

**STATE BOARD OF EQUALIZATION**

(916) 322-6083

January 23, 1976

Mr. M--- -, H---
A--- and N--- C---
XXX --- ---
---, CA XXXXX

S- --H XX XXXXXX

Dear Mr. H---:

Many years ago we responded to an inquiry of yours concerning the application of tax to sales of wall-to-wall carpeting by you to the [B] for lease by the bank. Our reply was dated July 30, 1965. We have recently re-examined this question and have concluded that changes in the law since our response to you have resulted in a change in the application of tax to this type of transaction.

Contracts for the sale and installation of wall-to-wall carpeting are regarded as construction contracts under our Regulation 1521 "Construction Contractors" and the carpeting is regarded as "materials." The contractor installing the carpeting is the consumer of the carpeting for sales and use tax purposes. The contractor may not accept a resale certificate from his customer for the carpeting. The customer is not regarded as reselling the carpeting in leasing it to a third party utilizing the premises in which the carpeting is installed even though the parties agree between themselves that the carpeting shall remain tangible personal property and even though the "lessor" secures a landlord's waiver from the owner of the premises in which the carpeting is installed to insure the "lessor's" right to remove the carpet upon termination of the "lease."

If you have any questions, please contact this office.

We have enclosed a copy of our Regulation 1521 for your reference.

Very truly yours,

H. L. Cohen
Tax Counsel

HLC:js
enclosure