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**STATE BOARD OF EQUALIZATION**

May 9, 1952

Attention: REDACTED TEXT

Account No. REDACTED TEXT

Gentlemen:

This is in reply to your letter of April 10 concerning the application of sales tax to the sale of cement by you to REDACTED TEXT for use by REDACTED TEXT in constructing machinery foundations. REDACTED TEXT rebilled the cement to the United States with title passing immediately to the United States.

As indicated in Sales and Use Tax Ruling 12, copy enclosed, sales tax applies with respect to sales of materials to contractors for use in the performance of contracts with the United States for the construction of improvements to real property. The fact that the contract may provide principally for the manufacture or acquisition of tangible personal property is immaterial. The cement sold by you was used by REDACTED TEXT to construct a foundation for machinery. The foundation is part of the realty. Accordingly, REDACTED TEXT used the cement in the performance of a contract with the United States for the improvement of realty and the sale of the cement to REDACTED TEXT is subject to sales tax.

Ruling 12 was adopted in accordance with Section 6384 of the California Revenue and Taxation Code which specifically provides that notwithstanding any other provision of law the tax imposed under this part shall apply to the gross receipts from the sale of any tangible personal property to contractors purchasing such property either as the agents of the United States or for their own account and subsequent resale to the United States for use in the performance of contracts with the United States for the construction of improvements on or to real property.

Very truly yours,

W. W. Mangels  
Assistant Counsel

NBH : ja