

**STATE BOARD OF EQUALIZATION**

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January 16, 1978

Mr. D--- B. E---
President
M--- B--- Exchange
XXXXX --- Blvd., #XXXX
---, CA XXXXX

Dear Mr. E---s:

Your letter of December 20, 1977, has been referred to the undersigned for reply. Our answers are preferenced by the various questions proposed by your letter.

Question 1. What does this mean? "He is required to complete the notice of transfer and initiate the transfer of the ownership".

- A. What is a notice of transfer?
- B. What forms are used to "initiate the transfer"?

The notice of transfer is the form which the owner or the person who has possession of the vehicle must use to advise the State Department of Motor Vehicles that a vehicle has been sold. A reproduction of the form is found in Motor Vehicle Code Section 6272.

Question 2. If a dealer completes a report of sale, is he not in fact a seller, and must charge the full sales tax on the vehicle and the accessories?

If the dealer completes a report of sale then "a retail sale of the vehicle is made through him" within the meaning of Revenue and Taxation Code Section 6275(b). He must report and pay tax on the portion of the price attributed to the vehicle even though he acted solely as a broker. However, the provisions of this statute do not provide that he is the retailer of the "non-vehicle" accessory items. Accordingly, unless he has the power to pass title to the non-vehicle accessories as discussed in our answer to Question 3 below, he is not the retailer of the accessories.

Question 3. If a dealer signs a security agreement as seller, regardless of a broker relationship or owned inventory, is he not in fact to charge sales tax on the vehicle including accessories?

No. The execution of the security agreement is merely some evidence of the status of a seller. If the mobile home dealer or broker does not own the vehicle and accessories then the issue of whether he is the seller of the accessories depends on whether he had the power by his own act to transfer title to this property. (See standard discussion in attached opinion of the Attorney General 1-NS3582.) An example of this would involve the situation where the accessories were consigned to the dealer with the power to complete a sale of the property.

We trust this will provide you with a sufficient answer to your inquiries. However, please feel free to write us again if you have additional questions. If you desire to discuss this with us on the telephone, we can be reached at (916) 445-6439.

Sincerely,

W. E. Burkett
Tax Counsel

WEB:po

Enclosure