

168.0000 COINS AND BULLION—Regulation 1599

(a) COINS

168.0005 American Eagle Coins. The American Eagle series of legal tender gold coins consists of a one ounce coin with a \$50 denomination, a 1/2 ounce coin with a \$25 denomination, a 1/4 ounce coin with a \$10 denomination, and a 1/10 ounce coin with a \$5 denomination. The American Eagle coins are monetized bullion and sales in bulk amount are exempt from sales tax if the conditions set forth under Regulation 1599(a)(3)(A) and (B) are met. 10/20/86.

168.0010 Coins. The sale of coins to an ordinary investor, who purchases them with the hope or expectation that their market value will rise, is a taxable retail sale subject to sales tax. The purchase of coins from an out-of-state dealer is not subject to sales tax, but the use tax will apply to the purchase if the buyer purchases the coins for use, storage or consumption in California. If the buyer engages in the business of selling coins, in any manner, to realize a gain, or profit, no use tax will apply to his purchase. The option to buy coins at a set price at a future date is an intangible contract right and is not subject to sales or use taxation. 12/15/64.

168.0020 Coins—Commemorative Issues Purchased from Bank. Churchill Commemorative Crown coins (face value \$0.70), not ordinarily obtained from banks for use as a medium of exchange, are purchased as objects of numismatic value. Accordingly, the bank is required to collect the use tax from the purchaser. 1/7/66.

168.0030 Coins—Option to Purchase. A coin shop has an option from a bank to purchase silver dimes which the bank holds and makes available for purchase in consideration for the shop's payment of 6 percent interest on the face value of the coins. The sale of the option to purchase the silver dimes is not taxable because the transaction is a sale of the shop's right of option to purchase the silver dimes, not the sale of silver dimes themselves, and because the shop has no title or possession of the silver dimes to pass on to the buyer. If the shop actually purchased the coins from the bank, sorted them and later resold them, the shop's sale would be a taxable sale. 10/17/69.

168.0040 Coins—Tangible Personal Property. Tax does not apply to coins which are acquired for use as a medium of exchange, even though the purchaser pays an amount exceeding the face value. On the other hand, tax does apply to the entire charge for coins which are purchased at a premium for any other purpose, as where a purchaser acquires a quantity of coins in hopes of finding some collectors' items or of realizing an appreciation in value. 6/3/65.

168.0050 Coins and Stamps. The sale of coins and stamps as collectors' items is subject to tax. 3/10/52.

168.0099 Mexican Libertad. The Mexican Libertad is described as an annually dated, nonrestrick, one ounce, legal tender, silver coin. It is .999+ pure silver but does not have a face amount. The Mexican government has declared the Libertad to be legal tender. Legal tender is considered to have the meaning of "medium of exchange" for purposes of section 6355. Therefore, the Mexican Libertad is a monetized bullion as defined under Regulation 1599. 1/16/85.

(b) BULLION

168.0200 Monetized Bullion. Several questions are asked relating to the section 6355 exemption on monetized bullion sold in a single transaction to total \$1,000 or more in face amount.

(1) The purchase of a bag of silver having a face amount of \$1,000 combined with 100 Mexican 50 Pesos is a nontaxable sale.

(2) Post-1970 clad coins are not considered monetized bullion since their primary purpose is as a medium of exchange.

(3) The purchase of two or more dissimilar coins on the same date is considered a single transaction if included in the original purchase contract.

(4) The delivery of coins at a single time but purchased under separate sales contracts is not considered a single transaction for the purposes of section 6355. Separate sales contracts constitute separate transactions notwithstanding one element of each execution occurring on the same day. Each transaction must have a face amount of \$1,000 to be a bulk sale. 7/11/74.

168.0201 Monetized Bullion. A foreign corporation selling monetized bullion from out of state through the mail could qualify for the monetized bullion exemption contained in section 6355 provided it is required to be registered under the Commodity Exchange Act. 6/20/80.

168.0220 Ceramic Gold Stain. Ceramic gold stain is a gold chloride in an acid solution and as such, is not gold bullion, and hence is not within the exemption provided in section 6355 of the Sales and Use Tax Law. 2/8/56; 5/20/87.

168.0225 Crown Casting Units. An individual engaged in selling various types of tangible personal property, including dental gold, sold “crown casting units” to dentists. These units, containing gold, silver, and copper are gold alloy used to fill patients’ teeth.

“Fabricated gold,” defined as any processed or manufactured gold having a gold content not exceeding 90%, is excluded from the definition of “gold bullion.” The description of the crown casting units sold to the dentists contain only 79.9% gold. Therefore, they do not qualify as nonmonetized gold bullion. Additionally, the sales were not substantially equivalent to security or commodity transactions through a national exchange. Tax applies to these sales. 5/29/90.

168.0240 Fabricated Silver. Silver bullion within the meaning of section 6383 does not include “fabricated silver.” An item is considered “fabricated silver” when less than 80 percent of its total value is attributable to its silver content. 6/11/65; 5/20/87.

168.0260 “Gold Bullion” Defined. The Treasury Department’s definition of “gold bullion” is used for the purpose of section 6355.

Under the Gold Regulations, “fabricated gold” is excluded from the definition of “gold bullion.” Fabricated Gold is defined as any processed or manufactured gold having a gold content not exceeding 90% of the total domestic value of the processed or manufactured article. Thus, as to any article, two values must be

computed, the value of the gold in the article and the total domestic value of the article.

The value of the gold in the article is determined on the basis of the fine gold content of the article valued at \$35.00 an ounce. The total domestic value of the article is roughly the manufactured cost. Total domestic value includes, in the case of a manufacturer or processor, the cost of material going into the article, labor performed on the article and processing losses and overhead applicable to the manufacture or processing.

Since the cost of other materials is included in the total domestic value of the article, any dental gold containing a significant amount of other precious metals, such as platinum or palladium, will very likely fall within the fabricated gold definition and therefore be outside the scope of section 6355. 2/8/56; 5/20/87.

168.0270 Gold Wire, Plate, etc. Gold wire, plate, rod, or bar stock is gold bullion if the gold content value exceeds 90% of the total domestic value, for the wire, plate, rod, or bar stock. Gold alloys, including those in electrical and jewelry applications, which alloys are ingot, wire, plate, rod and bar stock, constitute gold bullion only if the value of the gold content in the above stock exceeds 90% of their total domestic value. 1/4/77.

168.0280 Monetized and Nonmonetized Bullion Seller. Since monetized and nonmonetized bullion is not a kind of property whose retail sale is always exempt, a person selling monetized and nonmonetized bullion is a seller under section 6014 and is required to hold a permit under section 6066. This is true whether or not the taxpayer ever actually makes sales subject to tax (i.e., sales of less than \$1,000). Since the taxpayer is required to hold a seller's permit, its sale of property used in the course of such activities does not qualify for the occasional sales exemption. Therefore, the sale of such property is subject to sales tax. 1/25/94.

168.0283 Natural Gold Nuggets. Natural gold nuggets do not meet the requirements of the exemption contained in Regulation 1599 because nonmonetized bullion, to which the exemption is limited, is silver or gold which has been smelted or refined. Since natural nuggets have not been smelted or refined, they are excluded from the exemption. 6/26/86.

168.0285 Olympic Commemorative Coins. The "Olympic Commemorative Coin Act," P.L. 97-220, authorized the Secretary of the Treasury to have the U.S. Mint issue three coins with designs emblematic of the Summer Olympic Games to be held in Los Angeles in 1984. The sale of the coins are exempt from sales tax as no tax can be imposed on the United States. Also, the purchase of the coins are exempt from use tax by section 6402. Subsequent sales of these coins by retailers will be subject to tax. 9/20/83.

168.0290 Silver Bars. Silver bars being traded in the commodities market are not monetized bullion because they are not forms of money used as a medium of exchange under the laws of any nation. 1/10/74; 7/25/83.

168.0900 U.S. Liberty Coins. U.S. Liberty coins are sold by the U.S. Treasury under agreements with retailers. The agreement sets the retail selling price, does not

authorize the addition of taxes, does not require payment to the U.S. for any coins until they are sold, allows for a discount to cover the administrative costs, reserves title in the U.S. until each is sold, and requires that all unsold coins be returned to the U.S. by a specific date. Although nominally agents, the retailers are in fact consignees, but exemption for sales by the United States takes precedence over the general rule for consignees and tax does not apply to the sales of such coins, sold under the specified agreement. 9/12/86.