



STATE BOARD OF EQUALIZATION

April 24, 1953

Attention: _____
Chief
Legal Division

Gentlemen:

This refers to your inquiry of March 23 concerning the application of the sales tax with respect to two items of equipment acquired under subject cost-type contract. We requested our San Jose District Office to give us a report concerning these items so that we would be in a better position to arrive at an opinion.

The first item, paint spray booths, appears from your letter and the report of our San Jose District Office to constitute "fixtures" rather than "machinery and equipment" under Ruling 12. The description indicates that they are bolted to the floors, installed in sections, and could not be removed or dismantled as a unit. A track runs through the booths and sheet metal flues four to five feet in diameter are connected to the booths and run from the booths through the wall to the outside of the building. They appear themselves to constitute improvements and, rather than being considered as machinery or equipment, they appear to us to constitute an adaptation of the structure itself for the specific purpose of a special type of painting. Thus, in our opinion conditions No. 2 and 3 in Ruling 12 are not complied with.

The other item is a five ton Toledo built-in dial floor scale. Reference to our records of previous rulings indicates that we have consistently regarded such built-in floor scales as materials and fixtures rather than machinery and equipment under Ruling 12.

It is, therefore, our opinion that the sales tax applies with respect to the sale to the contractor of the parts and materials entering into the paint spray booths and scales, or if the contractor purchases fabricated parts, or, in the case of a scale, the entire scale, then the tax applies under Section 6384 of the Revenue and Taxation Code with respect to the sale of the property to the contractor.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:ph

cc: San Jose – Auditing (RGS)