

# Memorandum

190.1740

To: Los Angeles – Review (PER)

Sacramento  
April 30, 1953

From: Headquarters – Sales Tax Counsel

S--- I---, INC  
XXXX --- BLVD  
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Subject: Status of Application of Tax  
to Incinerators

We are inclined to agree with your position that the smaller incinerators that are not constructed at least in part on the job and are wholly prefabricated should be considered fixtures under Ruling 11. They are, of course, improvements to real property, but in the event these smaller incinerators are installed by the manufacturer, the measure of the tax should be the so-called “fabricated cost”.

Where the physical characteristics are such that the question becomes close, the terms of the contract for their erection and installation should be examined to determine whether the parties appear to contemplate a construction contract or whether words of sale are used indicating intention on the part of the seller to sell and on the part of the buyer to buy a complete incinerator to be installed by the seller or perhaps the buyer or someone else.

E. H. Stetson

EHS:ph