

**M e m o r a n d u m****480.0022**

To: Modesto – Auditing

January 31, 1980

From: Tax Counsel (GJJ) – Headquarters

Subject: N--- A--- Beauty College

SR -- XX-XXXXXX

This is in response to your memorandum of November 26, 1979.

We understand that taxpayer charges \$1600 tuition for a prescribed course in cosmetology. This lump-sum charge includes 1600 hours of training and a textbook, printed material, and a supply kit consisting of a curling iron, blow dryer, brushes, scissors, and hair razor. These kits are made to order by W--- C--- B--- S---. The taxpayer purchases the textbook and supplies taxpaid at source. Total cost to the beauty college for all of the above is approximately \$75.

You inquire as to whether taxpayer's liability is extinguished in this case by paying tax at source.

We are of the opinion that taxpayer's liability is extinguished by paying tax at source under the circumstances of this case. Taxpayer provides extensive classroom instruction. The cost of the materials is less than five percent of the tuition charge. Taxpayer purchases the materials in fabricated form, thus there is no fabrication labor which escapes taxation. Finally, taxpayer does not make a separate charge for the materials.

As you may be aware, we have had under study for some time the question as to the proper allocation of tax in situations where course materials are furnished to students in situations where lump-sum tuitions are charged. As yet the Board has enacted no regulation on this subject. It would appear that in the instant case the taxpayer may be regarded as the consumer of the items. Even if taxpayer were to be regarded as the retailer, there would be no justification for the Board's calculating an imputed markup.

J:alictilton