



STATE BOARD OF EQUALIZATION

October 13, 1982

Dear

This is in response to your letter of October 4, 1982 to Mr. Gary Jugum of our staff. Based on information provided by you at your September conference and in your October 4 communication, we are of the view that X-----, and X----- should be considered a "person," pursuant to Revenue and Taxation Code Section 6005. Our opinion is grounded on our understanding that X----- and X----- are submitting a joint bid to the X-----, Highway and Transportation District for certain construction work to be performed on X-----. Although each party will be responsible for different aspects of the work, each is jointly and severally liable to the District for all aspects of the work.

Under these circumstances, you wished us to confirm your position that purchases of materials by one party for fabrication and delivery to the other or to a subcontractor for installation constitutes a taxable sale for consumption and that the subsequent delivery to the other party or to a subcontractor for installation would not be deemed a taxable sale.

Assuming the District contracts with X----- and X-----, pursuant to the X----- would be considered a construction contract within the meaning of Regulation 1521. and X----- would be deemed the "construction contractor" under terms of the regulation and all "materials" purchased for utilization in the work would be deemed consumed by X----- and X----- (Reg. 1521(a)(2) and (b)(2)(A)1). It follows, your position, that the purchases of materials by either of the parties are consumptive in nature with tax due upon purchase rather than upon subsequent transfers interparty or transfers from one of the parties to a subcontractor for installation, is proper.

We hope this has answered your questions. If further assistance is needed, feel free to contact us again.

Very truly yours,

Les Sorensen
Tax Counsel

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