

**STATE BOARD OF EQUALIZATION**

November 12, 1963

F--- & S---, Inc.
XXX --- Street
--- --- X, California

Now: -XXXXX
 SR -- XX-XXXXXX

Gentlemen:

Our return review unit was uncertain as to the legality of your deduction on line 19 of your sales and use tax return for sales of alcoholic beverages to steamship companies. I have looked through our file and see that this is not the first time this matter has arisen. We hope, however, that this letter will be the means of easing your tax burden and at the same time resolve this matter for the future.

Since our last letter to you on January 27, 1959, the board's legal staff has had reason to reexamine its position on sales of liquor delivered out of bond free of duty and Internal Revenue tax for supply to United States or foreign vessels engaged in foreign trade. Section 1309 of title 19 U.S.C.A. allows the withdrawal of these articles free of duty and Internal Revenue tax. Two cases have stated that state tax cannot be applied to these articles. They are McGoldrick v. Gulf Oil Corp. (1940) 309 U.S. 414 and National Distillers Products Corp.v. San Francisco (1956) 141 Cal. App. 2d 651 (297 P.2d 61). These cases stand for the proposition that since federal law has regulated the withdrawal of ships supplies from bonded warehouses, Congress has pre-empted this field of commerce from state regulation or taxation.

This being the case, sales of liquor qualifying under title 19 U.S.C.A., section 1309, is not subject to either the state or local sales tax and can be deducted on line 12 with the explanation that the amount constitutes sales of liquor out of bond for ships supplies.

Very truly yours,

John H. Knowles
Associate Tax Counsel

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cc: San Francisco – District Administrator
 Headquarters – Return Review (ODP)