



STATE BOARD OF EQUALIZATION

April 20, 1955

Dear Mr. C.

We understand that C Company purchased certain equipment which it rented to a joint venture under an agreement calling for the payment of rent over a period of thirty-four months which was the estimated time required to perform the work under the contract. The total rental was five per cent in excess of the total equipment cost. Sales tax was charged on the vendor's invoice for this equipment and paid at the time of purchase by C Company. You state, "This was not a lease-purchase agreement, as no title or interest in title was to change".

C is a member of the joint venture in the amount of ten per cent. Six months later an agreement was entered into whereby C Company sold the equipment to the joint venture for cost less six monthly payments made.

You ask whether the sale to the joint venture falls within the provisions of Ruling 71 relating to tax-paid purchases resold. Section 6012 (a), defining gross receipts, and Ruling 71 allow a tax-paid purchases resold credit to a retailer who sells tangible personal property before making any use of it (other than retention, demonstration, or display while holding it for sale in the regular course of business) if he has reimbursed his vendor for sales tax or has paid use tax. You will note that before such a credit is allowable the retailer must have paid tax on the purchase and must have made no use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. Here C company made a use of the property by leasing it to the joint venture and, therefore, the tax-paid purchases resold credit under Ruling 71 may not be taken.

Very truly yours,

John H. Murray
Associate Tax Counsel