



STATE BOARD OF EQUALIZATION

December 31, 1953

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Your letters of November 6,  
December 16 and December 28

Account No. -- -- XX XXXXXX

Attention: -----  
Treasurer

Gentlemen:

You inquire concerning the application of sales tax to the sale of standing timber to an individual who proposes to cut the timber and sell it to a lumber mill.

The California sales tax applies to retail sales of tangible personal property. A contract in which the purchaser is to sever something from land at a given price per unit is regarded as a sale of personal property if the purchaser is required to make the severance. [Now see Reg. 1596(b); taxable whether severed by seller or purchaser. DJH].

If, however, the purchaser is merely granted an option to sever and is not required to sever, the agreement is one for the sale of an interest in realty and is not subject to the sales tax. This is so even though the contract calls for payment at a given price per unit. Without examining the contract we are unable to give you a definite ruling.

Assuming that your contract is one for the sale of personal property, the sale would undoubtedly be exempt as a sale for resale in the regular course of business. So that your records may be complete you should obtain from the purchaser a resale certificate in the form prescribed in Rulin 68, (copy enclosed).

Very truly yours,

Bill Holden  
Junior Counsel

BH:ja

bc: Los Angeles -Auditing