

Memorandum

435.0130

To: X-----

Date: October 20, 1970

From: Gary J. Jugum

Subject: X-----

At the meeting held with X----- on October 14, 1970 in regard to platinum catalysts, we were asked to look into the question of the application of the tax to certain related matters involving X-----.

We understand that the X----- located in X-----, California is engaged in the manufacture of sapphire and emerald crystals. The X----- plant utilizes both platinum and iridium metal in the manufacture of the crystals.

Iridium. Iridium metal is purchased from X----- . The iridium metal is fabricated into crucibles by X----- and is then shipped to the plant where the crucibles are used as a container for molten sapphire in the plant's growth operation. Some of the iridium metal becomes incorporated into the grown sapphire crystal. The metal is not meant to become a component part of the crystal, but a minute portion does. This portion is considerably less than one-half of one percent (1/2 of 1%). Approximately 90 percent of the iridium metal is normally recovered and is returned to the taxpayer's pool account with X-----.

Taxpayer has been paying California state and local use tax on purchases of iridium. Tax has also been paid on fabrication charges made by X----- . Tax has not been paid, however, on the charge for reclaiming iridium from returned crucibles.

In our opinion, these transactions may be handled on the "net exchange" basis outlined in our memorandum of August 26, 1970, in regard to "platinum used by oil refiners." Tax is properly due, however, on the charge made to taxpayer by X----- for reclaiming the iridium from crucibles returned to X----- by taxpayer. This is in accordance with our position in regard to charges made for the recovery of the platinum component of spent platinum catalyst. [See page 10 of the memorandum of August 26, 1970, referred to, and the letter of August 16, 1966, to X----- on the subject of "processing charges X----- platinum catalyst from alumina beads.

Platinum. Taxpayer also purchases platinum from X----- for use at its X-----, California location. The platinum is fabricated X----- into a liner, which is then shipped to the X----- plant. The liner is used in the X----- plant's emerald growth reactors. The platinum does not become a component part of the end product. Taxpayer maintains a platinum pool account with X-----.

California state and local use tax is paid on purchases of platinum. The fabrication charges by X----- are also regarded by taxpayer as being subject to the California use tax. Taxpayer has not been paying tax, however, on the "reclaiming charge" made by X-----.

In our opinion, the "net exchange" principle referred to above is equally applicable in this case; that is, tax is due basically on the fabrication charge and not on the value of the returned platinum. Again, however, tax is properly applicable to the "reclaiming charge" made by X-----.

GJJ:ab