

**STATE BOARD OF EQUALIZATION**

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

July 15, 1975

Mr. M--- T---
Q--- E--- Company
General Delivery
--- ---, CA XXXXX

Dear Mr. T---:

This is in confirmation of our telephone advice to you of July 10, 1975.

We understand that Q--- E--- Co. is a partnership consisting of you and one other individual. Both members of the partnership are enrolled Indians. You have a contract to furnish and install certain water and sewer systems on an Indian reservation. You have purchased pipe to be used in your construction contract from a supplier located in Reno, Nevada. The supplier delivers the pipe from Reno to the jobsite on the Indian reservation.

As we advised you, we are of the opinion that your contract is a construction contract under our Regulation 1521 "Construction Contractors", copy enclosed for your reference. The pipe installed by you is regarded as "materials" under paragraph (a)(3) of the regulation. Accordingly, your partnership, as the construction contractor, is the consumer of these materials, and tax would ordinarily apply to the sale of such materials to you. In the case before us, however, it would appear that the proper tax is not the sales tax but the use tax since the seller of the pipe is located in Reno, Nevada, and since the pipe will be delivered across the state boundary. Further, it appears that title to the pipe will pass to your partnership on an Indian reservation. We have taken the position in the past that California use tax will not apply where the purchaser is an enrolled Indian, or a partnership composed exclusively of enrolled Indians, and the purchase takes place on an Indian reservation. It would thus appear that your purchase of the pipe in question is exempt from the California use tax.

Very truly yours,

Gary J. Jugum
Tax Counsel

Enclosure