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**STATE BOARD OF EQUALIZATION**

February 23, 1968

Gentlemen:

Pursuant to audit dated July 31, 1967, a determination of sales tax was made by this Board against "T" for "Sales of equipment not reported", measure \$16,876.

It is our understanding that you originally purchased this equipment tax paid for your plant. In 1964, presumably in order to obtain operating funds, you entered into a transaction pursuant to which you transferred title for \$16,876 to "D" of Boise, Idaho, and "D" leased back the equipment to you, the equipment remaining in place in your plant.

We understand your contention to be that, since this transaction was entered into for the purpose of obtaining funds, and the equipment was never moved and continues to remain in the production line, the transaction should not be regarded as a sale, but rather, as a loan.

We regret that we cannot agree with this contention.

Section 6006 of the Revenue and Taxation Code provides that the transfer of title to tangible personal property for a consideration is a sale. Section 6007 provides that a retail sale is a sale for any purpose other than resale in the regular course of business.

In Union Oil Co. v. State Board of Equalization, 60 cal. 2d 441, the court recognized that transfers of vessels by an oil company to a company which leased them back to the oil company were retail sales.

In Standard Oil Co. v. State Board of Equalization, 232 Cal. App. 2d 91, the court held that the transfer in place of equipment attached to real property was a taxable retail sale.

In view of the foregoing, it appears that the transfer to "D" was a retail sale of tangible personal property under Sections 6007 and 6007 and that your receipts from such sale were taxable gross receipts under Section 6051. Accordingly, no adjustment appears to be in order.

Very truly your,

George A. Trigueros  
Tax Counsel

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