

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-8485

February 18, 1992

W--- J. C---
Accounting Manager
O--- O--- L--- and
R--- Laboratory
P.O. Box XXX
---, CA XXXXX-XXXX

Re: Property Used in Manufacturing

Dear Mr. C---:

This is in response to your letter of November 27, 1991, requesting our opinion as to the taxability of items used to produce ophthalmic lenses.

Facts

You described the facts in this matter as follows:

“I represent a wholesale ophthalmic lens lab in California. I am inquiring about paying taxes on items used to produce the finished product. For example: we use abrasive pads to grind the lenses, however, the pad is destroyed in the process. The prescription eyeglasses we sell to the optometrists are taxed. I feel we should not be paying taxes on the production items changed or consumed in the production process.

Sales and Use Tax – General Discussion

Except to the extent specifically excluded or exempted by statute, the Sales and Use Tax Law, California Revenue and Taxation Code (Section 6001 et seq.) imposes sales or use tax on the gross receipts from the retail sale of all tangible personal property sold or purchased for use in this state. (Sections 6051 and 6201). (All statutory citations are to the California Revenue and Taxation Code, unless otherwise noted herein.)

Property Used in Manufacturing

Sales and Use Tax Regulation 1525 implements and interprets Sales and Use Tax Law with respect to tangible personal property used in manufacturing. This regulation provides:

- (a) Tax applies to the sale of tangible personal property to persons who purchase it for the purpose of use in manufacturing, producing or processing tangible personal property and not for the purpose of physically incorporating it into the manufactured article to be sold. Examples of such property are machinery, tools, furniture, office equipment, and chemicals used as catalysts or otherwise to produce a chemical or physical reaction such as the production of heat or the removal of impurities.
- (b) Tax does not apply to sales of tangible personal property to persons who purchase it for the purpose of incorporating it into the manufactured article to be sold, as for example, any raw material becoming an ingredient or component part of the manufactured article.

In this case, it is our opinion pursuant to subsection (a) of the regulation, that sale or use tax applies to the sale to you of items such as abrasive pads, which are used in producing ophthalmic lenses without being incorporated into the final product. However, the sale to you of items such as glasses or plastic which are ground into lenses are not subject to sales or use tax pursuant to subsection (b) of the regulation, as they are purchased for the purpose of being incorporated into the final product. In light of the foregoing conclusion, Regulation 1525(a) items are subject to sales tax and Regulation 1525(b) items may be purchased for resale.

Finally, we have also enclosed a copy of Regulation 1592, Eyeglasses and Other Ophthalmic Materials. Although it does not pertain to the specific issue of property used in manufacturing lenses, it may be of general interest to you.

If you have any further questions, please do not hesitate to write to us again.

Cordially,

Victoria Lani Arena
Tax Counsel

VLA:es
42971
Enc.: Reg. 1592