



STATE BOARD OF EQUALIZATION

916-445-3723

October 28, 1991

Dear Mr. X-----:

This is in response to your letter of October 7, 1991. You have requested our opinion as to the taxability of certain copper wire transactions engaged in by your organization, X-----, which is a manufacturer of steel food cans, with facilities located in X-----, California. During the manufacturing process, continuous-length copper wire is employed to weld the can seams.

You indicated that in 1987 or 1988 a sales tax audit was made of your vendor X-----. At that time, a determination was made that the "sales" of copper wire to your California facilities were taxable events, because the wire did not become an integral component of your finished cans. As a result X----- has paid sales tax with respect to these transactions and has included "sales tax" on its invoices to you.

In essence, you have asked that we reconsider our earlier decision. You believe that earlier decision was made on incomplete information. You state that although the copper wire that you obtain from X----- does not become a component of your finished product, it is your contention that the invoices are not for the purchase of the wire. You suggest that the wire that is used by X----- is already owned by you (sales tax paid at the time of the original purchase) but during the manufacturing process the wire becomes distorted and contaminated with other materials. You suggest that "the payments by X----- to X----- are a fabrication charge to repair the continuous wire." You suggest that this is not a taxable event.

The use of the words "fabrication charge" and "repair" in the sentence quoted from your letter identifies the issue precisely.

Charges for repair of customer-furnished property are nontaxable. Charges for fabrication, including fabrication from raw materials furnished by the customer, are taxable. If the process in question involves only the heating of the continuous wire furnished by you to X----- to derive off impurities and to recondition the wire, then the transaction is a repair transaction and tax does not apply. If the process in question involves melting down the wire furnished by you to X----- the drawing of new wire from copper castings, then the transaction is taxable as a fabrication

process. There is no repair or reconditioning of a product. There is a salvaging of raw materials and the manufacture of a new product.

If the process in question is a repair process, as we have described then X-----
----- should file a claim for refund of the tax paid by it to us with respect to the transactions in question. Any claim for refund should state the specific grounds upon which the claim is founded, the amount of the claim, and the period for which the claim is filed. Claims for refund should be address to the following:

Mr. Robert Buntjer
Audit Review and Refund Unit
3870 Rosin Court
Sacramento, CA 95834

Very truly yours,

Gary J. Jugum
Assistant Chief Counsel

GJJ:sr

Bc: Van Nuys District Administrator