



STATE BOARD OF EQUALIZATION

November 17, 1964

K--- S--- C---, Inc.
XXXXX --- Highway
--- ---, California

Attention: Mr. M. G---

Gentlemen:

This is in reply to your letter of October 25, 1964 stating that you have built, constructed and installed outdoor advertising signs for the Bank --- ---, which intends to lease the signs.

You enclose a copy of an exemption certificate which has been furnished to you by the bank. These exemption certificates by banks are, in effect, resale certificates and when tangible personal property is sold to banks and the bank issues such a certificate, you may accept such a certificate and the bank then becomes liable for payment of the tax due with respect to the transfer of the property by the bank to its customer.

It appears, however, from the statement that you have "built, constructed and installed outdoor advertising signs" you may be acting as a construction contractor with respect to these signs. The usual large outdoor advertising sign which is erected upon land is regarded as a structure, and the person erecting these signs in place is considered to be the consumer under sales and use tax ruling 11, copy enclosed, of the materials out of which he fabricates and erects these signs. This means that sales tax applies with respect to the sale to the installer of the lumber or other materials entering into the signs. No tax applies to the contractor's receipts from performing the contract and there would, therefore, be no occasion to request or accept an exemption certificate from a bank or any other customer.

As ruling 11 indicates, some signs, particularly those attached to buildings, are regarded as "fixtures." Fixtures when attached to real property by the supplier of the fixtures are considered as sold for use and not for resale, because upon being affixed they become real property and the subsequent transfer whether by lease or sale by the bank would not be a transfer of tangible

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personal property. Therefore, as to this type of sign, it would be improper to accept an exemption certificate.

If we have not fully understood the type of sign involved, or any other details of the transaction, please advise and we shall attempt to give you a further reply.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:fb
Enclosure

cc: Pasadena – District Administrator

A resale certificate could now be accepted from a lessor under the conditions in Reg. 1521(b)(2)(B)(3).

8/19/87
D.J.H.