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STATE OF CALIFORNIA

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**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA  
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)

September 25, 1967

Dear Mr. ---:

In your letter of September 7 you ask two questions regarding the dates of two sales and the tax rate applicable to each.

In the first instance, we understand that in July you visited a furniture store and chose some items. Either because the store was unable to make immediate delivery or because you did not want immediate delivery, the items were not delivered to you until August 2, 1967. You had, however, been invoiced and made payment for the items in July.

The date of sale determines the rate of sales tax that applies to a transaction. The sale takes place upon passage of title, and neither date of invoice nor date of payment governs this event. In the absence of explicit agreement to the contrary, title passes when the seller accomplishes the physical delivery of the goods. Therefore, the sale took place in August and was subject to the 5 percent state and local sales tax rate applicable at that time.

In the second example, we understand that a customer bought merchandise from you in July. You delivered the goods to him during that month, but he paid for them by a check that subsequently was dishonored.

As in the first instance, the date of sale is governed by the time title was transferred to the buyer. Pursuant to the Uniform Commercial Code, Section 2401 and 2403, unless explicitly agreed otherwise, title passes when the goods are physically delivered to the buyer even though payment is made by a check that is subsequently dishonored. The physical delivery was completed in July, and therefore the combined state and local sales tax rate of 4 percent applied to that transaction.

If the facts are different from what we assume or if you have further questions, please feel free to write.

Very truly yours,

T. P. Putnam  
Tax Counsel

By A. Wells Petersen  
AWP:smk [lb]