



STATE BOARD OF EQUALIZATION

August 25, 1965

Gentlemen:

Your letter of August 3 has been referred to this department for consideration and reply.

You have posed the following prospective problem. The "S" bank is leasing tangible personal property for a monthly rental of \$1,000. Assuming, for the purposes of illustration, that you collect two monthly rentals totaling \$2,000 plus \$80 tax which you pay the Board of Equalization. The lessee is delinquent on the third monthly payment. Your question is:

In the instance in which the delinquent lessee follows the letter of the law and remits the tax on rentals payable, although he does not pay "S" for that month, what is the bank's procedure when it receives the delinquent payment in a succeeding quarterly period?

If the tax measured by that payment has, in fact, been paid by the lessee, the storage, use, or other consumption of that property by the lessee for that period is not subject to a further tax which can be collected by the retailer.

Since the bank is liable for the payment of the tax, it will want to collect the tax from its lessee unless it receives sufficient notification with the late payment that the lessee has reported and paid tax on that particular delinquent payment.

Very truly yours,

Philip R. Dougherty
Assistant Counsel

PRD:o'b [lb]