

**STATE BOARD OF EQUALIZATION**

October 8, 1951

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Attention: X-----

Gentlemen:

This is in reply to your inquiry of September 5 concerning the taxability of a processor who cuts slots in pipe owned by the customer.

The case of Kobe, Inc., v. Johnson, decided by the Superior Court on April 22, 1938, mentioned in your letter, is, in our opinion, no longer authoritative since it was decided prior to the amendment effective July 1, 1939, which added to Section 2(b) of the Retail Sales Tax Act the language which was substantially repeated in Section 6006(c) of the Sales and Use Tax Law relating to producing, fabricating, and processing of property furnished by consumers. At the time of the Kobe decision the statute declared that a sale included the fabrication of tangible personal property for consumers, but did not provide as it has since July 1, 1939, that sale include "The producing, fabricating, processing, printing, or imprinting" of tangible personal property for consumers. In our opinion the cutting and slotting of pipe owned by the consumer is a sale under the 1939 amendment and the Courts would so hold upon the same line of reasoning used in the Banken case mentioned in your letter in sustaining the taxability of charges for the dyeing of cloth furnished by the consumer.

In answer to your question as to whether there has been an administrative ruling on the point, we advise that Sales and Use Tax Ruling 15 (Cal. Adm. Code Sec. 1925) indicates the application of the tax under Section 6006(c) and distinguishes nontaxable repair labor. While not specifically mentioning the cutting of slots in pipe, this operation would be governed by the general provisions of the ruling.

You state you have been informed of an informal letter ruling. Undoubtedly, a number of letters have been written from time to time in answer to specific inquiries.

Very truly yours

E. H. Stetson
Tax Counsel

EHS:ph
Cc: Mr. Fred Larsen