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Mr. Stetson's Files  
Rm. 288

January 2, 1952

Dear

This is in answer to your letter of December 5 with respect to the application of the State sales tax to the transfer by a corporation to a minority stockholder of tangible personal property in part payment for his shares of stock in the corporation. The shares of stock so acquired are to be held by the corporation as "treasury stock".

Under the facts stated it appears that the transfer of tangible personal property to the stockholder constitutes a sale, rather than a distribution of assets upon dissolution. Accordingly, the transaction is subject to the sales tax unless it is exempt as an occasional sale within the meaning of Section 6006.5 of the Sales and Use Tax Law and Sales and Use Tax Ruling 31, copy enclosed. As the ownership of the property does not remain substantially unchanged following its transfer the transaction is not exempted by Section 6006.5(b) and the last paragraph of said Ruling 31. In view of the fact that the corporation holds a seller's permit we assume that the tangible personal property sold was held or used in the activity for which the seller's permit was required. If, however, the corporation was engaged in separate activities not requiring the holding of a seller's permit, the sale of tangible personal property, or some portion thereof, may be exempted from the tax by Section 6006.5(a) which defines an occasional sale, in part, as follows:

"Occasional sale' includes 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, provided such sale is not one of a series of sales sufficient in number, scope and character to constitute an activity requiring the holding of a seller's permit."

If the corporation did engage in activities other than selling activities and the property sold, or a portion thereof, was held or used in connection with such other activities, we suggest that you discuss the transaction with Mr. Wm. R. Thomson, District Administrator, 357 South Hill Street, Los Angeles 13, California, for the purpose of ascertaining the application of the tax.

Very truly yours,

R. G. Hamlin,  
Tax Counsel

RGH:ja

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