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

To: REDACTED TEXT

Date: December 30, 1988

From: Donald J. Hennessy

Subject: United States Construction Contractors

On December 21 at 10:00 a.m., in my office, and again on December 28, in a telephone conversation, I discussed with Sacramento attorney, REDACTED TEXT, the tax implication that his Canadian client may face in supplying replacement generators to the Bureau of Reclamation, for the generation of hydro electric power as part of the Central Valley Project near Redding, California. I told him that we would see such generators as essential to a "fixed works", and that tax would be due on material cost since his client is the manufacturer of the generators. This would be true if the client retained title to the generators and hired a subcontractor only for installation. On the other hand, tax would be due on the full selling price of the generator, including duties, if the client sold the generator to a subcontractor, who then furnished and installed the generator.

In the telephone conversation, REDACTED TEXT raised the possibility that title to the generators might pass to the Federal Government while the generator was still in Canada. I told him that, in such situations, no sales tax could apply because the sale would occur in Canada and that I did not believe we would impose any use tax because neither his client, nor any subcontractor, would have title in California and, therefore, under authorities such as the Lockheed case, 81 Cal. App. 3d 257, use tax would not be applicable.

DJH:jb