

M e m o r a n d u m**325.0107**

To: Mr. T. P. Putnam

May 13, 1977

From: Gary J. Jugum

Subject: Sale on Approval

This is to advise you that I personally remain of the opinion that sale-on-approval transactions are properly subject to use tax under Regulation 1620 paragraph (a)(2)(B). The cases relied upon by Mr. Anderson in his hearing report of August 3, 1976, concerning the L--- A--- C--- M--- of A---do not in my opinion support his conclusion. I fully agree that sale tax may be applied to sales of goods after they have come to rest in this state. In my opinion a transaction retains its characteristics as an interstate transaction even though title may pass to the purchaser in this state, if the title transfer is an integral part of a transaction involving an order sent by the purchaser directly to a retailer at a point outside this state and involving direct shipment to the purchaser across a state boundary. In otherwords, I don't think that "the goods have come to rest" in this state within the constitutional meaning of that phrase when the title transfer we are seeking to tax is a part of a continuous transaction involving interstate transmission of orders and transit of goods.

j:alicetilton

cc: Mr. Glenn L. Rigby
Mr. Robert Nunes
Mr. Donald F. Brady