

**STATE BOARD OF EQUALIZATION**

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April 5, 1988

Mr. T--- N. L---  
L--- and L---  
XXXX --- ---, Suite XXXX  
--- ---, CA XXX

Re: P--- A--- S---, Inc. – No Acct.  
P--- A--- U---, Inc. – No Acct.  
S--- I--- A---, Inc. – SJ -- XX-XXXXXXX

Dear Mr. L---:

This is in response to your letter dated February 26, 1988 regarding the application of sales and use tax to the following transactions:

“The transaction involves the purchase of a new aircraft by P--- A--- S---, Inc., an Arizona corporation (“A1”), from M--- Corporation, the aircraft manufacturer. A1 will take delivery of the aircraft in California. Simultaneously with the purchase of the aircraft, A1 will lease the aircraft to P--- A--- U---, Inc., a Nevada corporation (“A2”). A2 is not a common carrier. Simultaneously with the foregoing transactions, A2 will lease the aircraft to S--- I--- A---, Inc., a Nevada corporation (“S---”). S--- is a common carrier based in [city], Nevada, which will place the aircraft in commercial operation. There will be no intervening use of the aircraft by A2 prior to its lease to S---.”

Revenue and Taxation Code section 6366.1 exempts from sales and use tax the sale of and use in this state of aircraft which are leased, or sold to persons for the purpose of leasing, to lessees using such aircraft as common carriers of persons or property under the authority of the laws of California or the United States. (See also Reg. 1593.) We assume S--- operates as a common carrier under such authority and that S---’s use of the aircraft will satisfy the requirements set forth in Regulation 1593(b).

Under the facts you present, the sale of aircraft by M--- to A1 for simultaneous sublease to A2 for use by S--- as a common carrier with no other previous use of the aircraft, we consider the simultaneous transactions to come within the exemption provided by section 6366.1. The parties should obtain , and retain in their records, appropriate documentation to support the exemption. (See Rev. & Tax. Code § 6421, Reg. 1667 (exemption certificates).)

If you have further questions, feel free to write again.

Sincerely

David H. Levine  
Tax Counsel

DHL:ss