

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

Board of Equalization Legal Division - MIC:82

**315.0221**

To: Mr. Ray Hirsig - MIC:47

Date: August 30, 1999

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From: Gary J. Jugum  
Assistant Chief Counsel

Subject: Autobody Repair Business: Annotation 315.0220

Business Taxes Law Guide Annotation 315.0220 provides as follows:

"315.0220. **Painting Repair Parts.** The charge for painting a new repair part, performed before the part is attached to the article being repaired, is part of the taxable sales price of the part. After the part is attached, however, it becomes a part of the article being repaired, the painting of which, including the installed part, is part of the repair labor which is not taxable. 7/9/59."

Ms. Joan Armenta-Roberts of Mr. Andal's office has been discussing this annotation with Mr. William Conway, Executive Director of the California Autobody Association, and Ms. Tracy Sandin, Director of Governmental Affairs for Farmers Insurance Group.

A question has been raised as to the viability of the annotation following the amendment to Sales and Use Tax Regulation 1551 "Repainting and Refinishing" in 1975.

Basically, the regulation provides that charges for repainting used articles are nontaxable, except that if a separate charge is made for the paint, i.e. the materials, tax applies to the charge made for the materials.

There is a difference between a charge for "paint" and a charge for "painting." The former is a charge for materials and is taxable. The latter is a charge for processing and is taxable (even if itemized) with respect to new articles, but nontaxable with respect to used articles.

By copy of this memorandum to Ms. Leila Khabbaz, I am asking that she delete Annotation 315.0220 from the Business Taxes Law Guide. We note that there is a handwritten note, dated 6/29/99, on the annotation, noting that there was a change in Regulation 1551 in 1975.

To simplify administration of the tax, it would be appropriate to maintain the distinction employed by Regulation 1551, and to abolish the distinction contemplated by the annotation. Thus, if a repairman himself paints a part, before or after installation, as a part of a repair process to an automobile, the charge for painting should be regarded as a nontaxable charge "for repainting or refinishing used articles" within the meaning of the regulation-even though the part may be new.

It is likely that replacement parts are purchased unpainted or, at the most, primed. Thus, it could be argued that when the part is painted prior to installation, this is a step in the manufacture of the completed article. In general, this is true; however in the repair context, the distinction is too narrow to be maintained for proper administration of the tax. To the extent that any part may have been purchased painted (for example, primed), there would be no exclusion from the measure of tax with respect to the sale and installation of that item.

GJJ: sr

cc: Mr. James E. Speed - MIC:43  
bc: Ms. Freda Evans - MIC:92  
Mr. Bill Dunn - MIC:49  
Ms. Laureen Simpson - MIC:92  
Ms. Leila Khabbaz - MIC:40  
Mr. David H. Levine - MIC:82  
Ms. Janet Vining - MIC:82