



STATE BOARD OF EQUALIZATION

October 27, 1950

L--- & W---
Attorneys at Law
T--- G--- Bldg
--- ---, California

Attention: Mr. A--- H. P---

Re: I--- C---, Inc.
XXXX --- --- Blvd.
--- ---, California
Account No. X-XXXX

Now: SZ -- XX-XXXXXX

Gentlemen:

This is in answer to your letter of October 4 in which you request further clarification of our proposed recommendation to the Board with respect to your client's Petition for Redetermination, as outlined in our letter to you of September 28, 1950.

At the oral hearing in Los Angeles your client indicated that its invoices in connection with "cementing" and "plasticizing" jobs contained separately-stated charges for each of the following:

1. Cement or plastics (delivered).
2. Admixtures (when required).
3. Mixing admixtures into dry cement (flat charge per unit of cement).
4. Plugs.
5. Haulback charge (to cover cost of handling cement returned to bulk storage silos).
6. Mixing cement (or plastic) with water and pumping it into the well.

We propose to recommend to the Board that separately stated charges for the last of the above items (No. 6) be deleted from the measure of the tax upon redetermination, on the ground that such charges are for applying or installing the property sold and are excluded from gross receipts, as defined by Section 6012 of the Revenue and Taxation Code. All other charges will be retained in the measure of the tax.

From the information in our files it appears that our auditors regarded your client as the consumer of acids and plugs used in fulfilling lump sum contracts for "acidizing" oil wells, and computed the tax measured by the cost price of materials used in fulfilling such contracts. Accordingly, it does not appear that any adjustment will be in order with respect to these contracts.

We are unable to advise you of the amount of the reduction in tax which will result from our proposed redetermination as the audit working papers are in our Los Angeles office. If the audit papers are not detailed enough to disclose the charges to be deleted, it will be necessary for your client to furnish us with a schedule of such charges for each calendar quarter of the period covered by our determination.

Our proposed recommendation in this matter is based on our conclusion that the "cementing", "plasticizing", and "acidizing" of oil wells is an improvement to realty and that the application of the tax to contractors engaged in such activities is governed by Sales and Use Tax Ruling 11. Accordingly, if our recommendation is accepted by the Board, your client will be regarded as the consumer of cement and other "materials" used in fulfilling future contracts in which it does not bill such "materials" upon a marked-up basis and compute the sales tax upon the marked-up price. In this event the sale of such "materials" to your client will be subject to the tax.

Summarily, the transfer" of the vehicle from parent to subsidiary for \$2,000 constitutes a sale of tangible personal property purchased by subsidiary for use in California for which subsidiary incurs a use tax liability measured by the sales price to it of the vehicle.

We are requesting our Los Angeles district office to examine the audit working papers and, if possible, to compute the amount to be deleted from the measure of the tax. After we have received this information we shall write to you again. In the meantime we shall appreciate your comments on our proposed disposition of this matter.

Very truly yours,

R. G. Hamlin
Associate Tax Counsel

RGH:HB

cc: W. R. Thomson