


STATE BOARD OF EQUALIZATION

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March 24, 1993

BURTON W. OLIVER
 Executive Director

Mr. M--- C---
 E---, Inc.
 XXXX --- --- ---
 --- ---, CA XXXXX

Re: SR – XX-XXXXXX

Dear Mr. C---:

This is in response to your inquiry which you faxed to the Legal Unit of the Board on February 10, 1992. Included in the fax were copies of correspondence between you and the Legal Unit in which the Legal Unit concluded in its last letter that your charges for fabricating silicon wafers were taxable under Revenue and Taxation Code section 6006(b). The Legal Unit assumed that the wafers were new, i.e., had never been used by your customers, when they supplied them to your business.

You state in your fax:

"We have knowledge that the majority of wafers we see were originally purchased as test wafers and we are simply restoring the wafer for its original use; we [are] not fabricating the wafer in the sense that we are changing its intended purpose."

If by "test wafers" you mean that your customers used these wafers to test other wafers or other property, such as electronic equipment, or used them for research prior to transferring the wafers to your business, such wafers are used, not new. If your processing of the wafers restores them to their original condition for their original use, your charges are for nontaxable repair labor.

If by "test wafers" you mean that the wafers were tested by the customer and determined to be inadequate or substandard because they did not meet specifications, such wafers are new, not used. In that case, your business is performing taxable fabrication labor for property furnished by a consumer.

Mr. M--- C---

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March 24, 1993
315.0305

If you have further questions regarding Sales and Use Tax Law, please do not hesitate to write again.

Sincerely,

Elizabeth Abreu
Tax Counsel

EA:cl

bc: --- --- District Administrator