

**STATE BOARD OF EQUALIZATION**

(916) 445-5550

February 16, 1988

Mr. S--- C. S---  
I--- Corporation  
XXXX --- ---  
---, CA XXXXX

Re: SR -- XX-XXXXXX

Dear Mr. S---:

Your letter dated October 29, 1987 to Mr. L. F. Ferreira of our --- district office has been referred to me for response. You ask whether your charges for titanium nitride coating is subject to sales tax. You state:

"I--- receives metal objects, often cutting tools, from our customers. While the parts are in our possession, our customers maintain ownership of the objects. For a fee, we place a titanium nitride layer upon the object. We then return the parts to our customers. The cost of the coating is largely labour, equipment and overhead. The titanium and nitrogen costs are such a small portion of the cost that they are neither kept track of, nor explicitly charged to the customer. The customers in greater than 90% of the cases then resell the parts. The remainder of the customers are end users. The majority of the parts are new, although a small number are reground cutting tools that the customer would like to have coated or in some cases recoated.

"The process by which the titanium nitride is applied is called either ion-plating or reactive activated evaporation. It consists of evaporating titanium within a vacuum chamber, adding nitrogen and argon to the titanium, and creating a plasma by the application of a DC voltage potential. The titanium and nitrogen react on the surface of the object creating an extremely hard coating. The coating in general is less than 0.0005".

"The coating is intended to extend the life of the part, either by slowing its mechanical wear, increasing its lubricity, or enhancing its corrosion resistance."

You are a repairer when coating used items. Under Regulation 1546(b)(2), a repairer is a consumer of materials furnished in connection with the repair work when the retail value of those materials is ten percent or less of the total charge. Based on your description, I assume the retail value of the materials you furnish in connection with the repairs is under ten percent of the total charge. You are therefore a consumer of materials used, and sales tax is due on the sale of the materials to you. If you have purchased those materials extax, you must pay use tax by reporting your purchase price of such materials on line 2 of your sales and use tax return for the period in which the materials are withdrawn from your resale inventory. Your charge for the repair is not subject to tax.

You are a fabricator when coating new items. Under Revenue and Taxation Code section 6006(b), fabrication done for a consumer is a sale of tangible personal property. It is also a retail sale, and as such your charge is subject to sales tax. (Rev. & Tax. Code §§ 6007, 6051.) You may purchase the materials incorporated into the new items coated for consumers extax by issuing resale certificates, or you may take a tax-paid purchases resold deduction for those materials. (Regs. 1668, 1701.) The fabrication of new items for resale is not a sale under the Sales and Use Tax Law when the customer furnishes the items. There is therefore no sales tax on your charges for coating new items when your customer will resell those items. Sales tax is due on the sale of materials to you that you use coating those items, or use tax is due measured by your purchase price as discussed above.

In summary, your charges for coating new items for consumers are subject to sales tax. No sales tax is due on your charges for coating new items for resale or for coating used items, but the sale to you of materials used in these operations is subject to sales tax or your use of such materials is subject to use tax. Enclosed for your information are copies of Regulations 1546, 1668, and 1701. If you have further questions, feel free to write again.

Sincerely,

David H. Levine  
Tax Counsel

DHL:ss  
Enclosures

**STATE BOARD OF EQUALIZATION**

(916) 445-5550

May 5, 1988

Mr. S--- C. S---  
I--- Corporation  
XXXX --- ---  
---, CA XXXXX

Re: SR -- XX-XXXXXX

Dear Mr. S---:

We wrote you a letter dated February 16, 1988 regarding your charges for titanium nitride coating of cutting tools. We have reexamined certain aspects of that letter as discussed below.

You place a titanium nitride layer upon cutting tools owned by your customers. The layer is exceedingly thin and the titanium and nitrogen costs are such a small portion of the cost that they are neither kept track of nor separately stated to the customer. When you coat used items you are a repairer, and the application of tax is as discussed in our previous letter.

We had previously concluded that, with respect to your coating of new cutting tools, you are a fabricator. Under Revenue and Taxation Code section 6006(b), your fabrication for a consumer constitutes a "sale" while your fabrication for a person who will sell the tool is not a sale. Upon reexamination, we conclude that your coating of new tools is a sale under Revenue and Taxation Code section 6006(a) whether done for a consumer or for resale. (See Business Taxes Law Guide Annotations 440.1540 (5/25/54), 440.3320 (7/22/65).) Since the coating you do for persons who will sell tools is a sale, you will be reselling the titanium and nitrogen coated onto those tools. You may therefore purchase such titanium and nitrogen extax for resale. (Reg. 1525(b).) This is the practical difference between the conclusions set forth in this letter and those set forth in our previous letter since we had previously concluded that you could not purchase for resale the titanium and nitrogen used to coat new cutting tools for persons who will sell those tools.

If you need further clarification, feel free to contact us again.

Sincerely,

David H. Levine  
Tax Counsel

DHL:ss