



STATE BOARD OF EQUALIZATION

December 13, 1963

F--- R--- Company
XXXX --- ---
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Attention: Mr. W. F. S---

Cert U-XXXX

Gentlemen:

This is in response to your letter of November 14 regarding the application of tax to separately stated charges for warranty insurance on refrigeration compressors.

The taxability of such charges depends on whether the insurance is mandatory or optional. If the customer is required to pay the additional amount, it is considered a part of the selling price of the property and hence includible in the measure of tax. However, if the customer merely has the option of obtaining insurance, the charge is not considered a part of the selling price and may be excluded from taxable receipts.

We also wish to call your attention to the tax effect of supplying repair parts under a warranty.

Neither sales nor use tax applies to repair parts furnished pursuant to a mandatory warranty because the buyer is determined to have paid for the repair parts at the time of the original sale (see ruling 67, copy enclosed). Where the buyer may either purchase or not purchase the warranty by which the seller agrees to supply repair parts, the retailer is considered to be a consumer of the parts furnished to the buyer.

If we can be of further assistance, do not hesitate to contact our office again.

Very truly yours,

E. H. Stetson
Tax Counsel

FH:spg
Enc.

cc: Out-of-State – District Administrator
New York