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LEGAL FILES

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Sacramento  
February 1, 1951

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LEGAL FILES

Inquiry as to Sales under Claiming Races  
Constituting Seller a Retailer under Ruling 81

In your memorandum of December 4, addressed to Mr. Stetson, you refer to the hearing officer's report in connection with the petition for redetermination filed by Account No. , in which it was stated that sales of horses at claiming races should not be counted in determining whether petitioner made a sufficient number of sales to be considered a retailer, and requesting a further clarification of this statement.

Although the matter may not be entirely free from doubt, it was decided at a conference between members of the legal staff and Mr. Harry L. Say, Sales Tax Administrator, that sales of horses through claiming races would not be attributed to the owner of the horses in determining whether or not such owner is a seller, in view of the amendment to Section 6015 of the Sales and Use Tax Law, operative July 1, 1943, which makes the person conducting the race meeting the retailer with respect to horses which are claimed during such meeting. Accordingly, such sales are not to be counted in determining whether or not other sales by an owner are "occasional sales."

RGH:HB

*Amnotated*