



STATE BOARD OF EQUALIZATION

May 16, 1955

We have reviewed your letter of May 2, and the copy enclosed therewith of the letter to you dated April 7 from _____.

The question of whether bills of lading may be "corrected" to show thereon the true freight in order to gain exemption under Section 6385 of the Sales and Use Tax Law has been discussed with the Office of the Attorney General. It was generally concluded that whether the so-called correction should be recognized depends upon whether it was merely to correct a clerical error or to insert some item not available when the document was originally made out or whether it was for no purpose other than to change the transaction retroactively to meet the provisions of Section 6385.

In reviewing many claims of this type we have followed the practice of regarding one year as a reasonable time for the correction of documents supporting claimed deductions when there was no evidence that corrections were made for the primary purpose of avoiding tax liability. Corrections made more than year from the date of sale might be accepted only, for example, when a correct rate was used but the amount of freight was incorrectly extended, or, as another example, where there had been a transposition of the sales price of the fuel and the freight charges. In the present case, however, it appears that the bill of lading showed a rate of \$27.25, whereas \$17.00 was the rate established by the published tariffs.

Time
allowed for
corrections
is now
covered by
Reg. 1621
-JH

We have not accepted similar corrections where so long a time has elapsed, as in this case, from the date of sale to the date of correction. It is, therefore, our opinion that the date of sale has properly been deleted from the measure of tax upon which _____ refund claim dated October 23, 1953, has been based.

Very truly yours,

E. H. Stetson Tax Counsel

cc: San Francisco - Tax Administrator