



STATE BOARD OF EQUALIZATION

July 7, 1970

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Gentlemen:

Pursuant to our discussion on July 1, we have given further consideration to the question of whether or not a transaction in which a water softener tank and plumbing fittings, pipe, etc., are furnished to a customer constitutes a lease of property in substantially the same form as acquired by the lessor.

We understand that a typical situation is as follows: A water softener dealer purchases a fully assembled water softener tank, paying sales tax reimbursement or use tax measured by the purchase price. He also purchases plumbing items such as pipe, fittings and valves, paying sales tax reimbursement or use tax measured by the purchase price of those items. He attaches the plumbing items to the plumbing system of the house of a homeowner customer in a manner designed to divert soft water from the tank into the desired outlets in the house. He then installs the tank, connecting it to the plumbing by means of two slip connections. The slip connections can easily be released in a few seconds. Approximately once a month the tank is replaced by the dealer with another tank containing minerals treated in a manner to effectively soften water. The tank which is removed is returned to the dealer's place of business where the minerals are treated to restore their effectiveness and that tank later serves as a replacement. The dealer makes a monthly charge to the homeowner.

Section 6006(g)(5) of the Revenue and Taxation Code excludes from the definition of "sale", and thus from tax on rentals, those leases of property acquired tax paid and leased in substantially the same form as acquired. We have previously concluded that a tank leased together with the plumbing items attached to the homeowner's plumbing system was part of an entire unit consisting of the plumbing items and the tank. Based on the facts as we now understand them, it is our opinion that the tank is separable from the plumbing items and that its form should not be regarded as changed by reason of its attachment to those items. The facts which are of particular significance in reaching this conclusion are that the tank is connected to the plumbing in a very temporary manner, is intended to be removed in a relatively short time, and is a unit which in itself performs the function of softening the water. Accordingly, we believe that the monthly charges are not subject to tax because the tank is leased in substantially the same form as acquired, tax paid, by the dealer. The dealer will be regarded as the consumer of the tank as well as the plumbing items.

We cannot give you a favorable response to other questions which were raised by you and the members of your association in the course of our discussion, but it is our understanding that the conclusion we have expressed in this letter will reduce your problems to a considerable extent.

Very truly yours,

T.P. Putnam  
Assistant Chief Counsel

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