



---

**STATE BOARD OF EQUALIZATION**

May 26, 1952

K--- S--- C---  
XXXX ---  
--- XX, California

[now XX-XXXXXX]  
X-XXXXX

Attention: Mr. J--- H. B---  
Legal Department

Gentlemen:

This is with reference to your letter of April 2 in which you make a request for rulings with respect to the taxability of purchases of aluminum, spiegel-eisen, coal, and the services of erection engineers.

With respect to aluminum, you inquire whether the application of the tax depends upon the taxpayer's intention to incorporate the raw material into the end product or whether it is based upon the percentage of the raw material which is actually resold. You point out that the purpose of adding aluminum is to induce the aluminum into the molten steel, thus imparting certain desired qualities. It appears, however, that a certain percentage of the aluminum is lost or wasted in the manufacturing process. If the sole purpose of purchasing the aluminum is to incorporate it into the finished product ultimately sold, the sale of the aluminum will be treated as a sale for resale and no tax will be due even with respect to that portion lost or wasted in the manufacturing process. If, on the other hand, aluminum or any other property is purchased for use as a manufacturing aid, not for the sole purpose of incorporation into the end product to be sold, the tax will apply to the sale of the entire amount of the property even though a portion of it might remain in the finished product. The same answer, of course, applies to your inquiry concerning spiegel-eisen.

With respect to coal, you refer to our previous correspondence with Mr. C. W--- M--- in which it was determined that the tax did apply to 56 per cent of your coal purchases. It would be appreciated if you would furnish us with a copy of this correspondence as we seem to have difficulty locating it. Although in the case of coke the Board has fixed by rule the percentage regarded as taxable with the result that this is the taxable percentage until the ruling is changed, I do not recall that any similar fixed percentage was ever incorporated into an official ruling of the Board with respect to other than coke for use in the cupola process. What we probably said in

correspondence and what we would say today is that for purposes of making tax returns you could use that percentage of purchases which your experience showed to be substantially correct. Returns made on this basis would then be subject to adjustment if upon audit it was determined by actual figures that the actual taxable amount was higher or lower than reported. The procedure suggested by you in the last paragraph under Heading 3 of your letter entitled "Coal" appears to be in line with the foregoing thought and, subject to the condition that your determination of the percentage of coal purchases subject to tax is reasonably accurate and to the further condition that it is not binding but can be raised or lowered upon audit to reflect the true facts, we approve the use of the procedure suggested.

You also inquire concerning the application of the tax with respect to services of so-called erection engineers provided by the manufacturer of machines purchased by you. If these services, as appear to be indicated, relate solely to the installation and testing of the machines after installation at their final resting place at your mill, we believe the charge for these services is not subject to the tax. We agree, however, with what Mr. R--- told you that if a portion of the services constitutes assembling rather than installing the machines, the charges for such assembly would appear to be subject to tax as a part of the gross receipts from the sale of the assembled machine. Although we are not familiar with the particular details of the method of assembly and installation, it would appear from what you say that the work in question is related to installation and subsequent testing rather than fabrication or assembly.

Very truly yours,

E. H. Stetson  
Tax Counsel

EHS:ph

cc: Mr. John B. Evans  
Mr. W. C. Shay (See reverse for footnotes.)

Mr. C. W. Shay: We have noted H. S. R---'s letter to H. H. W--- of April 10 referring to the above-named company's letter to us of April 2. As you will observe, we have qualified our answer with respect to aluminum and spiegel-eisen by specifically pointing out that the tax does not apply only if the sole purpose of purchasing the products is to incorporate them into the finished product which is sold and to remain in that finished product when sold. Perhaps the Assistant Controller and Legal Counsel convinced the metallurgist that the facts were other than the metallurgist first assumed, although offhand it would seem that he might be expected to know more of the chemistry of steel manufacture.