

M e m o r a n d u m**505.0118****To** : KH – Compliance
Robert Colivas**Date** : October 21, 1988**From** : Headquarters – Legal
Robert J. Stipe**Subject** : Federal National Mortgage Association (Fannie Mae)

Your memorandum to Senior Tax Counsel Les Sorensen has been referred to me for a reply. You inquire whether the Federal National Mortgage Association (Fannie Mae) qualifies as an instrumentality of the United States government pursuant to Sales and Use Tax Regulation 1614 since its stock is entirely privately held and traded on the New York Stock Exchange.

As I understand the facts, Title III of the National Housing Act (12 U.S.C. 1716 et seq.) created a corporate body known as the Federal National Mortgage Association (Fannie Mae). In 1968, Congress amended the National Housing Act to partition the Federal National Mortgage Association into two separate entities. One entity was the Government National Mortgage Association (GNMA) and the other retained the name Federal National Mortgage Association (Fannie Mae). GNMA remained in the government and Fannie Mae became entirely privately owned by retiring the government-held stock. We note, however, that the National Housing Act, in pertinent part, provides that Fannie Mae shall be exempt from all taxation imposed by any state (12 U.S.C. 1723a(c)(2)).

Sales and Use Tax Regulation 1614(a)(4) provides that sales tax does not apply to sales to incorporated federal instrumentalities not wholly owned by the United States unless federal law permits taxing the instrumentality.

In our view, Fannie Mae qualifies as an incorporated federal instrumentality under the provisions of Regulation 1614(a)(4). Our opinion is based on the fact that Fannie Mae is incorporated under the powers of the federal government and, although not entirely owned by the United States, federal law does specifically exempt Fannie Mae from state taxation. Accordingly, sales tax does not apply to sales to Fannie Mae.

RJS:sr