



STATE BOARD OF EQUALIZATION

April 17, 1969

Dear Mr. ---:

This is with reference to the petition for redetermination which you filed in the matter of a tax determination against your business, known as --- --- Orthodontic Laboratory.

On review of the facts we find that the work performed by you on the plaster models belonging to various orthodontists is done after they have used the models and before they are to be stored. Under these circumstances, the work done by you is not fabrication of the model or partial fabrication of it. Rather it is our opinion, the work is restoration of used property.

If you were to perform the work on the model before the orthodontist used it, we would be compelled to conclude that the work was part of the manufacturing (fabricating) process and it would be taxable.

Charges for making a model for a dentist would be taxable, notwithstanding that the model is more or less a parallel to an x-ray as a diagnostic tool. X-rays are treated as they are, for tax purposes, because under section 6020 of the Sales and Use Tax Law, the producers of x-ray films for the purpose of diagnosis are the consumers of the materials and supplies used in the production thereof. There is no comparable provision in the law for the producers of plaster models used for diagnosis purposes by orthodontists.

We are recommending that your petition for redetermination be granted and that the measure sums representing charges for restoration of the plaster models.

Very truly yours,

Robert H. Anderson
Tax Counsel

RHA/vs [lb]

Bc: Oakland – District Administrator

Attached are two copies of hearing report which has been approved. This hearing was held in Oakland on 3/14/69. Also attached are the work papers for the period 10/1/65 – 9/30/68.