



STATE BOARD OF EQUALIZATION

January 22, 1965

D---, M---, J---, & M---
XXXX --- Boulevard
--- ---, California XXXXX

Attention: Mr. L. A. E---
Controller

XX-XXXXXX
XX-XXXXXX
XX-XXXXXX
XX-XXXXXX

Gentlemen:

Your letter dated November 10, 1964, addressed to our Hollywood office, was forwarded to this office for consideration of the problem presented, and direct reply to you.

The typical subcontract submitted for examination calls for both a finished product and engineering services. On the Proposal Form, under the heading "Price and Completion Schedule," two items are listed, as follows:

- "1. Design and fabricate model for a two stage double flow pump.
- "2. Furnish laboratory facilities, conduct complete tests and furnish complete test reports."

A blank space for the "Amount" appears opposite each item.

The contractor, therefore, agrees to furnish tangible personal property, i.e., a model for a two stage double flow pump, and to furnish laboratory facilities, conduct tests and make reports. The furnishing of the tangible personal property constitutes, in our opinion, a sale of tangible personal property within the meaning of the Sales and Use Tax Law, and the gross receipts from such a sale are taxable under the provisions of the law. The separate amount charged for the tests and test reports is, in our opinion, not taxable as representing payments for professional engineering services, not part of the production cost of the tangible personal property transferred.

You state in your letter that the reports and models will become the property of the State of California, but that the subcontractor will bill you for their agreed price, and you in turn will pay the

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subcontractor and bill the amount to the state. It appears, therefore, that the subcontractor is selling the finished product and services to you and you are reselling them to the state. This would make it proper for you to furnish a resale certificate to the subcontractor and for you to pay the sales tax to the state measured by that portion of the consideration attributable to the design and fabrication of the model, which is, as we understand it, the "finished product" specified in the contract agreement.

As requested, we are returning the specifications herewith.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:fb
Enclosures

cc: Hollywood – Subdistrict Administrator
Los Angeles District – District Principal Auditor (JTQ)