

M e m o r a n d u m**530.0320**

To: Mr. Ray W. Lenau
Legislative Bill Room

March 13, 1967

From: E. H. Stetson, Tax Counsel

Confirming our recent telephone conversations, this is to inform you that we have taken the position that the University of California is a state agency within the meaning of Opinion of Attorney General 10478, dated February 3, 1936, copy enclosed. Accordingly, transfers between the University of California and other state agencies are not "sales" and sales tax does not apply to the receipts of the transferor agency from the transferee agency. The tax would apply to the sale to the agency which makes the transfer to the other agency. The sale to the first agency is taxable as a retail sale because the agency is not buying the property for "resale" to another agency.

Our position that the University of California is a state agency is based upon Williams v. Wheeler, 23 Cal. App. 619, in which the court said:

"By the Constitution of 1879, the University of California was raised to the dignity of a constitutional department or function of the state government, by the provisions of section 9 of article IX thereof."

In the more recent case of Pennington v. Bonelli, 15 Cal. App. 2d 316, the court described the University as "a branch of the state itself", citing the Williams case.

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