

**490.0380****Memorandum**

To: Los Angeles – Auditing (LJR)

Date: September 1, 1953

From: Headquarters – Sales Tax Counsel

Subject: REDACTED TEXT

From the facts stated in Auditor Wm. Dineen's memo of August 21, 1953, transmitted with your memo of August 25, it appears clear that the claimed deductions for returned merchandise should be disallowed.

The lumber company, by not refunding or crediting that portion of the sales price represented by delivery expense occurring prior to the sale as well as the tax thereon, has not refunded the "full sale price" within the meaning of Section 6012.

We understand from your memo that the cartage in question is for delivery of the lumber to the customer and not for retaking it. The making of an additional charge for retaking the lumber from the customer would not prevent the deduction from being allowable, provided the conditions as specified in Sales Tax General Bulletin 52-8 are present.

With respect to "stickers", there appears to be a difference of opinion as to the facts. If it is true that the stickers are returned to the lumber company, it is clear that they cannot be regarded as purchased for resale. It also appears that there is a use made of them other than as nonreturnable containers. It, therefore, appears that you should include the stickers in the proposed determination and perhaps the factual dispute can be resolved at a preliminary hearing.

E. H. Stetson

EHS:ph