



STATE BOARD OF EQUALIZATION

April 14, 1952

Mr. J--- J. G---
XXXX --- Drive
---, California

Dear Mr. G---:

This is a reply to your letter of March 23 concerning the application of sales tax to a sale to you of a television set which sale was rescinded two months later.

You are advised that the sales tax is a tax on the seller. The seller normally reimburses himself for the amount of tax he is required to pay by adding such amount to the selling price of the merchandise. Your television dealer was required to pay sales tax on the total selling price of the television set. The tax accrued at the time the set was delivered to you even though you had not yet paid the entire amount due under the contract. In accordance with Sales and Use Tax Ruling 64, copy enclosed, sales tax does not apply to a sale which is rescinded provided the merchandise is returned within ninety days from the date of sale and the full sales price is refunded to the customer. Since in your case the entire sales price was not refunded to you the television dealer is required to pay sales tax on the total price of the set which was \$499.20

Since the use tax was not paid to DMV, the tax was properly assessed in the audit.

The matter of charging you with the salesman's commission does not fall within the scope of this Board's functions except that for purposes of Ruling 64 it constitutes failure to refund a portion of the selling price.

Very truly yours,

E. H. Stetson
Tax Counsel

NBH:ja

cc: Mr. W. C. S---