



STATE BOARD OF EQUALIZATION

November 16, 1964

Mr. W--- R---, Supervisor
Accounts Payable
--- University
---, California

[XX-XXXXXX]
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Dear Mr. R---:

This is in reply to your letter of November 6, 1964 concerning the application of sales and use tax to freight charges. Ruling 58, copy enclosed, explains the application of the tax.

You also inquire concerning the application of sales or use taxes with respect to material purchased for use outside the state (a) if shipped by an out-of-state vendor to an out-of-state or overseas destination; and, (b) if shipped by an in-state vendor to an out-of-state or overseas destination. Both (a) and (b) present nontaxable sales. Under (a), it appears that the property involved is never in the State of California. There can, therefore, be no California sale involved. Under (b), it appears that the in-state vendor ships the goods at the customer's request to an out-of-state or overseas destination. This qualifies as a shipment in interstate or foreign commerce. It is assumed in both cases that the property was not purchased for use in this state and this assumption, if correct, renders the use tax inapplicable. Enclosed is a copy of Ruling 55, which covers the subject of interstate and foreign shipments.

You then ask, in items 3 and 4, whether the application of the tax is affected if the property to be ultimately shipped outside the state is first shipped to --- University for visual inspection, or for inspection and testing for proper operation. The basic question to be determined is whether the purchaser, --- University in this case, by taking physical possession or custody of the property in this state relieves the seller of the seller's obligation to ship the property to a point outside the state. A sale in interstate commerce, under ruling 55, exempt because the seller under the contract of sale ships the property to a point outside this state, is not rendered taxable by the mere fact that prior to the seller's shipping the property to a point outside the state in fulfillment of the sales agreement, the buyer is authorized to inspect, or even test for proper operation, the equipment. If following this

Mr. W--- R---
Re: --- - XXXX

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temporary change in custody, the seller actually makes the shipment as required by the sales agreement to the out-of-state point, the exemption will not be lost.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:fb
Enclosures

cc: --- --- - District Administrator