

STATE BOARD OF EQUALIZATION

OFFICE CORRESPONDENCE

557.0220

Place: Sacramento, California
Date: July 23, 1953

To: Mr. W. E. Williams

From: John H. Murray

Re: The K--- L--- Co.
XXXX --- Avenue
---, California

Account No. X-XXXX (-)

Now: SY -- XX XXXXXX

This involves the application of tax to cartage charges for lumber delivered by taxpayer in its own trucks.

Copies of invoices were presented at the preliminary hearing and the invoices showed a separate statement of delivery charges, but did not show any f.o.b. point. Purchase orders were said to have been received in some cases, but none were presented at the hearing. Most of the orders were oral and received by telephone. In some cases, customers came to the sales office. About July 1, 1950, taxpayer posted signs in its sales offices stating as follows: "All Materials Sold F.O.B. Yard".

We think that where taxpayer delivered the goods in its own truck, title to those goods passed upon delivery pursuant to Ruling 5, section 1739 of the Civil Code. The mere posting of the signs is insufficient to show an intention to pass title to the goods prior to delivery when the delivery is required under the contract of purchase.

We have examined the memorandum prepared by Messrs. M---, B---, and K---, and find nothing in that memorandum which affects the above opinion.

JHM:tj