

**STATE BOARD OF EQUALIZATION**

916/445-6493

October 19, 1984

Mr. P--- C. S---
Purchasing Agent
C--- C--- Corporation
XXXX --- ---
---, CA XXXXX-XXXX

Dear Mr. S---i:

Your letters of August 13, 1984, and September 12, 1984 to Mr. R. B. Fitzgerald of our Oakland District Office, have been referred to me for response. You request our opinion as to the correct application of tax to your use of the metal additive, "Dycastal," in the production of metal castings.

We understand that Dycastal (manufactured by F---, Inc.) is a product which is composed of the following constituents: boron, oxygen, hydrogen, and calcium. Dycastal is added to molten metal prior to pouring in order to incorporate elemental hydrogen into the final casted product which is sold by your company. Supposedly, Dycastal is designed to be a source of this elemental hydrogen, which, as an ingredient of the metal, imparts a certain desired quality of strength to the finished article. A portion of the Dycastal may not become incorporated into the finished metal casting because there may be loss in the metal's slag, or there may be some loss due to oxidation.

Subsection (a) of Regulation 1525 provides that tax applies to the sale of tangible personal property to persons who purchase it for the purpose of use in manufacturing, producing, or processing tangible personal property and not for the purpose of physically incorporating it into the manufactured article to be sold. Subsection (b) of this regulation further provides, however, that tax does not apply to the sale of tangible personal property to persons who purchase it for the purpose of incorporating it into manufactured articles to be sold, as for example, any raw materials becoming an ingredient or component part of the manufactured article.

Although a portion of the additive does not remain in the finished article, it appears this nonincorporated portion is used only for the purpose of incorporating the elemental hydrogen component of Dycastal into the end product to be sold. Therefore, it is our opinion that Dycastal is purchased primarily for the purpose of incorporation as an essential ingredient in the production of metal castings which are resold.

Accordingly, tax does not apply to the sale of Dycastal when you purchase it for the purpose of incorporating elemental hydrogen into the metal castings which your company sells.

If you have any further questions, please write this office.

Very truly yours,

Charles J. Graziano
Tax Counsel

CJG:ba