

M e m o r a n d u m**435.1360**

To: Out-of-State Auditing (DMA)

Date: March 11, 1965

From: Tax Counsel (PRD)

Subject: X-----

This is in reply to your memo requesting our opinion on the taxability of a separate charge for recovering precious metals in a pure state.

We understand the facts to be as follows: Taxpayer is a manufacturer of catalytic gauzes, screens, filters and sponges which contain platinum and rhodium and are sold to petroleum refiners. After a period of time the utility of the gauze, etc., is exhausted by contamination with impurities, and the customer returns the gauze or filter to taxpayer for the purpose of recovering the precious metals. Taxpayer makes a separate charge to the customer for recovering the precious metals and removing the impurities. The value of the recovered metal is credited to the customer's account by taxpayer, but there is no identification as to any particular customer's metal. When a customer orders a replacement gauze, etc. (usually coincidentally with the return of the exhausted gauze), the customer is charged for the value of the metal in the replacement gauze less the value of any recovered metal the customer has on deposit. Tax is billed by taxpayer on the difference between the total charge for the gauze and the value of the metal drawn from the customer's account.

It is our opinion that the charge for refining the metal and recovering it from the exhausted gauze should also be included in the measure of the tax. Since the value of the recovered metal in its pure state is subtracted from the price of the new gauze, including both the billings for the replacement gauze and for the refining, in the measure of the tax will result in excluding from tax only the approximate value of the exhausted metal sent to taxpayer.

Prior to the 1959 amendment of Section 6010, we considered a separate charge for out-of-state processing to remove catalytic platinum from alumina beads not to be properly included in the measure of the tax. Since the above enactment, we do not consider this rule to be now controlling. Thus, a separate charge for removing the platinum from the gauze and refining it to its pure state is taxable.

PRD:ls [lb]