



STATE BOARD OF EQUALIZATION

June 18, 1968

[X] Company of California

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Attention: Mr. W--- M. P---
Attorney

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Gentlemen:

This is in reply to your letter of May 29 1968, regarding the application of sales or use tax to various operations to be performed in connection with the production of oil by [X] Company offshore from California on the outer Continental Shelf (OCS).

Example No. 1

Facts: Oil and gas separators, which are to be installed and used solely on production platforms within OCS waters, are to be purchased in a state other than California, with title passing to [X] in the state of purchase. Prior to being placed aboard barges for the final stage of transit to the platform, the separators are to be taken to a service contractor in California who will coat the separators with a protective substance. After coating, certain accessories are to be attached, and the separators are to be inspected and subjected to pressure testing to assure that the coating and assembly have been properly performed. Upon satisfying these testing procedures, the separators are to be placed aboard barges for the final leg of the trip to their ultimate destination for exclusive use on the platform in OCS waters.

Conclusions: 1. No sales tax will apply to the sale of the separators to [X] since the sale will occur outside of California.

2. The charges by the service contractor for coating, attaching accessories, and testing the separators will be subject to sales tax as gross receipts from fabrication, i.e., a "sale" as defined in Revenue and Taxation Code section 6006(b).

3. The sale of the accessories in California will be subject to sales tax.

4. By reason of the provisions of Revenue and Taxation Code section 6009.1, [X] will not be considered to have used the separators in California for purposes of the use tax.

Example No. 2

Facts: Electric component parts are to be purchased by [X] from different manufacturers located both within and without California. Title to those parts purchased out of state are to be shipped by or for [X] to a central point in California where, before being placed aboard a barge for shipment to the platform located in OCS waters, these components are to be assembled for [X] by a service contractor into electronic equipment which is to be used exclusively on the platform. The equipment is then to be (1) tested by the contractor in its laboratory or in the laboratory of a subcontractor or, (2) taken to an independent laboratory in California by [X] for testing, to ascertain whether the equipment has been assembled into a properly working device. The device will then be taken offshore for exclusive use on the OCS platform.

Conclusions: 1. No sales tax will apply to the sale of those parts to which title passes outside of California.

2. Sales tax will apply to those sales of parts that occur in California.

3. Charges by the contractor for assembling the parts into a unit, including his charges for testing the completed device, will be subject to sales tax as gross receipts from fabrication, i.e., a "sale" as defined in Revenue and Taxation Code section 6006(b). If the testing is done separately by an independent laboratory chosen by [X], and not by the contractor or his subcontractor, the charges to [X] by the laboratory will not be taxable.

4. By reason of the provisions of Revenue and Taxation Code section 6009.1, [X] will not be considered to have used the parts in California for purposes of the use tax.

Example No. 3

Joints of pipe, which are to be used in a pipeline for transportation of crude oil from [X]'s platform located in OCS waters to onshore processing facilities, are to be purchased in a state other than California. This pipe is to be brought into California where it will be coated with a protective wrapping and then taken to a yard for temporary storage awaiting installation. A service contractor will weld the joints of pipe into convenient lengths for towing by a vessel built for this purpose, fastening the vessel to one such length, towing until the shoreward end reaches a point on the shoreline and, at that point, welding another such length thereto, field wrapping that connection, and continuing the tow. This process will be continued until the platform is reached. During the tow, the pipe will be dragged along the ocean floor through a ditch jetted out near the shoreline.

Conclusions: 1. No sales tax will apply to the out-of-state sale of the pipe.

2. The charges by the service contractor for welding and wrapping the pipe will be subject to sales tax as gross receipts from fabrication, i.e., a "sale" as defined in Revenue and Taxation Code section 6006(b).

Although we previously indicated informally that these charges would not be taxable, closer analysis has compelled a contrary conclusion. The charges would be exempt under Revenue and Taxation Code section 6012(c) if they constituted the "price received for labor or services used in installing or applying the property sold" by the service contractor. The charges would also be exempt if they constituted charges for installing or constructing an improvement to real property because the charges could not then be considered gross receipts from a sale of personal property. In our opinion, the welded pipe will be an improvement to real property after it is installed in its final resting place. The labor performed by the service contractor, however, will occur before the property is installed. The installation will be performed by the operator of the vessel. As authority for the conclusion that the service contractor will not be installing the pipe or constructing an improvement to real property, we refer you to Hayward Building Co. v. State Board of Equalization, 191 Cal.App.2d 20.

3. The charges for coating the pipe will be taxable for the same reason that the charges for welding and wrapping the pipe will be taxable.

4. The charges by the operator of the vessel will not be taxable.

5. Use tax will apply measured by the out-of-state purchase price of that portion of the pipe that will lie shoreward of the OCS. That portion of the pipe that will lie on the OCS will be regarded as used solely outside the state within the meaning of Revenue and Taxation Code section 6009.1 and will not be subject to use tax.

Example No. 4

Three drums of electric and communication cable are to be purchased in a state other than California. This cable will be taken to California where it will be splice welded into a continuous length, tested to determine the sufficiency of the splice, and placed upon a master drum aboard a vessel from which the cable will be laid. The cable will then be (1) connected to an onshore facility from which it will be unreeled and laid out to a platform in OCS waters, to which it will be attached, or (2) attached to the platform and unreeled toward the connection which will be made onshore. After installation, the cable will be placed into service transmitting electric power from shore to the platform and in sending communications to and from the platform.

Conclusions: 1. No sales tax will apply to the out-of-state sale of the cable.

2. The charges for splice welding and testing the splice welding will be taxable for the same reasons that the welding and wrapping of the pipe were considered taxable in Example No. 3.

3. The charges by the operator of the vessel will not be taxable.

4. Use tax will apply with respect to that portion of the cable that will lie shoreward of the OCS and not with respect to that portion which will lie on the OCS, the same as use tax will apply to the pipe in Example No. 3 and for the same reasons.

[X] Company of California
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The same conclusions will apply regardless of whether the cable is laid from the shore to the platform or from the platform to the shore.

Very truly yours,

T. P. Putnam
Tax Counsel

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cc: Mssrs. Denny, Doyle, Dickson and Larson
--- --- Dist. – Dist. Adm.
--- – Subdist. Adm.