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**STATE BOARD OF EQUALIZATION**

April 17, 1950

R--- C--- A---  
of Northern California  
XX --- Street  
--- --- X, California

Attention: Mr. Z. E. J---  
Executive Vice President

Gentlemen:

This is in reply to your letter of February 25 regarding the application of the State sales tax in connection with charges for labor or services rendered and installing or applying refrigeration facilities.

The refrigeration subcontractor is, under Ruling 11, the retailer of "refrigeration units", and the tax applies to the retail selling price thereof. This price does not include, however, additional charges separately billed for the installation of the units. Even where a lump-sum charge is made, you will observe from Ruling 11, under the heading "Fixtures Furnished and Installed by Contractors", that the retail selling price is regarded as the cost price of the fixtures to the contractors, or if the contractor is the manufacturer, the retail selling price is regarded as the prevailing price at which similar fixtures in similar quantities ready for installation would be sold to contractors. It is sometimes difficult to determine whether certain labor involved in installation contracts is production or fabrication labor or is true installation labor. Generally, labor "on the job" is installation labor, although not necessarily so in all cases. Where the completed unit is assembled or partially so at the job site, any labor for such assembly is properly regarded as processing or fabrication labor and as such the charges therefor are included within the measure of the tax, as a part of the sale price of the assembled or completely fabricated article. The labor of installing that article is, of course, not subject to the tax.

A somewhat more difficult question may be the proper status of the tubing, pipes, valves, and fitting constituting the feeder lines through which the refrigerant gas is conveyed from the units to the points of operation of the facilities. We believe, however, that where these lines run through floors, ceilings, and walls of the structure, being encased therein or securely attached thereto, these lines and the valves and fittings constituting a part thereof may be treated as "materials", as defined in Ruling 11. Thus, the installing contractor is regarded as the consumer thereof, the tax being

properly measured by the sales price of such materials to him. Even if we were to regard this property as in the category of "fixtures", the measure of the tax would be no different in view of that paragraph of Ruling 11 under the heading "Fixtures Furnished and Installed by Contractors", unless a retail selling price for the materials was actually billed.

Where the refrigeration contractor furnishes no fixtures or materials but merely performs the labor and services of installation, the amounts charged by him are not taxable, unless prior to installation he actually performs processing of fabricating work, resulting in the production of the complete fixture or other article of tangible personal property from materials furnished to him. Where he also installs such property, he would be regarded as the consumer of that which might be classified as "materials", in which case his charges would not be taxable. If he both processed a fixture and installed it, he would be subject to tax on that portion of this charge attributable to processing.

Very truly yours,

E. H. Stetson  
Tax Counsel

EHS:ph

cc: Mr. B--- S---