



STATE BOARD OF EQUALIZATION

1253 SALES OF SOAP TO MORTICIANS.

July 3, 1957

PLEASE RETURN TO LEGAL FILES

Dear Mr. ---

This is in reply to an inquiry of June 14 which we received from --- --- --- concerning the application of the sales tax to the sale of soap by suppliers to morticians.

As you are no doubt aware, Sales and Use Tax Ruling 8, copy enclosed, which is one of the administrative interpretations of Section 6015 of the Sales and Use Tax Law, provide that morticians are retailers of the tangible personal property furnished in connection with rendering their service and that tax applies to the sale by them of all tangible personal property so furnished. The ruling further states that with respect to items other than clothing, boxes, vaults and "extras" or property furnished in addition to that customarily furnished with standard service, the tax shall be computed on the basis of 50% of the charge made therefor.

In determining whether an item of tangible personal property is to be considered as sold by the mortician rather than as being consumed by him, we have consistently used as basic tests the fact of whether or not the property involved stays with the remains and also whether or not the item in question is used only in a single interment. Since presumably soap is removed from the body immediately after its application, it is our opinion that sales of soap to morticians should be considered as retail sales subject to tax.

From Mr. Cudworth's letter it appears that you are somewhat confused by the fact that there is a certain amount of waste or loss which occurs in applying such things as embalming fluid and cosmetics. We have not at any time considered the fact that waste may occur in the using of such property as determinative of the fact of whether or not it is to be treated for tax purpose as being sold by the mortician. We also feel that you may have misunderstood the Oakland office representative from the statement contained in Mr. ---'s letter to the effect that "he was told that all things used in or on the body was not taxable by him to the mortician". Only when sales are made by mortuary suppliers to morticians of property which is resold by the mortician, including those items which remain with the body, will said supplier be exempted from liability for sales tax provided a proper resale certificate is obtained.

The report of audit has not yet reached this office from our District Office. If you still disagree with our conclusion, you may file petition for redetermination after receipt of notice of determination, requesting an oral hearing if you so desire.

Very truly yours,

James J. Delaney
Assistant Tax Counsel

JJD.rc
Enclosure
cc: Oakland - Auditing