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**STATE BOARD OF EQUALIZATION**

September 23, 1969

Mr. J. D. S---  
Vice President & Controller  
--- & --- --- Winery  
P.O. Box XXXX  
---, CA XXXXX

Dear Mr. S---:

Re: SR --- XX XXXXXX

SR -- XX XXXXXX  
G--- G--- Company

Your inquiry of June 3, 1969, which you directed to Mr. Clint Ostrom of our Sacramento office, has been referred to this office for reply. Please excuse our delay in responding.

You inquire concerning the application of the tax to sales of certain point of sale display material. We understand that you now purchase display material from a California vendor. The material is delivered to you in this state and warehoused until needed. Over half of this material is used outside this state. To minimize your tax liabilities, you would like to cause this display material to be purchased for resale by a related firm, G--- G--- Company. G--- G--- would warehouse the displays and resell them to you as you needed them. There would thus be no California tax liability with regard to those sales which qualify under our ruling 55 (copy enclosed) as sales in interstate commerce.

As ruling 55 provides, sales tax does not apply to sales of property shipped to a point outside this state, pursuant to a contract of sale, by delivery by the retailer to such point by means of delivery by the retailer to a carrier for shipment to a consignee at such point. [Ruling 55(a)(1)(C)2.] Ruling 55 further provides that "Bills of lading or other documentary evidence of the delivery of the property to a carrier...for shipment outside the State must be retained by the retailer to support deductions taken under [ruling 55(a)(1)(C)]."

Your difficulty in qualifying for the exemption outlined above results from the fact that the display material is usually added to rail cars on out-of-state shipments after you have loaded the car at your winery. Apparently only one shipper's name can be on the rail car bill of lading; and, since the basic shipment is wine, your name, and not the name of G--- G---, must appear as shipper.

Mr. J. D. S---  
(SR ---C XX XXXXXX)  
SR -- XX XXXXXX

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As ruling 55 indicates, a bill of lading is not the only kind of documentary evidence which we will accept in support of a claim for exemption under paragraph (c). What is required is any documentary evidence that the delivery is to a carrier for shipment outside the state. The facts, as you have stated them, suggest that the material is delivered to you for inclusion in your shipment of wine. If this is the case, then the sale of the material to you is subject to tax, even though you subsequently ship the material to a point outside this state.

Very truly yours,

Gary J. Jugum  
Assistant Tax Counsel

GJJ:ab  
Enclosure