

3010 Sale of manufacturing business where all prior sales-for-resale.

395.1200

1619.70 Sale of Entire Business of Manufacturer, Occasional Sales. A manufacturing concern, all of whose prior sales were made for resale rather than consumption, incurs liability for sales tax upon the sale of its entire assets, measured by the selling price of that tangible personal property held or used in connection with its business activity and sold for use by the purchaser rather than for resale. 8/29/66.

August 29, 1966

Indefinite

Dear [redacted]

In answer to your letter of August 17, 1966, we advise that a manufacturing concern, all of whose prior sales were made for resale rather than consumption, incurs liability for sales tax upon the sale of its entire assets, measured by the selling price of that tangible personal property held or used in connection with its business activity and sold for use by the purchaser rather than for resale.

We believe this follows from the language of § 6014 of the Sales and Use Tax Law defining "seller" as every person engaged in the business of selling tangible personal property of a kind the retail sale of which would be taxable, § 6015 defining "retailer" to include every "seller" who makes any retail sale or sales of tangible personal property, and § 6006.5 defining an "occasional sale" as a sale of property not held or used by a seller in the course of an activity for which he is required to hold a seller's permit. Your statement that the concern is the holder of a sales tax permit solely for the purpose of issuing valid resale certificates is not entirely correct. It holds the permit because it is a seller under § 6014, and under § 6066 every seller is required to hold a permit.

You request copies of sales tax counsel rulings dated August 31, 1964, August 19, 1964, and the clarification of the latter ruling issued on August 24, 1964. We assume you mean the letters upon which these digests are based and so we are enclosing copies of these letters deleting only the names of parties on account of the provisions of § 7056 pertaining to the confidentiality of information in our files. The digest dated August 24, 1964, is an editorial clarification of the letter dated August 19.

Very truly yours,

cc: Out of State - District Administrator

E. H. Stetson  
Tax Counsel

EHS:fb

Handwritten initials and signatures, including "CLD" and "8/29/66".