



STATE BOARD OF EQUALIZATION

June 11, 1965

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Gentlemen:

This is in reply to your letter of May 13 in which you inquire at what point silver becomes a taxable item.

In the course of your operations, you take refined silver in the form of sand. This silver is then melted into bullion (bars) or poured into water to make granuals. Also, some bars are rolled into sheet. You sell silver from each stage of manufacturing: sand, granuals, bullion bars, and sheet.

Silver bullion does not include "fabricated silver" (material of which less than 80 percent of its total value is attributable to silver content). Thus, your refined silver in each of its forms (sand, granuals, bullion bars, and sheet) may be considered to be bullion for the purposes of Section 6383, so long as it does not become "fabricated silver".

As you know, Section 6383 exempts the sales of silver bullion from the sales tax but not from the use tax. This section reads:

"There are exempted from the computation of the amount of the sales tax the gross receipts from the sales of silver bullion by the producer or refiner."

The use tax applies to persons who purchase tangible personal property for storage, use, or consumption in this state, and a retailer engaged in business in this state and making sales for such a purpose is required to collect the use tax from his customers and turn it over to the state. Thus, even if the sale is exempt from sales tax because it is exempted by Section 6383, the purchase by your customer may still be taxable and you will be responsible for its collection. In some cases, the transaction will not be subject to the use tax because the purchaser is exempt although the purchase of the property is for storage, use, or consumption in this state. For instance, banks and insurance companies are not subject to use tax; see Ruling 51, copy enclosed. We are also enclosing a copy of the Sales and Use Tax Law, which you may wish to review briefly to note the general and specific exemptions (Chapter 4).

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We assume you are aware that no tax applies to your sales of any form of silver (whether it is silver bullion or not) if the sale is for resale in the regular course of business by your customer. Of course, you should obtain a resale certificate from those customers.

If you have any further questions or comments, please do not hesitate to write to us again.

Very truly yours,

Philip R. Dougherty
Assistant Counsel

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