

Memorandum

190.2510

To: Out-of-State - Auditing

February 26, 1985

From: HQ – Legal (ELS)

Subject: S--- T--- S--- Inc.;

No Permit

This is in response to your memorandum of December 26, 1984 requesting that we review the report of the New York office which concluded that construction contracts exist between the taxpayer and its California customers.

We have reviewed the New York office's report and the exhibits attached thereto and agree that the contracts to furnish and install satellite earth stations are contracts for the permanent improvement of realty and, accordingly, are construction contracts pursuant to Regulation 1521.

We note that, although the taxpayer has representatives in California supervising as well as installing the facilities during the construction period, it does not have a place of business here. It follows, even though title to fixtures may pass in California, the transactions are not subject to sales tax but, rather, are subject to use tax (see Reg. 1620(a)(2)(A) and (B); Norton Co. v. Department of Revenue of the State of Illinois, 340 U.S. 534, 95 L.Ed. 517).

ELS:rar