

**STATE BOARD OF EQUALIZATION**

(916) 445-3723

November 28, 1988

Mr. R--- W. P---  
XXX --- Way  
---, CA XXXXX

SS -- XX-XXXXXX

Dear Mr. Price:

This is in response to your letter of September 6, 1988, which was addressed to Mr. Steve Biggers of our --- --- office. Your letter was recently referred to the Board's legal office for reply.

We understand that you own a portable aircraft hangar which was licensed at the time of acquisition as "special mobile equipment" by the Department of Motor Vehicles. Sales tax was paid when you purchased the portable aircraft hangar from P--- - --- - P---, Inc.

Recently, the County of --- has required that a building permit be obtained for hangars to be installed at --- --- Airport. You are in the process of obtaining a building permit from --- County.

You suggest that since installation of these hangars now requires a building permit, and since the Department of Motor Vehicles no longer requires licensing of these units, you may be entitled to a refund of the sales tax paid.

We recently examined four of these hangars installed at the Natomas Airport in Sacramento. These aircraft hangars are in reality prefabricated modular buildings movable on the highway as a unit from the point of sale to the point of installation. Upon installation, the hangars are in the shape of a "T" as looked at from above. They are approximately 40 feet across the front end and are approximately 33 feet deep. The ones we viewed were attached in a substantial manner to the asphalt on which they rested, possibly by lag screws. The hangars were sealed to the ground by tar. The hangars were wired to a metered electrical hookup.

There is no question that when installed these hangars constitute improvements to real property for sales tax purposes.

The term "portable" is misleading. These items are built to be transported to their installation site. The towing yoke remains in place upon installation. However, these buildings are not portable in the sense that they are installed on a temporary basis, or in the sense that they are easily moved from place to place after installation.

We would consider a contract to furnish and install a "portable" aircraft hangar of the type in question to be a construction contract.

However, where the unit is sold for installation by the purchaser (or by a contractor hired by the purchaser), the contract is not a construction contract but is a contract for the sale of tangible personal property. The contract is taxable in its entirety, notwithstanding the fact that the hangar may then be installed as an improvement to realty. For this reason, it is our opinion that the tax was properly computed in this case, and that there is no basis for a refund.

Very truly yours,

Gary J. Jugum  
Assistant Chief Counsel

GJJ:sr

cc: Mr. A. H. T---  
--- --- District Administrator