

M e m o r a n d u m**190.0080**

To: Los Angeles Dist. (JTQ)

Date: April 22, 1968

From: Tax Counsel (GAT)

This is in regard to your memo concerning the application of sales tax with respect to the sale and installation of portable floating docks.

As you have pointed out, a letter was written on March 9, 1964 to "H" concerning the application of sales tax with respect to the fabrication, installation, and erection of small boat marinas under lump-sum contracts. According to "H"'s letter, they prefabricated plastic floats, finger piers, and walkways to form a small boat marina. On the basis of the foregoing and our further understanding that such structures are permanently attached to pilings or other structures attached to the ground, it was our opinion that the marinas were structures and that the plastic floats, finger piers and walkways, of which they were comprised, constituted materials; and "H" was the consumer of such materials in performing construction contracts.

As you have further pointed out on November 10, 1967, a letter was written to "E" concerning the application of sales tax with respect to the sale and installation of portable docks used as boat marinas under a lump-sum contract.

According to "E", their client "R" manufactures float docks for marinas each of which consists of a main walkway dock to which are attached finger docks.

The float docks are made up of sections called Saftee Docks which are manufactured in widths of 2 feet, 2-1/2 feet, 4 feet and 6 feet and in lengths of 8, 16, 24, 32, 40 and 64 feet. Each Saftee Dock is a hollow steel hull with a plastic-impregnated nonskid plywood deck and hatch. The hollow steel hull is utilized for storage and for housing water pipes and telephone and electric conduits.

Individual Saftee Docks may be hauled to the marina site on a boat trailer and launched like a boat. Large Saftee Dock sections may then be bolted end-to-end to form the main walkway dock, and smaller Saftee Dock sections may be bolted to the side of the main walkway dock to form finger docks.

It appears to us that the plastic floats, walkways and finger piers manufactured by "H" are similar in function and design to the Saftee Docks; the only difference being that the "H" units are plastic and the Saftee Docks are sheet metal and wood.

In our opinion walkway docks and finger piers, which are put together and anchored to form a boat marina, are "structures on or attached to land". Accordingly, it is our opinion that a lump-sum contract to furnish and install a small boat marina, whether made from prefabricated plastic or sheet metal floating sections, is a construction contract and that the sections constitute materials under Ruling 11.

In view of the foregoing, the letter ruling that floating boat docks which are permanently situated and attached to realty are fixtures under Ruling 11 (CTS annotation 1414.25) is hereby superseded.

GAT:smk [1b]