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December 18, 1995

Mr. B---W---
G---, U--- & F---
Certified Public Accountants
XXXXXX --- Boulevard, Suite XXX
--- ---, CA XXXXX

Dear Mr. W---:

This is in response to your letter to Mr. Robert Lambert, received here on December 8, 1995.

We understand that your client is a California corporation which is the lessor of machinery. The corporation originally purchased the machinery and paid "sales tax" on it at the time of purchase. The machinery is leased in California, and the company is not required to collect sales tax on the rentals, because it paid the sales tax at the time of purchase. However, the company also provides replacement parts for the leased machines, which it manufactures itself. The rentals which the company collects are based on machine production. There is no additional charge for the replacement parts.

Under the circumstances described, the rental charges remain nontaxable. Your client should pay tax based upon the cost of materials incorporated into the replacement parts. The machinery is regarded as having been leased in substantially the same form as it was acquired, notwithstanding the fact that your client may furnish replacement parts. Only if the machine were refurbished in its entirety, such that the change in the machine was so substantial that it was effectively a different machine, would the rental charge become taxable. That is, if after a total refurbishment, the machine was in substance a different machine, we would then conclude that

the property was not leased by your client in the same for in which it was acquired. Such scenario would be unlikely.

Very truly yours,

Gary J. Jugum
Assistant Chief Counsel

GJJ:sr

cc: Mr. Robert Lambert

bc: Mr. David H. Levine
Mr. Ronald L. Dick
Mr. John L. Waid
Ms. Candice McCanne