

M e m o r a n d u m

530.0140

To: San Bernardino – Dist. Admin.

Date: November 2, 1965

From: Tax Counsel

Subject:

In your memo of October 29 you state that the County Auditor of "C" intends to protest your including charges for "placement fees" which are paid to obtains animals from the animal shelter within the measure of the tax.

The application of tax to the sale of animals by city pounds came up many years ago. Opinion of Attorney General No. NS-3763, dated September 4, 1941, copy enclosed, holds that the sale of impounded animals by municipalities is subject to the tax. There has been no change in the statute which would make the opinion no longer applicable. The fact that the amount received for the animals is designated as a "placement fee" does not appear material. It is, whatever called, a consideration paid for the animals.

You will note that the opinion contains the statement, "The city has the power to and does effect a transfer of title to the impounded animals to purchasers for a consideration and thus makes 'sales' within the meaning of the Act." Furthermore, as you point out, the receipts furnished by the County uses terms of sale, i.e., "purchased" and "Bill of Sale". Likewise, the Ordinance enclosed with your memo uses terms of sale in stating that animals "may be sold upon payment of a place fee", and that the poundmaster may "sell" the animal.

In view of these considerations, we can see no basis upon which we could properly include in the measure of tax.