

M e m o r a n d u m**190.2120**

To: San Francisco – Aud. (LC:REP)

August 31, 1965

From: Tax Counsel (GAT)

It is our understanding that taxpayer is a sculptor who performs contracts to design, manufacture, and install bronze sculptures which comprise center splash deflectors in large decorative water fountains.

The work is performed under a lump-sum contract. The sculpture is attached to the base of the fountain by welding to a metal frame, reinforcing bars or bronze bars imbedded in concrete. Where piping is incorporated into the sculpture, it is connected to water supply piping.

The sculptures range in size from 9 feet by 4 feet by 4 feet to 32 feet by 13 feet by 11 feet, and in weight from 500 pounds to 3-1/2 tons. They are completely manufactured in taxpayer's shop by cutting and welding bronze according to a scale model.

Inasmuch as the concrete fountains are improvements to realty and the sculptures are designed and installed as an integral part of such realty, it is our opinion that such sculptures constitute materials under Ruling 11. Accordingly, taxpayer is subject to tax measured by his cost of materials used.

GAT:sl [1b]