**STATE BOARD OF EQUALIZATION**

January 26, 1968

J--- O--- S--- Co.
P. O. Box XXXX
---, WI XXXXX

Attention: Mr. R--- H. G--- SR -- XX XXXXXX
Assistant Treasurer

Gentlemen:

Your petition for redetermination dated November 21, 1967, has been referred to this office for reply.

In your petition you request a redetermination of the amount stated under "Total Sales Understated" in the October 16, 1967, field audit report and the elimination of the resulting tax thereon.

You operate an authorized service station in San Francisco for "Oster" electric appliances. When a customer brings in an Oster blender for repair, if you estimate of the cost of repair is high, the customer is offered a new blender in lieu of having his worn blender repaired. If the customer accepts your offer and purchases the new blender, he leaves the worn blender with you. Each transaction is characterized by a description of the new blender, a price figure, a sales tax figure based on the price figure, a total figure, and a description of the worn blender, which is referred to as a "trade-in." No amount is attributed to the worn blender which is "traded in." It is your position that in these transactions no property is being traded in.

However, in our opinion, these transactions include property traded in. A customer who purchases a new blender leaves his worn blender at your store. This is clear from the copies of records which have been incorporated in the audit report and from the invoices relating to the transactions. While you may receive no benefit or use from the worn blenders, the fact remains that the customer is leaving a worn blender and a cash or credit payment in return for a new blender.

Sales and Use Tax Law section 6012 defines "gross receipts" and provides, in part:

"The total amount of the sale or lease or rental price includes all of the following:

"(b) All receipts, cash, credits and property of any kind."

Usually the value attributable to property traded in is the fair market value. However, under Sales and Use Tax Law ruling number 65, and the case of Hawley v. Johnson (1943) 58 Cal. App. 2d 232, the parties may fix the trade-in value at other than the fair market value, and this agreed value then becomes the market value includible in gross receipts. Where the parties have not fixed a trade-in value on worn property, and where the worn property has no scrap value and is junked at the time it is traded in, however, it is our opinion that the worn property has no market value and that no trade-in value is attributable to the worn property.

Accordingly, we are recommending to the board that the amount stated under "Total Sales Understated" be deleted and that the resulting tax assessment thereon be canceled. You will receive official notice of the board's action in due course.

Very truly yours,

T. P. Putnam
Tax Counsel

By_____
J. Kenneth McManigal

JKM:smk