

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-5550

May 28, 1953

A--- Manufacturing Company
--- and --- Streets
--- (---), California

Your letter of December 19,
1952

Attention: Mr. D. P. P---
Personnel Manager

Gentlemen:

You inquire concerning the application of sales tax to your sales of 20,000 End Display Standards to the B--- Construction Company. The purchase order stated, "Subject standards to be manufactured in advance, and held for future withdrawals". Upon completion of the manufacture the standards were paid for in full, including the amount for sales tax. Upon subsequently receiving shipping orders, you find that you have shipped a number of the standards to out-of-state points.

It is our opinion that the sales in question are not subject to the tax where the goods are eventually shipped to a point outside California. This opinion is based on the fact that your obligation to ship the standards was part of your original contract of sale and that your obligations under that contract were therefore not completed until you made the shipment.

Technically, the sales tax is imposed on the retailer, and the amount a purchaser pays for "sales tax" is only to reimburse the retailer for one of his expenses of doing business. Accordingly, only the retailer is the taxpayer and in case of an overpayment of tax only the retailer may claim a refund.

We are asking our --- office to contact you to ascertain the exact amount of the overpayment.

Very truly yours,

Bill Holden
Junior Counsel

BH:ja

cc: --- – Auditing

Enclosed is a photostatic copy of a letter and enclosure from the taxpayer. We understand that no credit was given for this item at the recent audit. Your report and recommendation are requested.