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STATE OF CALIFORNIA

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**STATE BOARD OF EQUALIZATION**

3-12-57 (to taxpayer's attorney)

Thank you for the enclosed photograph and detail drawing of the cooler units involved in your client's petition and refund claim.

You contend that the cooler units should be regarded as "machinery and equipment" as defined in Sales and Use Tax Ruling 129 wherein the term "machinery and equipment" means property to which each of the four conditions set forth in the ruling applies. You will note that condition three provides "it is installed for the purpose of performing a manufacturing operation or some other function not essential to the structure itself."

This matter has been discussed thoroughly with members of the legal staff, and the picture and detail drawing were viewed by each member during the discussion. It was the combined thinking of this group that the cooler units involved are integral parts of systems composed of ducts and other material which comprise air-conditioning systems for the respective buildings to which they are attached. It appears obvious to us that the system of ducts, vents, etc., is an integral part of each building and the material from which it is formed would, without question, be regarded as "material" under ruling 12. Since the air-conditioning obviously would not be complete without the cooler unit, we believe that it necessarily becomes an essential part of the structure.

A very similar factual situation was presented to the board some time back and it was decided at that time that the units involved were "fixtures" as that term is used in ruling 12. Under the circumstances, we believe the air-conditioning units involved in this petition are properly classified as "fixtures."

In view of the foregoing, we must recommend to the board that the petition be denied; however, we do not wish to discourage you in any way from discussing this matter with us. In light of our expressed thinking on this matter, should you feel that new or different reasons could be advanced for changing our views, we will be glad to discuss the matter with you.

vty : wwm

Warren W. Mangels  
Legal Division