



STATE BOARD OF EQUALIZATION

September 22, 1965

Gentlemen:

This is to inform you of the position we have taken with respect to your petition for redetermination of sales tax. We will recommend to the Board that the tax be redetermined by deleting from the taxable measure sales of equipment to "H". However, we believe the auditors properly included in the taxable measure charges to automobile manufacturers for alterations of tools and dies brought about by yearly changes in automobile models.

The letter from "H"'s secretary of "H" is sufficient to establish the sale by you to "H" as a nontaxable sale for resale to the "N" company in Australia. This letter establishes that the property was sold without any intervening use by "H". Accordingly, we are recommending that this item be deleted.

The second protested item concerned alteration to dies brought about by automobile model changes. We believe this constitutes a taxable fabrication of property owned by the automobile manufacturer. Section 6006(b) of the Sales and Use Tax Law, copy enclosed, specifically includes situations where labor is performed on customer-owned materials. Your objection to this item was based in part on the fact that the auditors did not pick up minor alterations during the production year but did pick up the alterations made because of the automobile model change.

We believe they acted properly in asserting the tax because the alteration of the tools and dies was made in order to produce a new item. The alterations were required by the manufacturer. This, we believe, goes beyond mere reconditioning and repair to which the tax does not apply. The fact that the auditors gave you the benefit of the doubt concerning the minor changes made during the production year should not detract, we feel, from the fact that the year-end alterations were taxable fabrication labor.

We will submit our recommendations to the Board who will consider them at their next regularly scheduled meeting. You will receive official notice of their action in due course.

Very truly yours,

John H. Knowles
Associate Tax Counsel
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