

**STATE BOARD OF EQUALIZATION**

(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)

April 13, 1971

Mr. M. A. S---
C--- G--- & Mfg. Co., Inc.
XXXX East --- Boulevard
--- ---, California XXXXX

RE: SR -- XX XXXXXX

Dear Mr. S---:

Your inquiry of March 16, 1971, addressed to Mr. Bill Worthing regarding the taxability of the four transactions described below, has been referred to us for reply.

1. Metal folding gates sold and shipped to owner or tenant of building in finished state; owner or tenant to install.
2. Contract to sell and install the metal folding gates for customer on his premises.
3. Metal folding gates sold and shipped to prime contractor in finished state; contractor to install.
4. Contract to sell and install metal folding gates to prime contractor on his jobsite.

With the possibility of separately stated delivery charges from your place of business to your customers, your total selling price in situations one and three are taxable. (See copy of Ruling 50, copy enclosed.)

The proper measure of tax in situations two and four will depend on whether the gates are regarded as fixtures or materials under Ruling 11, copy enclosed. The gates in our opinion are likened to window screens or fences. We have held these items to be materials and we believe the gates should be considered in the same category. Under this reasoning you are the consumer of the materials and you should accordingly pay tax on the items purchases from your supplier as provided in the ruling.

Very truly yours,

Glenn L. Rigby
Tax Counsel

GLT:lt
Enclosures