

535.0070**Memorandum**

To: Mr. Michael P. Kitchen
Audit Refund Unit

Date: January 18, 1991

From: John L. Waid
Senior Tax Counsel

Subject: REDACTED TEXT

This is in response to your memorandum received by us on December 19, 1990. Taxpayer sold a liquor store with a liquor license. He later foreclosed on the purchaser and regained ownership of the store and the license. We did not release our hold against transfer of the license back to taxpayer until the previous owner's tax debt to us was paid. Taxpayer paid the tax liability and has now filed a claim for refund based on his contention that he had no successor liability under Regulation 1702 because he acquired the business and license by foreclosure.

I assume that we made all reasonable efforts to collect the subject tax liability from the person actually incurring that liability, as is our policy. That being the case, the refusal to release our hold against transfer of the license until payment of the subject tax liability was proper. Our hold on transfer of the license was not due to successor liability pursuant to Regulation 1702. Rather, it is based upon Business and Professions Code section 24049, which provides that the Department of Alcoholic Beverage Control may refuse to transfer a license when the owner is delinquent in payment of any taxes due under the Sales and Use Tax Law and under other tax laws when those liabilities arise in whole or in part out of exercise of the privilege of the license.

If you have further questions, feel free to write again.

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