

**STATE BOARD OF EQUALIZATION**

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December 24, 1986

R--- J. F---  
F--- & A---  
XXXX --- Ave., Suite XXX  
---, CA XXXXX

Dear Mr. F---:

This is in response to your letter dated to Tax Counsel Les Sorensen dated November 13, 1986 regarding the application of sales tax to the sale, erection, and installation of wall systems.

You explain that wall systems contain a variety of components which can be generally classed as either structural or accessory. You also state:

“While there is little question that the above items are all tangible personal property, there are some activities which occur in conjunction with the sale of this property.

System Design: creative layout (floor plan) of the components and accessories to meet the customer's need and most effectively use systems components.

Configuration: activity involved in setting up the system in totality following the 'system design' including attaching accessories to accessories or accessories to components or panels with screws, nuts and bolts (the process is less like tilt-up and more like build in place); some systems are fastened to walls, some are bolted to the floor, some are free-standing; all segments of a system are joined together by connectors.

Knock-down: disassembly of an existing system prior to removing it to another site or re-configuring components.

Re-configuration: activity of taking 'knocked-down' components and setting them up in a new layout following the new 'system design'.

Notwithstanding your statements to the contrary as quoted above, you state that we may assume that the subject wall systems are not attached to realty (except to the extent that utility services are connected to the systems). This opinion is based on that assumption, and the implications of attachment to realty are not considered. In addition, your description of the wall systems leads us to the conclusion that they are offered to buyers as an integrated system consisting of individual components which require further fabrication (i.e., your "system design" and "configuration") to create that integrated system. This conclusion forms the basis of the opinion herein.

### Acquiring Initial System

When design services alone are provided, and there is no transfer of tangible personal property related to those services, no sales tax is applicable. (Reg. 1501.) However, when a wall system is transferred, the entire charge for that system is subject to sales tax, with no deduction on account of any services (e.g., system design and configuration) that are part of the sale, whether there is a lump sum billing or separate line item billing. (Rev. & Tax. Code § 6012(b)(1).) The customer's true object is to acquire tangible personal property: an integrated wall system. (Reg. 1501 (the true object of the contract determines if the transaction is a taxable sale of tangible personal property).) System design and configuration each constitutes a step in a series of operations resulting in the production of that tangible personal property. (See, e.g., Business Taxes Law Guide ("BTLG") Annos. 435.0020 (7/19/50) (assembly of steel lockers and shelving), 435.0040 (7/25/67) (assembly of furniture).)

You also ask about a situation in which the seller takes the order from the customer, the manufacturer ships and bills for the components, and the seller performs configuration. In this factual situation the entire charge is also subject to sales tax. It does not matter who does the billing because all activities are part of the fabrication and sale of tangible personal property. (BTLG Anno. 435.0060 (3/15/66).) This is true whether the property is shipped and billed by the manufacturer directly to the buyer (whether or not inventoried by the seller prior to configuration) or shipped to the seller but billed by the manufacturer to the buyer.

### Modification of Existing System

You also ask about situations in which the customer has an existing wall system and the seller reconfigures that system. Reconfiguration activity would generally be considered nontaxable repair. In such circumstances, the seller is the consumer of the additional components when their retail value is ten percent or less of the total reconfiguration and the seller bills in a lump sum. (Reg. 1546(b)(4).) Sales tax is due on the sale of the additional components to the seller.

The seller is the retailer of components billed separately, regardless of their percentage share of the total charge. The seller is also the retailer of components when their retail value is more than ten percent of the total reconfiguration charge. In these situations, the fair retail selling price of the components must be segregated from labor charges on invoices to customers and in the seller's records. (Reg. 1546(b)(1) (if the charges are not segregated, the Board will do so based upon information available to us).) Sales tax is due on the sale of the components to the seller's customers.

If a reconfiguration involves a substantial change from the original wall system due to the addition of many new components, that reconfiguration would be taxable fabrication. The entire charge is subject to sales tax, as discussed above with regard to acquiring the initial system.

If a particular reconfiguration does involve a substantial change due to the addition of many new components, feel free to write us again setting forth the specific differences between the original wall system and the reconfigured wall system, and we will provide you an opinion regarding taxation of that reconfiguration.

Sincerely,

David H. Levine  
Tax Counsel

DHL:ss

bc: Les Sorensen  
--- --- - District Administrator