

490.0200**Memorandum**

To: San Diego – Auditing (JHMcC)

Date: November 19, 1953

From: Headquarters – Sales Tax Counsel (BH)

Subject: REDACTED TEXT

In your letter of September 25 you state that the taxpayer sold a freezer and a substantial amount of food, accepted a downpayment which was less than the price of the food, and wrote a conditional sales contract for the balance. When no installment payments were made, the freezer was repossessed, but the food could not be repossessed. Since the repossession occurred within 90 days of the sale, taxpayer claims that by foregoing the balance owed on the contract it has returned the full sale price of the freezer to the purchaser.

Nowhere in the contract is there any indication that the downpayment was to be applied against the price of the food and not against the price of the freezer. It is our opinion that the downpayment should therefore be regarded as having been applied pro rata to the sale price of the freezer and the sale price of the food. Therefore, the taxpayer has not refunded to the purchaser the full sale price of the freezer.

Bill Holden

BH:ja