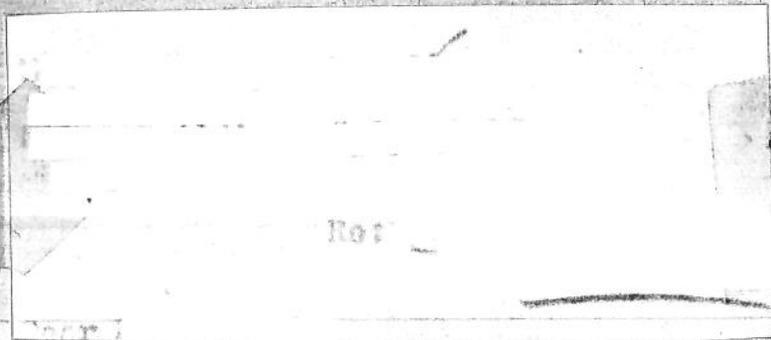


PLEASE RETURN TO
LEGAL FILES

August 28, 1957



Upon return from vacation, I find your letter of August 13. If we correctly understand your argument, it is that whenever a business is sold, the sale of the equipment used in the business is an exempt occasional sale because at the time of the sale the business having been discontinued the sale is not a sale of property held or used in the course of an activity for which a seller's permit is required.

We cannot agree with this interpretation which has never been followed since the enactment of Section 6006.5 in 1947. Furthermore, it would seem to render completely unnecessary and meaningless the provisions of (b) of Section 6006.5. If your construction were correct, the sale of the business would always be exempt regardless of whether all or substantially all of the property were sold and regardless of whether the real or ultimate ownership of the property remained substantially the same after the transfer.

We believe, accordingly, that Section 6006.5 (a) applies only to a sale of property that was not held or used in the activity which required the holding of a seller's permit even though such activity had been in a sense discontinued at the time of the sale of the assets in question. In any event, the last sale may be one of a series of sales, particularly if there were prior equipment sales. See Sutter Packing Company v. State Board of Equalization, 139 Cal. App. 2d, 889.

I would be glad to discuss this matter with you should you happen to be in Sacramento.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:ds

Annaliese
[Signature]