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**STATE BOARD OF EQUALIZATION**

May 21, 1954

K--- A---  
XXXX - XXXX --- --- Boulevard  
--- ---, California

Attention: Mr. W--- T. K---

Account No. H-XXXXXX

Gentlemen:

This is in answer to your letter of April 28 addressed to Mr. Gregory of our district office which has been referred to me for reply.

We understand that you intend to sell a television service policy to your customers which will be a second-year policy. In other words, we understand that this second-year policy will not be operative until the customer has used the set for one year. We further assume that this is an optional warranty, meaning that the customer may acquire the set either with or without purchasing this second-year warranty. We understand that you may also have reference to a situation where the set may have been sold months previous to the time when the second-year warranty is solicited. We also assume that no television antenna is furnished and installed in connection with these second-year warranties.

In the case of such optional warranties, even where sold along with the set, we do not regard the sales tax as applying to a separate charge for the warranty. This is based on the theory that the charge represents a charge for a separate service contract and not a charge constituting a part of the sale price of the television set. You are regarded as the consumer of parts used in performing this independent service. Accordingly, you should purchase such parts on a tax-paid basis or report the cost of them as self-consumed merchandise upon Line 2 of your own sales and use tax return. In other words, you do not report the \$35.00 as taxable gross receipts but merely report the cost to you of any parts which you use in performing such optional warranties.

We wish to point out that section 6012 of the California Sales and Use Tax Law defines as taxable gross receipts the total sale price including labor or service cost or any other expense and any services that are a part of the sale of personal property. It is for this reason that where a retailer sells a television set together with a mandatory warranty, that is, where the customer cannot acquire the set unless he also pays for a warranty, the charge for the warranty is regarded as part of the retailer's taxable gross receipts. In this latter instance of mandatory warranties, the retailer may purchase parts used to fulfill such warranties on a tax-free basis since he is regarded as a reseller of

parts which he uses in fulfilling mandatory warranties (Sales and Use Tax Ruling 67, copy enclosed).

As already indicated, however, you are not to be governed by the paragraph immediately preceding, but by the third paragraph of this letter, since we understand that optional warranties are involved.

Very truly yours,

W. W. Mangels  
Assistant Counsel

WWM:ja  
cc: Sacramento – Auditing (RRG)