

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA  
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)  
(916) 445-5550

August 23, 1991

Ms. J--- S---  
M--- B--- C---  
XXXX --- --- Road  
--- ---, California XXXXX  
Re: SR -- XX-XXXXXX

Dear Ms. S---:

This is in response to your letter dated August 1, 1991. You lease to a lessee in San Diego County three school buildings which you characterize as O.S.A. (Office of the State Architect) approvable. You note, however, that these buildings have not been approved at their current location by O.S.A. You ask whether they are entitled to exemptions from sales and use tax under Revenue and Taxation Code section 6012.6.

Under section 6012.6, the taxable measure of gross receipts from the sale of factory-built school buildings is forty percent of the sales price of that factory-built school building to the consumer. "Factory-built school building" is defined as a building designed in compliance with the state laws for school construction and approved by the structural safety section in the Office of the State Architect and which building is either wholly manufactured or is in substantial part manufactured at an off-site location to be assembled, erected, or installed on a site owned by a school district or a community college district. You do not state whether the buildings in question will be erected and installed on a site owned or leased by a school district or a community college district. If not, no exemption would be applicable. Furthermore, a condition to receiving the exemption is that the building actually be approved by the structural safety section in the Office of the State Architect. Although you believe the buildings you lease are approvable, you state that they have not been approved by the Office of the State Architect. Therefore, we conclude that no exemption is applicable.

If you have further questions, please feel free to write again.

Sincerely,

David H. Levine  
Senior Tax Counsel

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