M e m o r a n d u m   **435.1666**

To: San Jose – Auditing (DF)   Date: January 18, 1984

From: Charles J. Graziano

Subject: C--- B---M--- Inc.
SR GH XX XXXXXX

This is in reply to your memorandum of November 7, 1983, in which you request our opinion as to the correct application of tax under the following situation.

C--- B--- M--- Inc. (C---) contracts with an outside vendor to package electronic components into a form called a "tape reel." C--- supplies its vendor with loose components that are eventually returned to C--- and are incorporated into a finished product which is sold by C---. The vendor uses a machine to align the individual components side by side into a linear sequence which is specified by C---.   The vendor then attaches two strips of adhesive tape to the components, one strip linking together one end of the components and the other strip linking together the component's opposite end.   Essentially, the strips of adhesive tape provide a framework which maintains the specified sequence and required alignment of the individual components. The end result is the production of a large "reel" which resembles a ladder, i.e., the adhesive tape strips forming the long side-pieces of the ladder and the electronic components forming the reel's cross-pieces.   The "reel" is transferred to C--- who places the reel into a machine which cuts the components off the adhesive strip and automatically places the electronic components on printed circuit boards.   The adhesive strips are subsequently discarded by C---. C--- purchases these "tape reels" from its vendor ex-tax under a resale certificate.   You ask whether the vendor's charges for processing these customer furnished components is subject to tax under Regulation 1526 because C--- consumes the "tape reel" in the manufacturing process.

Sales and Use Tax Regulation 1526 provides that tax applies to charges for producing, fabricating, processing, printing or imprinting of tangible personal property fore a consideration for consumers who furnish either directly or indirectly materials used in the producing, fabricating, processing, printing or imprinting. Webster's Third International Dictionary defines the word "fabricate" to mean the formation into a whole by uniting parts. In our view, the uniting of the individual electronic component parts by C---'s vendor into a "tape reel" by taping the components together into a specified sequence constitutes "fabricating" under this regulation. The fabrication of the "reel" is analogous to the mounting of transparencies on cardboard mounts (Anno. 435.1100) and to the mounting of maps (Anno. 435.1040). Furthermore, it is our opinion that C--- is a consumer of the "tape reel" in that the reel is used and consumed in the manufacturing process.

It appears that the purpose for placing adhesive strips on both sides of the components is to ensure the proper order and alignment of the individual components and to convert the individual units into a form which is usable by C--- in the manufacturing of printed circuit boards. Although the individual components become incorporated into the finished article which is sold by C---, the "tape reel" itself is not resold by C---, since C--- disassembles the reel during the manufacturing process as well as discards a portion thereof. Accordingly, C---'s vendor fabricates customer furnished tangible personal property, and this fabrication results in a taxable sale under Regulation 1526(a). The measure of tax is the vendor's gross receipts from the sale.

We note that tax does not apply to the sale of tangible personal property to persons who purchase it for the purpose of incorporating it into manufactured articles to be sold, as for example, C---'s purchase of the individual component parts that actually become part of the circuit boards which are sold (Regulation 1525). Since C--- is a consumer of the "reel," however, it cannot properly give its vendor a resale certificate under Section 6091 of the Revenue and Taxation Code for those charges which represent the production and fabrication of the "tape reel."

CJG:ba