



STATE BOARD OF EQUALIZATION

November 21, 1967

Gentlemen:

In your letter of November 10, 1967 you have asked for a ruling regarding the application of sales or use tax under the circumstances hereafter described.

You state that your client, "G", is considering entering into a contract to install a large scoreboard, two auxiliary scoreboards, and two timers in "S". These items would be manufactured by "G" in Wisconsin, shipped to California and installed by "G" in the stadium.

The large scoreboard would be 150 feet long, 32 feet wide and 3 to 4 feet thick. It would weigh approximately 25 tons. It would be attached to the stadium as follows: concrete footings in which anchor bolts would be affixed would form the base for the scoreboard, and the board would be bolted and welded in place and would become a permanent part of the stadium structure.

The two auxiliary scoreboards would be 70 feet long by 4 feet wide and weigh 2 tons each. The two timers would be somewhat smaller and weigh 1 ton each. These auxiliary scoreboards and timers would be welded to the fascia of the upper deck of the stadium and would also become a permanent part thereof.

Title to the scoreboards and timers would be vested in the City and County of "S". "G" would pay a yearly rental for the space occupied by the scoreboards and timers and would be entitled to lease advertising space on them for a 15-year period and collect revenues therefrom.

On these facts, it appears that the transaction would be a "sale" within the meaning of Section 6006(a) of the Revenue and Taxation Code since "G" would be transferring title to the scoreboards and timers for a consideration, i.e., the right to lease advertising space.

Sales and use tax Ruling 11, and Business Taxes General Bulletin 67-8, copies of which are enclosed, provide a means of determining the measure of tax on a retail sale of "fixtures" under a lump-sum construction contract. The scoreboards and timers would be "fixtures" within the meaning of Ruling 11 since they would be accessory to the stadium and would not lose their identity when installed. Although the contract in question would not be a "lump-sum" contract in the usual sense of the term, the same considerations would apply to it for the purposes at hand, i.e.,

it would be a construction contract under which the price of the fixtures would not be specifically stated, thus requiring resort to a reasonable means of determining the selling price.

In accordance with Ruling 11 and Bulletin 67-8, the sale of the fixtures would be subject to sales tax measured by the prevailing price at which similar fixtures ready for installation would be sold to contractors or, if there is no such prevailing price, then the measure of tax would be the manufactured cost computed as provided in Business Taxes General Bulletin 67-8, paragraph IV. [Now covered by Reg. 1521(b)(2)B].

Very truly yours,

T. P. Putnam
Tax Counsel

TPP:fb [lb]