



## STATE BOARD OF EQUALIZATION

March 27, 1953

D--- F--- F---  
XXXX --- Street  
B--- 10, CA

Your letter of March 19

Attention:     -. -. ---  
                  Office Manager

Gentlemen:

We have examined the enclosures contained in your letter of March 19, 1953, in connection with your request for our ruling as to the taxation of certain engineering services performed for you by T--- G--- C---

It appears to us that the engineering service includes three separate items. (1) Supervision of installation and initial operation of the equipment by a competent engineer. (2) Complete installation and operating instructions together with drawings for properly laying out the equipment, plot plans, process flow diagrams, equipment arrangement drawings, and piping and wiring diagrams. (3) The procurement of items not manufactured by T--- G--- C---

With respect to the first item above, it is our opinion that the charge for the services of the engineer in connection with the supervision of the installation of the equipment and the initial operations is not subject to sales tax. This is based on Section 6011 of the California Sales and Use Tax Law defining "sales price", and Section 6012 defining "gross receipts", in each of which there is excluded from the measure of tax the price received or the amount charged "for labor or services . . . in installing or applying the property sold". The service of the engineer would seem to come within these provisions.

As to the second item above, (the drawings, plans and diagrams, etc.), a more difficult problem is presented. That portion of the charge relating solely to the general layout arrangement and integration of the various items of machinery would be considered as charges for the installing and applying the property and not subject to tax. That portion of the charge relating to design or production of the machinery would be subject to tax. This is because under Sections 6011 and 6012 in determining the measure of tax no deduction is allowed for the "cost of materials used, labor or service cost", and there is included "any services that are a part of the sale". We cannot definitely determine from the contract what, if any, part of this item is subject to tax.

D--- F--- F---  
Account No.C-XXXX

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315.0100

With respect to the procurement of items not manufactured by T--- G--- C--- and listed as item three above, the amount charged for this would be subject to tax under Sections 6011 and 6012 cited above. In this connection we assume that T--- G--- C--- did not purchase these items for the account of and upon the credit of D--- F--- F---.

If you are not in agreement with our interpretation, we will be pleased to have your comments.

Very truly yours,

E. H. Stetson  
Tax Counsel

JHM:tj