

M e m o r a n d u m

530.0280

To: San Jose – Tax Administrator

Date: November 7, 1955

From: Headquarters – Sales Tax Counsel

Subject:

Some time ago you made inquiry concerning a possible use tax liability with respect to civil defense equipment acquired by the City of San Jose. We have subsequently investigated the method of acquiring this equipment and have conferred with Stanley Pierson, State Director of Civil Defense. We have also reviewed the applicable provisions of the Federal Civil Defense Act of 1950. We attach hereto a copy of a report by Auditor J. L. Martin.

It is our opinion that when purchases are made as described under paragraph 1 of Mr. Martin's report, no tax is due. This is a purchase by the Federal Government, which of course is not subject to the use tax, of equipment furnished to the State or to a political subdivision of the State with the State contributing one-half the cost incurred by the Federal agency. This does not amount to a sale to the state; but even if it did, the tax would not apply since the purchase would be from an unincorporated Federal agency, and the property is, of course, not surplus property.

E. H. Stetson