



STATE BOARD OF EQUALIZATION

(916) 445-3723

December 29, 1988

This is in reply to your letter of November 8, 1988, which was received in this office on December 22.

You inquire as to the California sales and use tax consequences of a certain transaction as follows: Your affiliate company delivers to you --- steel mesh (purchased by them) to be bent using a bending machine. The question is whether charges made by you to your affiliate company are subject to tax.

Revenue and Taxation Code Section 6006 defines "sale" to include "the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting." (Emphasis added.) The bending of steel mesh constitutes fabrication labor of the type described under Section 6006. However, it does not follow that the charges in question are subject to tax. If the affiliate company sells the steel mesh in the regular course of its business, then your charges to the affiliate company are not taxable, because "sale" in this context includes only fabrication labor done for consumers, not fabrication labor done for persons who will resell the property.

If your affiliate company is a construction contractor which will furnish and install the bent steel mesh pursuant to a construction contract, then the charge made to the affiliate company is taxable because construction contractors are consumers of steel mesh which they furnish and install (see our Regulation 1521, "Construction Contractors," copy enclosed for your reference).

If you have further questions on this matter, we suggest that you call the undersigned directly at (916) 445-3723, in order that further delay may be avoided.

Very truly yours,

Gary J. Jugum
Assistant Chief Counsel

GJJ:jb
Enclosure