



STATE BOARD OF EQUALIZATION

March 4, 1953

A--- M--- C---, Incorporated
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Your letters of November 19
and February 18

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Gentlemen:

We regret that your letter of November 19 was not answered earlier, but it was inadvertently misplace.

You ask whether the California use tax should be charged on certain items. You state that you shipped instruments from your factory in [city], Pennsylvania, to your customer's location in [city], Utah. However, the installation instructions and dimension drawings for these instruments were sent to the customer's [California] office. This material will subsequently be sent by your customers to their [Utah] location for use in the installation of equipment. You state that since these drawings and instructions will be used outside California, you do not believe the use tax should be charged when billing for them.

For your information we enclose a pamphlet copy of the California Sales and Use Tax Law and direct your attention to Sections 6201 and 6202 which impose a use tax upon the storage, use, or other consumption in this State of tangible personal property purchased from a retailer for storage, use or other consumption in this State. Section 6009 defines use as including the exercise of any right or power over tangible personal property incident to the ownership of that property. Section 6009.1 provides that storage and use do not include the keeping, retaining, or exercising of any right or power over tangible personal property shipped or brought into this State for the purpose of subsequently transporting it outside this State for use thereafter solely outside this State. Therefore, it would seem that whether these drawings are or are not subject to use tax will depend upon the use to which your customers put them in the State of California.

If they are merely retained in this State and then sent outside the State for use in installing the equipment, the use tax would not apply. However, if these drawings or instructions are put to any use in this State such as use in instructing engineers or workmen in connection with the installation of the property prior to its installation, then use tax would apply. From your letter we cannot inform you definitely whether or not the use tax applies, but you or your customer should be in a position to determine that matter from the use, if any, to which the drawings and instructions were put in this state.

The above discussion has been limited to the application of the use tax to the transaction. Since we do not have the full details of the transaction, we cannot determine whether or not there is a sales tax problem involved. Therefore, we enclose a copy of our Ruling 55 and direct your attention to Section A 2 (b) of that ruling, which may or may not be applicable.

If you have any further questions, please feel free to call upon us.

Very truly yours,

E. H. Stetson
Tax Counsel

JHM:tj

cc: --- --- - Auditing