

STATE BOARD OF EQUALIZATION

OFFICE CORRESPONDENCE

190.0640

Place: Sacramento
Date: May 28, 1957

To: Fresno – Tax Administrator

From: Headquarters – Sales Tax Counsel (EHS:JDP)

Re: Furnishing and Spreading Liquid Asphalt

As indicated in your letter of May 23, there is a method of road repairing which was not touched upon in our letter of May 22. We believe you have correctly analyzed the problem. Accordingly, we agree that the tax should apply as suggested in your memorandum. However, to obviate any misunderstanding, we shall set forth the facts here.

One method of repairing roads consists of ripping up about the top six inches of the old road surface and applying road oil thereto. This combination of oil and earth from the old roadway is then mixed, spread and compacted to form a reconditioned surface. It is our opinion that the supplier of the road oil is a consumer where he is responsible for processing the road surface material and ultimately placing it in its final resting place upon the roadway. Where a person contracts to furnish and spread road oil upon the ripped-up surface of the roadbed and is not responsible for the mixing, spreading and compacting of the resulting road surfacing material, the person furnishing and spreading the oil is the retailer thereof.

E. H. Stetson

JDP:tl