

1356 Auctioneer sales on behalf of owner are not counted against owner.

395.0480

Sacramento  
June 10,

JUN 22 1953  
MASTER FILES

Mr. H. A. Dickson

E. H. Stetson

Account No.

1611.30 Exclusion of Auctioneer's Sales. Sales made by an auctioneer on behalf of the owner of property are separately accounted for and tax paid by the auctioneer. Such sales should not be counted against the owner of property in determining the number of sales for qualification as "occasional sales." 6/10/53.

You have referred to me the audit on this account which was sent to you by Mr. \_\_\_\_\_ for review before levying a determination.

It is my opinion that the sales made by an auctioneer of property owned by the taxpayer should not be counted in determining whether taxpayer made sufficient sales to fall within the scope of the taxing provisions of the Sales and Use Tax Law. Under Section 6015 auctioneers are considered retailers of property owned by them or others, and we collect the tax from the auctioneer on the theory that the sales were made by them.

Accordingly, I do not think we should consider the sales made by the auctioneer as affecting the status of taxpayer as a retailer and, since he apparently made only two sales other than the sales at auction, I believe he should not be subjected to the tax on account of these two sales.

EHS:ph

*Order Letter*