

**M e m o r a n d u m****505.0640**

To: Mr. L. H. Wilson

Sacramento  
Date: March 18, 1952

From: E. H. Stetson

Subject: [I]  
P. O. Box XXX  
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Account No. X-XXXXXX

This is with reference to your memo of January 18 concerning the application of sales tax with respect to materials used by [I] in the performance of contracts for the improvement of real property on a "fixed per foot installed basis". We agree with your understanding that these lump-sum contracts and the measure of the tax is, therefore, the cost of the materials to the vendor.

You state, "The amount shown on the estimate as 'Sales Tax' is the amount of tax computed on the marked up price of the pipe alone. Other materials include provision for sales tax." It appears, however, that the items of sales tax is merely one of the elements of cost considered in computing the lump-sum price. If we understand your memo, the contractor is actually showing a greater amount as tax than is actually due the State. The tax should not amount to more than the actual tax due with respect to the sale of the materials to the contractor.

With respect to those contracts in which a portion of the amount is paid by the Government, we believe the application of the tax is the same. It appears that the United States Department of Agriculture, Production and Marketing Administration, furnishes funds with which the contractor pays a portion of his expenses. There does not appear from the information submitted with your memo to have been any purchase of tangible personal property by the United States.

EHS:ph