



STATE BOARD OF EQUALIZATION

October 21, 1965

Gentlemen:

This is in reply to your telegram dated October 20 concerning the application of sales and use taxes to your business of renting portable 500 barrel steel storage tanks. You state that these tanks were constructed of steel in your own shop, and sales tax was paid on all steel and fittings at the time of purchase.

Commencing August I, 1965, as a result of the passage of A.B. 1 by the special session of the Legislature, rentals of tangible personal property were included in the definition of "sale". Four exceptions to this classification of rentals as sales were, however, provided. The only pertinent one of these exceptions is set forth in Section 6006(g) (4) which reads as follows:

"Tangible personal property leased in substantially the same form as acquired by the lessor as to which the lessor has paid sales tax reimbursement pursuant to Section 6052 or has paid use tax measured by the purchase price of the property."

It would appear from your telegram that the tanks leased by you are not leased in substantially the same form as acquired because you acquired the steel from which you constructed the tanks. Accordingly, it is our opinion that your rentals of these tanks are sales and, as such, the rental charges are subject to tax. The law, however, contains a provision respecting contracts executed or entered into prior to August I, 1965. As to such contracts tax does not apply to rentals derived from the lessee until such time as the lease is renewed or a new lease entered into or executed on or after August I, 1965. In other words, if you entered into a lease of tanks prior to August I, 1965, the tax will not apply to the rentals received under that lease. This is explained in paragraph (c) (2) (E) of Ruling 70, copy enclosed.

Very truly yours,

E. H. Stetson
Tax Counsel

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