



STATE BOARD OF EQUALIZATION

April 18, 1955

Attention: [X]

Gentlemen:

The Los Angeles portion of the audit of your records mentioned in your letter of March 25, has just been received.

We are extremely doubtful that any portion of your sales of dry ice to [X], or to [Y], are exempted from the sales tax by Section 6359.5 of the Sales and Use Tax Law as amended April 20, 1954, and Ruling 60. Our auditor reports that with respect to [X], "most of the dry ice purchased was used for refrigeration of food at vendee's place of business". Any ice so used would not be covered by the exemption, which applies under Section 6359.5 only to ice or dry ice "used or employed in packing and shipping or transporting food products for human consumption between a point or points within and a point or points without this State".

As to the ice sold to [X], and sold to [Y], and used in refrigerating food which went along with the meals to be served on the planes, we do not believe that the food products are being "shipped" or "transported" in the sense intended by the statute, as they are not being shipped or transported as cargo in the usual sense, nor do they have a destination outside the State as a "point" to which they are being shipped or transported. Rather they are for consumption on the planes.

The audit does not propose any determination against you measured by receipts from sales to [X]. We propose to determine the applicable tax directly against that company which furnished resale certificates to you and is contending in Court that it is the seller rather than the consumer of at least a portion of the dry ice it purchases.

[X]

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Upon receipt of notice of determination and within thirty days from the mailing thereof you may petition for a redetermination and present any objections you may have to the applicability of the tax to your sales of dry ice to [X] and [Y], requesting, if desired, an oral hearing before a hearing officer of the Board.

Very truly yours,

E.H. Stetson
Tax Counsel

EHS:ph

cc: Los Angeles (LJB)
New York (SS)