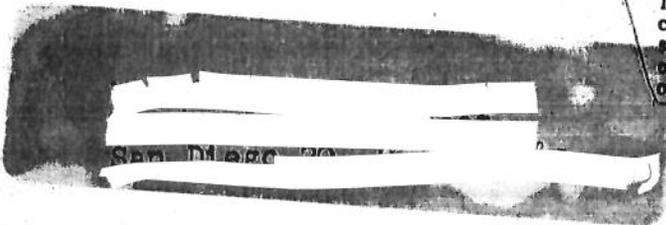


November 16, 1964

ANN. 1612.35

1612.35 Laundry Equipment and Supplies. A seller with a permit and in business to sell laundry equipment and supplies is subject to tax on the sale of three laundries because selling laundries is considered equivalent to sales of laundry equipment and supplies. The attempt of the seller to sell one laundry personally, a second by escrow arrangements and a third in his name for a friend do not constitute exempt occasional sales: 11/16/64.



Dear Mr. _____:

This is in reply to your letter of November 5, 1964, written to the undersigned at the request of Mr. Sanborn of our San Diego office. He states you are not in the business of selling laundries, but you sold one in June of this year and have another in escrow at this time. A friend of yours has sold another laundry, but you apparently are shown as the seller on the sales contract.

Our records indicate that you hold seller's permit No. _____ and are in the business of selling laundry equipment and supplies. From this it appears that your sales of the two laundries are not exempt occasional sales because they are simply additional sales of laundry equipment and supplies which you make in the regular course of your business. We do not believe the two sales of the laundries can be isolated from your other sales and excluded from the measure of the tax. The taxability of the third laundry sale in which you are apparently shown as seller by way of an accommodation to a friend depends upon the real relationship which you bear to the transaction.

If you appear as seller on a sales document, it is rather difficult to conclude that you are not the seller for sales tax accountability purposes. To allow you to claim immunity from the tax would be, in effect, to allow you to impeach your records which state that you were the seller, but yet allowing you to claim not to be the seller for purposes of determining liability for sales tax. This is an inconsistent position and we doubt very much if you may successfully maintain it.

If, however, you wish to give further details concerning the procedures involved in the sale of your friend's laundry, we shall be glad to give the matter further consideration, but on the basis of

395.0540

Mr. _____
Re: _____

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November 16, 1964

the facts stated in your letter, it must be our stated position that the tax will apply. Incidentally, you refer to the tax as the use tax, but it appears to be a question of sales tax only.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:fb

cc: San Diego - District Administrator