



STATE BOARD OF EQUALIZATION

October 20, 1953

E--- and E---
Certified Public Accountants
Suite XXX, --- --- Building
--- --- X, California

Attention: Mr. A--- M. H---

Gentlemen:

Answering the two questions asked in your letter of October 1, it is our opinion that:

1. Your client is installing fixtures; i.e., water softeners, under a lump-sum contract. Accordingly, he is a retailer and the retail price subject to tax is the cost of the fixtures and supplies furnished under the contract. (Reference, Sales and Use Tax Ruling 11, Contractors.)

2. Your client is also the retailer of the materials or replacement water softeners furnished in the fulfillment of the one-year guarantee included in the lump-sum contract price. As the sale of tangible personal property by a retailer includes the furnishing, pursuant to the guaranty provisions of the contract of sale, of replacement parts or materials, no further tax need be paid with respect to parts and materials thus furnished as replacements pursuant to the guaranty. (Reference, Sales and Use Tax Ruling 67, Replacement Parts.)

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:ph

cc: --- --- - Tax Administrator



STATE BOARD OF EQUALIZATION

November 13, 1953

C--- S--- W--- S---
of California
XXXX --- Boulevard
--- --- X, California

Attention: Mr. B--- W. G---

Your letter of October 5
Account No. -- - XXXXX

Gentlemen:

You inquire concerning the application of sales tax to your sale and installation of water softeners.

We enclose Sales and Use Tax Ruling 11, Construction Contractors Generally. A water softener is a "fixture" under that ruling. A person who contracts to furnish and install a water softener is therefore a construction contractor for the purposes of the sales tax.

Under Ruling 11 a contractor is a retailer of fixtures and the tax applies to the price charged for the fixture but not to the amount charged for its installation. In the case of a lump-sum contract for both fixture and installation, it would be difficult to determine how much of the price to allocate to fixture and how much to installation. Accordingly, the Board has established the rule that in the case of a construction contractor who is not the manufacturer of the fixture, the retail selling price of the fixture will be regarded as the contractor's cost.*

In general, where a substantial portion of a lump-sum price is nontaxable, it is not necessary that the retailer separately state to the customer the amount of sales tax reimbursement which he is charging as long as the retailer takes into consideration the sales tax in setting his price and does not advertise or hold out to his customers that he is absorbing the tax. **

Very truly yours,

Bill Holden
Junior Counsel

BH:ja
cc: --- --- - Auditing

*This is cost price. (Reg. 1521(b)(2)(B)2.9. which would include any additional fabrication performed by the contractor on the fixture prior to installation. DHL 9/19/91.

**This is no longer the law. The tax is on the retailer/contractor and he or she is not required to collect reimbursement from the customer. DHL. 7/9/97.