



STATE BOARD OF EQUALIZATION

October 31, 1963

Mr. W--- D. H---
Attorney at Law
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XXXX --- ---
--- ---, California

Dear Mr. H---:

Your letter of September 17 to Mr. Harry L. Say was referred to the legal staff for reply. Please accept our apologies for not answering it any sooner.

The inquiry concerns the application of the sales or use tax to replacement parts furnished to purchasers of automobiles under a factory warranty. The parts are installed by the dealer at no charge to the customer. The dealer is then reimbursed by the factory for the cost. Generally, this reimbursement takes the form of a credit against the dealer's open-parts account, rather than the form of cash. All parts are originally acquired from the factory ex tax for resale purposes.

You are correct in concluding that the dealer is not liable for any additional sales tax under these circumstances. Where replacement parts are furnished pursuant to the guaranty provisions of a contract of sale, the buyer is regarded as having purchased the parts at the time of the original sale. Accordingly, the sales tax paid by the retailer on gross receipts from the original sale include any sales tax which might be attributable to the value of the replacement parts.

You are also correct in concluding that the described transactions would not give rise to any use tax liability. The use tax does not apply to the storage, use or other consumption of property, the gross receipts from the sale of which are required to be included in the measure of the sales tax. If replacement parts are furnished to a consumer pursuant to the guaranty provisions of a contract of sale, the parts themselves are regarded as being "sold" at the time the contract is made. Since the gross receipts from the sale (which includes the replacement parts) are required to be included in the measure of the sales tax, no further tax is due when the replacement parts are furnished to the customer.

Very truly yours,

E. H. Stetson
Tax Counsel

cc: Mr. Harry L Say
--- – Subdistrict Administrator