

**M e m o r a n d u m****190.0120**

To: Mr. W. S. Freeland

Date: July 5, 1951

From: R. G. Hamlin

Subject: D--- L--- W---  
dba K--- R--- Co.  
XXX --- ---  
---, California

Account -- - XXXXX

You have forwarded to us, with your memorandum of April 27, for an opinion, a letter received from the above named taxpayer objecting to the inclusion of charges for binding, serging and sewing of rugs and carpeting in a determination which we propose to issue, as a result of a recent audit by your office.

In our opinion this taxpayer must distinguish, for purposes of the tax, between sales of rugs and contracts for wall-to-wall carpeting.

In those cases in which carpeting is sold the tax applies to all charges other than actual installation charges. Thus charges for binding, serging, or sewing of carpeting for the purpose of fabricating a rug of a prescribed size or shape are subject to tax, whether performed before or after title passes. If such services are performed after the title vests in the purchaser Section 6006 (C) of the Sales and Use Tax Law governs, as indicated by Sales and Use Tax Ruling 15. On the other hand, sewing, serging and binding which is incidental to and performed in connection with the installation of the carpeting is regarded as a part of the labor of installation and the tax will not apply with respect to the charge therefor.

With respect to contracts for wall-to-wall carpeting, you are advised that we regard such contracts as construction contracts, within the meaning of Sales and Use Tax Ruling 11. The carpeting is regarded as "materials" and the contractors are, therefore, regarded as consumers of the carpeting, pads, etc., used in fulfilling such contracts. The tax, accordingly, applies to the sale of such "materials" to the contractor. If purchased ex-tax the cost price of such "materials" is to be reported as self consumed merchandise.

As indicated by the second paragraph of that section of Ruling 11 entitled "Materials Used by Contractors" in the case of time and materials contracts the contractor will be regarded as the retailer of the "materials" if he bills his customer an amount for "sales tax" computed upon a marked up billing.

With respect to the taxpayer's contention that binding, serging and sewing of rugs is analagous to alterations of ladies garments it is our conclusion that such services are more analagous to the services performed by a tailor. Thus, this taxpayer has rolls of carpeting from which he fabricates rugs, the tailor has bolts of cloth from which he fabricates garments. In the case of alterations to ladies ready-to-wear garments, however, the garment is fully fabricated and ready to wear.

RGH:ja