

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA  
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)  
(916) 445-3723

July 10, 1991

Ms. K--- M. I---  
Controller  
H--- T--- Corporation  
XXXX --- Road  
--- ---, CA XXXXX

H--- T--- A--- Co.  
SR -- XX-XXXXXX

Dear Ms. I---:

This is in response to your letter of May 1, 1990.

We understand that H--- T--- is a printed circuit board manufacturer. You offer testing service for your customers. You test the bare boards which you manufacture for assure quality and performance. This testing service is one of the numerous options available to your customers.

You have sought clarification as to whether certain testing charges are subject to sales tax. The majority of your customers purchase your products for resale. You state that it is your understanding that the actual testing labor charge, per part, is not subject to tax if your customer is purchasing the part for resale. In your view, the testing becomes part of the production, and you are not selling a tested part.

In order to test the printed circuit board, you must assemble a "fixture" which adapts the board to be tested to the bare board tester. The particular tester used for the testing of these parts is a \$200,000 piece of capital equipment. To use this tester to test the board, you have standard tools which you use over and over to test different boards.

The tools consist of interconnect pins, fixture base plates and ancillary spacers, screws, etc., required to construct the fixture. All of these tools were invoiced to H--- with the applicable sales tax added. The only part of the fixture that is special for a particular customer's board is a piece of plastic which is drilled to match the holes in the customer's board. This plexiglass material is also purchased as a taxable item to H--- T---. The cost of this plastic is usually only a few percent of the cost of the testing charge. We understand from our auditor that this specially drilled fixture plate is reusable and becomes the property of the customer, but is retained by you as a bailee and would be delivered to the customer upon the customer's request.

The price you charge a customer is determined by two factors. One is the test operator's labor and machine time. The other is the labor charge to assemble a fixture. Your test operators assemble fixtures, verify the proper operation of the fixtures, and then test the board for which the fixture was assembled. After a board is tested, the fixture is disassembled, and the parts are used to assemble a fixture for another board. You state that title and possession of the tools remain at Hunter, and that the plexiglass is worthless. Our auditor advises us that the plexiglass becomes the property of the customer and is held by you as bailee.

Generally, charges for qualify assurance testing are taxable or nontaxable, depending upon whether the item tested is sold for resale or is sold at retail. Generally, testing charges are nontaxable, even if separately stated, when the item tested is sold for resale. Generally, testing charges are taxable, whether separately stated or not, if the item tested is sold at retail.

The problem is complicated when tooling or fixtures are sold to the customer. The charge made to the customer for the tooling, which becomes the property of the customer, is always taxable whether the items tested are sold for resale or are sold at retail. Property becoming a component part of the tooling fixtures sold to the customer may be purchased for resale.

In your case, it is evident that the only piece of the fixture which is possibly sold to the customer is the drilled plexiglass plate. It is clear that title to other tooling items are retained by you. Accordingly, tax applies to some portion of the fixture charge; that is, the portion of the charge attributable to the fabricated plexiglass plate. A tax-paid resold deduction may be taken with respect to the materials cost of the plate.

If the facts are that the customer does not become the owner of the plate, matters are simplified greatly. You are then the consumer of all tooling items, including the plexiglass materials, and tax applies on the sale of these items to you. Then, the taxability of the itemized testing charge to the client is dependent only upon the nature of the sale of the parts as a resale or a sale at retail, as previously discussed.

If you provide testing services only, the charge is not subject to tax. The assumption here is that you are testing customer-furnished parts and you do not transfer title to any property to the customer.

Very truly yours,

Gary J. Jugum  
Assistant Chief Counsel

GJJ:sr

cc: Mr. John D. Wishart  
Supervising Tax Auditor  
San Jose District