



STATE BOARD OF EQUALIZATION

May 21, 1971

This is in response to your April 28, 1971 letter to me wherein you requested that we review further the December 3, 1969 claim for refund of California state and local sales taxes and that we advise as to why section 6386 is not considered as germane and paramount thereto. In this regard, you advised that the materials as to which the refund is being claimed were ultimately installed in a construction project outside the State of California, and you asserted that under Section 6386 they would be exempt from state and local sales taxes.

With regard to purchases made by _____, as principal in its own behalf, and as agent for _____ and _____ section 6386 has not been considered since any refund which might be allowable as the result of that section would be due the vendors. Thus, any claims for refund with respect to such transactions would properly originate from them.

As we previously advised, as for California sales/purchases, if _____ paid sales tax reimbursement to the vendors, it would not be entitled to a tax-paid purchases resold credit because its purchases were made by it as a co-owner of the _____ rather than by it for resale to the _____.

With regard to property requisitioned from _____ inventory which was not specifically purchased for the _____ again, section 6383 has not been considered since any refund which might be allowable as the result of that section would be due its vendors. Again, any claims for refund with respect to such transactions would properly originate from them.

We previously advised that if _____ paid sales tax reimbursement to its vendors at the time of those purchases, it would not be entitled to a tax-paid purchases resold credit unless it actually resold the property to the _____. In the event that _____ resold all or part of this property to the _____ it would be entitled to a corresponding tax-paid purchases resold credit to the extent that its resales were made in interstate commerce or were otherwise exempt. Any evidence to this effect should be forwarded to us on or before July 1, 1971. Otherwise, we will have no alternative but to recommend to the board that this claim for refund be denied.

Very truly yours,

J. Kenneth McManigal
Tax Counsel

JKM:smb