



STATE BOARD OF EQUALIZATION

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January 21, 1993

L. R. C---
XXX W. --- Street
---, California XXXXX

Re: SR -- XX-XXXXXX

Dear Ladies/Gentlemen:

This is in response to your letter to the State Board of Equalization in which you state:

"We custom make cabinets for kitchens and bathrooms mainly, but we also custom make built-in desks, bookcases, bars, etc. We install everything that we make. Sometimes we subcontract the installation and sometimes we handle the installation ourselves.

"Please send to us in writing the answer to the following question.

"1) Can the travel time from our shop to the job site and from the job site to our shop be considered installation time when the sole purpose of traveling to and fro was to install?"

The application of tax to charges for travel time to a job site and from a job site will depend on several factors. The first is whether the cabinets you install are regarded as materials or fixtures. The test for determining whether cabinets are fixtures or materials is set forth in Regulation 1521(c)(2), a copy of which is enclosed. Under that test, a cabinet is considered a fixture if 90 percent of the total direct cost of labor and material in fabricating and installing the cabinet is incurred prior to affixation to the realty.

If the cabinets are materials, then generally the construction contractor is the consumer of materials which they furnish and install in the performance of construction contracts. (Sales and Use Tax Regulation 1521(b)(2)(A)(1). But see Regulation 1521(b)(2)(A)(1) for descriptions of contracts in which the contractor is regarded as the retailer of the materials.) This means that the sale of the materials to the contractor is subject to tax, but the contractor's charges to the customer for furnishing and installing the cabinets, including transportation charges and charges for travel time to and from the job site, are not taxable.

If the cabinets are regarded as fixtures, the contractor is the retailer of the fixtures. (Regulation 1521(b)(2)(B).) If the cabinets you furnish and install are fixtures and the contracts state the sale price at which the cabinets are sold and state the installation charges separately, tax applies to the sale price. (Regulation 1521(b)(2)(B)2.a.) Installation charges are not subject to tax. Such charges may include charges for travel time to and from the job site but only if the sole purpose of the travel is for installation of the cabinets.

If your contracts are lump sum contracts or do not otherwise state the sales price, the measure of tax is the cost price which is determined in a different manner, as set forth in Regulation 1521(b)(2)(B)2.b.

If you have further questions regarding Sales and Use Tax Law, please do not hesitate to write again.

Sincerely,

Elizabeth Abreu
Tax Counsel

EA:cl

Enclosure