



STATE BOARD OF EQUALIZATION

April 18, 1966

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Dear --- ---:

As requested in our telephone conversation of last Tuesday, this is to inform you as to our conclusions reached concerning the application of the California retail sales tax and use tax with respect to ABC Company's contracts with C--- Company and --- Company for installation at the company's [city] assembly plant

As a result of the undersigned's visit to the plant, accompanied by --- Sales Engineers, --- Company and --- Sales Engineer, --- Company and --- Plant Controller, --- Company, we have reached the following conclusions:

--- Company is the consumer under Sales and Use Tax Ruling 11, Construction Contractors, of the steel, sheet steel, ducts, insulation, piping, housing, and other materials becoming part of the various spray booths and bake ovens that are erected by the company at the plant. The tax, accordingly, applies to the sale price to the company of the materials which it buys and incorporates into the various ovens and booths. The fact that sections or portions of the ovens or booths may be fabricated away from the site of erection is immaterial as is the fact that some fabrication of parts is done at the site. The contractor should, accordingly, pay the use tax to the State on the cost of those materials purchased outside the State from concerns not having places of business in this State and not being authorized to collect the use tax. --- Company has been assigned Account No. ----- under which it is filing consumer's use tax returns upon which the purchase price of such property should be reported. California vendors selling to --- Company will, of course, pass on the amount of sales tax which they will be required to pay to the State.

The --- Company is likewise the consumer of the steel frame work and other materials entering into the conveyor systems running throughout the plant, whether of the overhead type or of the floor type, and including the selectivity conveyors and automatic transfer conveyors. It is also the consumer of the rails, frame work, and other materials forming the support of the bridge crane. The application of the tax with respect to the property of which the company is the consumer is, of course, the same as we have stated it to be in connection with property consumed by --- Company.

The --- Company is, in our opinion, the retailer of the chains, hooks, and wheels forming the moving part of the conveyor systems and the bridge and hoist forming the moving part of the bridge crane. It is my understanding, however, that the company does not manufacture these items but purchases them from other manufacturers in which case the measure of the tax is the amount paid for these items and may be reported by the company as sales in an amount equal to the price paid therefore.

The --- Company is the retailer of the automatic and hand transfer cars which operate on rails. These, in our opinion, are personal property and the tax is upon the total amount received for the completed articles. The amount received for installing them would not, however, be taxable. This would include labor such as is involved in providing electrical connections.

Both of the two contractors are retailers of any equipment such as electric motors, switch gear, and the like, if such equipment is furnished and installed by them. It is my understanding that the various control centers were sold directly to --- by ---. Those items are, in our opinion, fixtures and taxable at the sales price thereof.

The --- Company now holds Seller's Permit No. -- ----- . In the event the --- Company makes any sales of tangible personal property, it also should obtain a seller's permit under which it would file a sales and use tax return in place of the consumer's use tax return which it is now filing.

I am sending a copy of this letter in triplicate to --- also that he may furnish a copy to each of the contractor's representatives.

In the event this letter does not cover all of the items in question or if there are any questions upon which clarification is desired, we shall, of course, be happy to have you communicate with us.

Very truly yours,

E. H. Stetson  
Tax Counsel