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**STATE BOARD OF EQUALIZATION**

October 21, 1965

Gentlemen:

It appears from your letter of October 13 that the steel pilings are leased under conditions not requiring the rental receipts to be held subject to sales or use tax. You point out that the piling is purchased with tax paid on the purchase price, and that it is leased in the same form in which purchased. On occasion, it becomes slightly damaged through battering of the ends and the ends must be cut off, but the remainder of the piling is reusable and is rented again. The agreement provides for a payment to the company of damages in the case of damaged ends or irrecoverable sheets of piling. The amount of such damages does not, in our opinion, represent receipts from a sale and is not required to be included in the measure of tax. The lessee has no right to retain usable materials and receives no benefit from the damaged steel piling or piling which cannot be removed from the ground.

Under the conditions stated, it appears that payment of sales and use taxes with respect to the purchase by the company of steel piling satisfied its sales and use tax obligations with respect to the subsequent leasing of the piling.

Very truly yours,

E. H. Stetson  
Tax Counsel

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