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**STATE BOARD OF EQUALIZATION**

May 30, 1975

Mr. F--- H---  
Chairman-Board of Directors  
E--- I---, Inc.  
XXXX --- ---, Suite XXX  
--- ---, CA XXXXX

Dear Sir:

In response to your letter of May 15, 1975, it is our opinion that the "kit" your company began selling May 18, 1975, is not "factory-built housing" within Regulation 1521.2 of this Board. The kit contains only walls and roof elements; the regulation requires a floor element as well. Although the language in subsection (b)(1)(A) of the regulation, "Wholly manufactured or is in substantial part manufactured at an off-site location", admits of the possibility that only a portion of the three elements may qualify, the regulation read as a whole requires that all three elements be provided. Specifically, subsection (2)(c) qualifying a panelized constructed kit describes it as consisting of all three elements.

It is our further opinion that your company's providing a concrete slab or mud sill constructed on the site would not bring the kit within the regulation. The floor required by the regulation must also be factory built.

Because the kit is not within Regulation 1521.2, the tax would apply to the full sales price of over-the-counter sales of the kit. In furnish and install contracts your company would be a construction contractor under Regulation 1521, the kit would be considered materials as would materials used at the jobsite to construct foundations, etc., pursuant to subsection (c)(2) of the regulation.

Very truly yours,

T. L. Hartigan  
Legal Counsel

TLH:gj