



STATE BOARD OF EQUALIZATION

916/445-2705

March 17, 1980

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Attention: Mr. L. H. B---, Tax Manager

Gentlemen:

On May 13, 1977, I wrote to you a letter concerning, in part, the situation in which a lessor buys and holds equipment for lease, first leases the equipment for utilization by the lessee at an out of California point and then, following termination of the out-of-state lease, the lessor sends the equipment to California, not for another lease to a lessee, but to utilize the formerly leased equipment in the lessor's own operations in California.

In that letter, I advised you that the use attributable to the lessor took place in California, and that the use by the lessor was subject to California's use tax, measured by the original purchase price of the equipment.

Now the Board's staff has reconsidered and has concluded that (1) if the property was never in California while it was owned by the lessor and does not enter California within 90 days of the start of the out-of-state lease, or (2) if the property had been in California before while it was owned by the lessor in its California inventory and then devoted to an out-of-state lease and did not re-enter California until after six months from the start of the out-of-state lease, the, in either of those two circumstances, the lessor's use of the property in the lessor's own operations in California following the end of the lease is not a use taxable to the lessor.

You may wish to file immediately a claim for refund for amounts overpaid as a result of my earlier letter.

Very truly yours,

Philip R. Dougherty
Tax Counsel

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