



STATE BOARD OF EQUALIZATION**M e m o r a n d u m**

To: P. J. Margetts

Date: Sept. 22, 1967

From: T. P. Putnam

Subject: Buying Clubs

This is in reply to your memo of September 6, 1967 concerning the question whether a buying club qualifies as a person to whom a seller's permit may be issued.

Our understanding of the facts, based upon information from "B", who initiated the inquiry, is as follows: The club in question will be sponsored by a federal agency, the "O". The club will purchase from wholesalers and resell to its members at a specified markup, tangible personal property of a kind the retail sale of which would be taxable. The profits of the club will be used to insure the continued operation of the club and to purchase such items as freezers or bins for the storage of food. Excess profits will be credited ratably to the members in a savings account or held to provide scholarships for needy children in the community. The club will be organized with appropriate bylaws and officers. Some items purchased by the club will be shipped directly to the buyer from the wholesaler. Others will come to the club and be sold to the member when he picks it up. Still other items purchased by the club will be in greater quantity than that ordered by the club member, and the surplus will be kept at the club headquarters for sale to other members. In all events, the club membership will take title to the merchandise and pass the title to the ultimate consumer (individual club members).

Upon these facts, the club will qualify as a "person" under Section 6005 of the Revenue and Taxation Code, which defines "person" as including a joint venture, association, social club, fraternal organization or any other group or combination acting as a unit. The activity of the club will be a "business" under Section 6013, since it will be engaged in with the object of gain, benefit, or advantage, either direct or indirect. Title to the merchandise will be transferred from the club members as a group or from an officer who will hold title on behalf of all the members, to the members as individuals. The club, therefore, will be a "seller" under Section 6014, and a seller's permit may be issued to the club pursuant to Section 6066.

With respect to the problem of who to look to for fulfillment of the tax obligations of the group, it is our opinion that each member will be obligated as in the case of a partnership. Since the club is sponsored by the "O", we assume that office would make certain the organization of the club provided for a designated officer or governing body authorized to act in behalf of the group and who can be dealt with in connection with tax obligations.

TPP:fb [lb]