STATE BOARD OF EQUALIZATION

June 3, 1965

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Gentlemen:

Following the preliminary hearing held on May 14, 1965, we have considered the petition for redetermination of sales and use tax filed on behalf of the above taxpayers. We have concluded that the darkening curtains or draperies installed in school classrooms for audio-visual purposes constituted "fixtures" within the meaning of Ruling 11. Accordingly, taxpayers correctly reported tax measured by the cost price of the fixtures used in performing lump-sum contracts and any advice given by our auditors to that effect would have been correct.

Our understanding of the facts is that the darkening curtains are fire resistant and could not be taken down and cleaned without ruining their fireproof character; that they were customized to fit windows of various sizes and shapes and, therefore, were not moved from one room to another; that the curtains were relatively high quality and expected to last many years; that sometimes the tracks were recessed in the ceiling while other times they would be attached to the surface of the ceiling with screws; that at times the curtains would be permanently sewed to the flanges extended from the rollers while at other times they would be attached to the rollers with hooks. In addition, we believe the darkening curtains were intended to become an integral part of the school building and, hence, real property. In this regard, we find them distinguishable from the typical draperies installed in homes. We believe that room dividers installed in schools, such as those brought to the preliminary hearing, also would constitute fixtures since the hardware used in installation is very similar to that of the darkening curtains.

In accordance with our above conclusions, we shall recommend to the Board that the measure of $14,622 set up under item B of the report of field audit as "markup on drapery sales omitted" be deleted from the measure of tax.

Very truly yours,

Robert J. Brenner
Associate Tax Counsel

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