



STATE BOARD OF EQUALIZATION

February 11, 1966

Dear:

Your letter of January 17, 1966, addressed to our Hollywood subdistrict office, has been referred to this office for reply. The question is the measure of sales tax when a painting is sold for \$750, the artist being paid \$500 and a charitable organization receives \$250 of the \$750. You state that the purchaser is advised that the \$250 of the total amount constitutes a contribution to the charitable organization.

It is our opinion that the sales tax validly applies to the total sales price of \$750. It is fundamental in sales tax law that the disposition of the proceeds of a sale do not affect the taxability of the gross receipts from the sale. If the customer must pay \$750 to acquire the item in question, we do not believe the law permits that this amount be broken down so as to apply the sales tax to the gross receipts less the amount earmarked for charity. This conclusion is based upon the broad definition of "gross receipts" contained in § 6012 of the Sales and Use Tax Law, and the basic concept that the disposition of the proceeds of the sale do not determine taxability.

The Legislature provided in § 6375 of the Sales and Use Tax Law, added in 1959, for an exemption with respect to sales by certain charitable organizations provided the sales are made, among other conditions, "as a matter of assistance to the purchasers." Many organizations engage in selling activities the proceeds from which largely, or even entirely, go to charitable purposes. The purchasers, however, are not the beneficiaries of the charity. Such sales are not considered exempt in whole or in part from the sales tax, the economic burden of which is passes on to the purchaser.

Very truly yours,

E. H. Stetson
Tax Counsel

cc: Hollywood – Subdistrict Administrator
Los Angeles District – District Principal Auditor