150.0200

STATE BOARD OF EQUALIZATION
(916) 445-3723

November 22, 1961

REDACTED TEXT

Gentlemen:

This is in reply to your letter of November 17, 1961, concerning the sale of fallout shelters. You state that you are general contractors building fallout shelters and pay sales tax on the materials at your source. However, you are a dealer for a completely fabricated steel shelter which you retail and which you also install.

Enclosed is a copy of Ruling 11, which explains the application of sales tax to construction contractors. You will note that a contractor is the consumer of materials, but the retailer of fixtures. Materials which go into the walls, floors, and ceiling of the fallout shelter are materials under Ruling 11. Other items which are attached to the structure which retain their identities when installed, such as bunk beds, ladders, cabinets, etc., are fixtures. If you install these latter items, you are required to obtain a seller's permit from your local State Board of Equalization office at 288 E. 19th Avenue, P.O. Box 1054, San Mateo, California, telephone Fireside 1-5625.

Sales of fabricated steel shelters to persons who install them are retail sales, since the installer in this case would be either a construction contractor or the home owner. In both cases your sale of the steel shelter constitutes a retail sale. You are also the retailer of any items of tangible personal property which you furnish for inclusion in the finished shelter. These might include tables, chairs, cooking utensils, and food items. Food products are exempt from the sales tax, see Ruling 52 (copy enclosed). Food products do not include water and candy bars which might be included in a shelter food packet. Where you make retail sales of taxable and nontaxable items for a lump-sum charge, tax applies to the taxable items at their fair market value.

Our San Mateo office will be happy to advise you as to the correct application of the tax and answer any other questions you may have.

Very truly yours,

E. H. Stetson
Tax Counsel

JHK:lc