

**STATE BOARD OF EQUALIZATION**

916-445-3723

December 5, 1979

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Attention: [X]

Gentlemen:

In your letter of November 20, 1979, you ask that we advise you of the transition rules concerning the application of sales and use tax to banks under Revenue and Taxation Code Section 23182 (all section references are to that code) as amended by AB 66 (Chapter 1150, Statutes 1979).

Under AB 66 sales and use taxes are imposed upon banks with respect to all income years, as defined in Revenue and Taxation Code Section 23042, beginning on and after January 1, 1980. If its income year begins July 1, 1980, it is subject to sales and use taxes July 1, 1980.

Section 6051 imposes the sales tax upon the gross receipts from the sale of tangible personal property in this state. Commencing with the first day of the bank's fiscal year beginning on and after January 1, 1980, retail sales by banks that are retailers (as defined in Sections 6015 and 6019) are subject to the sales tax unless otherwise exempt. For purposes of the sales tax the taxable event is the sale (as defined in Section 6006) in this state.

Section 6201 imposes the use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer. The taxable event is the first storage or use of the property in California. If that occurs after the bank becomes subject to use tax, then the use tax applies.

In some instances, such as when the property is in transit to the bank, it may be difficult or impossible to determine when that first use in California occurs and whether the use is before or after the bank becomes subject to the use tax. For this reason we shall consider the use tax does not apply if, prior to the time the bank becomes subject to use tax, the property is shipped from an out-of-state supplier directly to and consigned to the bank in interstate commerce with title to the property passing to the bank upon delivery by the supplier to the carrier at the out-of-

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state point. Also the use tax does not apply if the property is received by and stored, used, or otherwise consumed by the bank prior to the time the bank becomes subject to the use tax.

If you have any further questions, please feel free to call me.

Very truly yours,

Gary J. Jugum
Tax Counsel