

395,2335

7/25/66

Report of Hearing Officer Philip R. Dougherty/smk

Taxpayer

Date of Hearing January 23, 1967 Time 10:30 a.m. Place Santa Barbara

Appeared on behalf of Petitioner

Board of Equalization Representatives

Comments and Recommendations

CONTENTIONS OF PETITIONER:

(1) The partial dissolution of _____ and the consequent distribution of assets to the sole owner, _____, was a tax-free distribution of assets, which in the sales tax counsel's rulings are exempt. The sale by _____, to _____, was a sale by a nonretailer (whose only activity was the ownership of property).

(2) The sale of tangible personal property along with real estate is regarded as an exempt sale of real estate (with its attached fixtures) when a sale is made in a single transaction. "Legally" the sale may not be divided into the sale of personalty and the sale of realty even after property which is ordinarily personalty is not physically affixed.

May 9, 1968

REPORT ON FACTS:

_____ is the audit firm for _____ they are not the auditors for any of the other corporations or parties involved in this transaction.

_____, a partnership, originally obtained a ground lease and constructed a hospital.

_____, formed a corporation which it wholly owned to operate the hospital. In 1963 that corporation was known as the _____ It is now named the _____

_____, leased the hospital to _____ which operated it.

On December 5, _____ was partially dissolved and the assets were distributed to the shareholder. The record of the special meeting of the board of directors has been submitted by the petitioner.

On December 31, substantially all the property was transferred to the buyers, _____ and _____. The file has partial copies of the escrow agreement and its amendments.

There is no evidence of any contracts of sale or any negotiations before the transfer. _____ continued to operate the hospital from December 5, to December 31, but had no property rights after the partial dissolution.

CONCLUSIONS:

The distribution of assets by petitioner was a tax-free distribution of assets to its shareholders.

The subsequent sale of assets by the _____ was of assets owned by it but not held in an activity for which it was required to hold a seller's permit, and is an exempt occasional sale.

RECOMMENDATION:

It is recommended that item A be deleted and the redetermination be made at the adjusted figure.

Adjustments to be made Petitioner

Philip A. Dougherty
Philip A. Dougherty, Hearing Officer