



STATE BOARD OF EQUALIZATION

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

June 23, 1976

Dear Mr. ---:

You refer to our letter of 12 May 1976. We assume you mean our letter of 14 May 1976 which discusses "(2) freight-in on fixtures".

We agree that as to the taxability of transportation charges, "fixtures" installed by elevator contractors are not different than "fixtures" installed by air conditioning contractors or electrical contractors.

Historically, when a contractor purchases and installs fixtures without further manufacturing, the Board has considered freight-in as not subject to tax if the freight-in is excluded from "gross receipts" under Section 6012 or "sales price" under Section 6011.

Contrariwise, the Board has historically considered freight-in on components of fixtures as part of the "cost price" of fixtures manufactured by the contractor and subject to tax, e.g., he buys a pump, expends labor in putting the pump on a frame, and installs the pump/frame combination; freight-in to him is taxable.

The distinction drawn is that a lump sum contractor who does not manufacture fixtures is taxable on the cost price of the fixture to him (Regulation 1521). The "cost price" is seen as excluding separately stated transportation charges excluded from "gross receipts" by Section 6012(c)(7) and from "sales price" by Section 6011(c)(7).

A lump sum contractor who does manufacture fixtures (under the Board's definition of "manufacturing", not yours) is taxable on "cost price", which is deemed to be the price at which similar fixtures in similar quantities ready for installation would be sold by him to other contractors. The "cost price" of manufactured fixtures is seen as including any freight-in; such freight-in would surely be included in the price for which a manufacturing contractor would sell to other contractors.

The Inglewood audit staff is aware of this tax application and will follow it in the reaudit now under way. If, as you state, many of the items on which the audit asserted tax on freight-in were items on

Mr. ---

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which no further labor was performed by C--- prior to installation, such tax will be deleted if Section 6012 or 6011 are satisfied. We suspect that the real point in contention here is your disagreement with the Board's position as to what constitutes "manufacturing" a fixture.

Very truly yours,

Donald J. Hennessy
Tax Counsel

DJH:RW