



STATE BOARD OF EQUALIZATION

July 6, 1967

Gentlemen:

We have completed our review of your petition for redetermination of sales and use taxes.

We have concluded that the color cards and color chips were properly included in the measure of tax. The material is of the nature of sales aids provided to your retailers without charge to facilitate the sale of your paint products. This utilization constitutes a use of the property under the provisions of Section 6009 of the Revenue and Taxation Code which provides as follows:

" 'Use' includes the exercise of any right or power over tangible personal property incident to the ownership of that property, and also includes the possession of, or the exercise of any right or power over, tangible personal property by a lessee under a lease, except that it does not include the sale of that property in the regular course of business."

Use tax also applies to your storage of the property under the provisions of Section 6008 of the Revenue and Taxation Code which provides as follows:

" 'Storage' includes any keeping or retention in this State for any purpose except sale in the regular course of business or subsequent use solely outside this State of tangible personal property purchased from a retailer."

The color cards and color chips are not regarded as premium merchandise because they were not in fact given as a premium for the purchase of other property and for the additional reason that they are without independent value to the retailer. Their use is limited solely to the sale of paint.

The color cards and color chips do not qualify as exempt labels for the reason that they are not affixed to the property to be sold and are not in fact sold with the property (see enclosed copy of sales and use tax Ruling 49).

At the conclusion of our preliminary hearing, you inquired if an oral hearing could be granted in the event of an unfavorable ruling on your petition. Please review our letter and advise us, in view of what is set forth herein, if you now desire such a hearing. If we do not hear from you within a period of 30 days from this date, we shall conclude that no such hearing is desired and will direct that the tax be redetermined without adjustment.

Very truly yours,

W. E. Burkett
Associate Tax Counsel

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