, or authorities.