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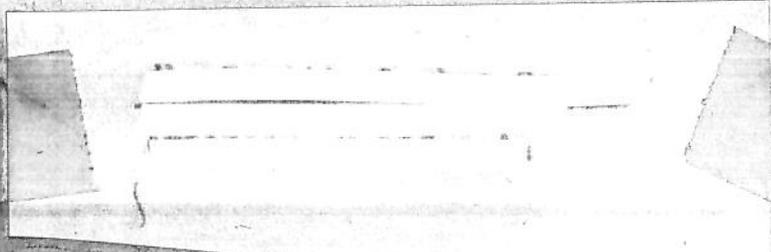
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LEGAL FILES

Sacramento
March 26, 1958

Redding - Auditing (ARD) /

Headquarters - Sales Tax Counsel (JJD)

Bus, Sale of



In your memorandum of March 18 you requested information concerning the application of sales tax to the sale of equipment which at one time was used in an activity requiring a seller's permit.

You stated that taxpayer used two trucks in connection with his lumber selling activity. The last sale of lumber was made on April 3, 1957. One of the trucks was sold during February 1957 while the other was not sold until October 1957. You state that during the interim between the last sale of lumber and the final sale of the truck no particular effort was made to sell the vehicle.

It is our opinion that you are correct in concluding that taxpayer's final sale of a truck should be considered an exempt occasional sale. The annotation on page 583 of the Supplement to Annotations about which you are concerned did not arise from a situation similar to the one which you are now considering. In that case the question was merely whether individual sales of equipment at the time of discontinuance of a selling activity were subject to tax. As you know, if a sale of equipment which had at one time been used in an activity requiring a seller's permit is retained at the time that activity is terminated with no present intent of selling same, a later sale of that equipment will not be subject to tax. There is, of course, always the problem of deciding whether or not taxpayer intended to sell all of the equipment at the time he closed out his business. We believe that the lapse of time

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The purchaser would now be liable for use tax.

Annals
JJD

Redding - Auditing (ARD)

Re: [REDACTED]

March 26, 1958

involved in this situation is sufficient to conclude that taxpayer intended to retain the truck at the time he closed out his business and that his later sale should be considered tax exempt.

J. J. Delaney

JJD:ro

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OK
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