



---

**STATE BOARD OF EQUALIZATION**

March 31, 1953

Attention:

Your letter of March 24

Gentlemen:

We have considered the additional facts presented by you in your letter of March 24 and are of the opinion that the transaction described is subject to California sales tax. In order that there be no misunderstanding, we are restating what we believe to be the facts concerning this transaction.

Gar Wood manufactures large tanks for --- These tanks are designed as containers for transoceanic shipment of liquid asphalt, dry cement and other similar materials. These tanks are reusable items and your customer purchases them and in turn leases them to governmental agencies and private contractors on governmental projects located in various parts of the world including Alaska. You deliver these tanks by way of a carrier consigned to --- Tank Company, at Parr-Richmond Terminal No.5, Richmond, California. The tanks are then filled with the products to be carried and shipped by way of steamship to the consumer. The shipper is Transit-Tank Company. We understand that you will receive in each instance an ocean bill of lading indicating that the tanks sold by you are actually taken aboard ship for export shipment.

We have in the past given considerable attention to the problem of whether under such circumstances there is a sale of the products in California, which sale is subject to California sales tax.

It is our considered opinion that sales tax applies to such a transaction because the product is delivered to the purchaser in California and the purchaser in this state makes a use of the products here (filling the tank with asphalt). The tank is not actually in the stream of interstate or foreign commerce until after it is delivered to the purchaser, the purchaser has placed in it the products for shipment out of this state, and delivered it to a carrier for shipment.

If you are not in agreement with our conclusion with respect to the taxability of this transaction, we will be pleased to have you furnish us with your reasons and authorities for believing that the transaction is not subject to tax.

Yours very truly,

E. H. Stetson  
Tax CounselJHM: ja  
cc: Oakland - Auditing