

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-6450

February 29, 1980

Mr. J--- C---
Senior Financial Analyst
F--- C--- & I---
P.O. Box XXX-
--- ---, CA XXXXX

SR -- XX XXXXXX

Dear Mr. C---:

This is in reply to your January 17, 1980 letter to Mr. Gary Jugum requesting an opinion regarding the application of sales tax to the TO-5 carrier.

We understand that the TO-5 carrier and an integrated circuit device (I.C.) go through the following steps in your manufacturing area:

1. An I.C. is put into a TO-5 carrier after the I.C. comes from the manufacturing area. The leads of the I.C. are fragile, and the carrier prevents the leads from bending during the following steps.
2. I.C. and carrier go through an electrical test.
3. I.C. is removed from the carrier, and the I.C. is plugged into a burn in board for burn in.
4. The carriers are put into a box and are taken to another table where the I.C.s in the burn in board come out of burn in.
5. I.C. is removed from the burn in board and put back into a TO-5 carrier of the same type, although probably not the same carrier as before the burn in step.
6. I.C. and carrier go through another electrical test.
7. I.C.s are marked while in the carrier, and I.C.s with carriers are put into an oven to dry the ink from the marking procedure.

8. I.C. and carrier are packed in a poly bag and shipped out to the customer. The poly bags contain 100 devices. In some cases, if the customer requests, the I.C. and carrier are packed into a plastic tube and shipped.

The steps take place in one general area and are not transferred from one building to another. The only carrier that could come back to the starting point would be from a small percentage of I.C.s rejected from the electrical test.

You believe that since the identical product line is shipped in the carrier, even with some other incidental use, the TO-5 carrier would qualify as a nonreturnable shipping container which you should be able to purchase for resale.

We agree that, under the facts you described, the use of the containers in the handling and testing activities do not amount to a substantial use where the containers are ultimately used as nonreturnable shipping containers for the I.C.s. However, as Mr. J. A. Najarian indicated in the January 10, 1975 memorandum to which your letter referred, we do not believe the same holds true where the TO-5 carriers are used to ship a different type of I.C. than that which was tested in the container.

Very truly yours,

Ronald L. Dick
Legal Counsel

RLD:rt