



STATE BOARD OF EQUALIZATION

September 8, 1965

Gentlemen:

This is to inform you of the position we have taken with respect to the petition for Redetermination of the above named taxpayer. We are recommending to the Board that the amount of tax be redetermined by deleting from the audit the items which were sold to "G" by "T" under the conditional sales contract of November 8, 1960 and returned to "T" by the contract of September 14, 1962.

We have examined these two contracts closely. Either there was a rescission of the original agreement or a repossession of the goods pursuant to the original agreement. In either case, sales tax applies only to the original sale and not to the return. It does not apply to a rescission because it is a cancellation of a sale rather than a sale. It does not apply to a repossession because it is a taxing of goods pursuant to a power created by the contract of sale rather than a sale.

While this adjustment will reduce the tax substantially, it does not abate it completely. There is still an excessive sales tax reimbursement item which was not protested. There is also property transferred by the agreement of September 14, 1962, which "G" had purchased during the period he operated the business. It is our opinion that this transfer constitutes a taxable sale.

We have instructed our district office to make the necessary adjustments, after which you will be informed of the adjusted measure of tax. If you intend to protest the matter further, you can request a Board hearing at this time. Otherwise, we will recommend to the Board that the matter be redetermined as outlined above.

Very truly yours,

John H. Knowles
Associate Tax Counsel

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