



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
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(916) 445-5550

May 25, 1970

Dear Mr. ---:

This is in response to the petition for redetermination filed by you with respect to the use tax assessed as a result of the transfer of a motor vehicle to "X" by "Y".

We understand that petitioner, "X" (subsidiary) is a wholly owned subsidiary of "Y" (parent) of Tacoma, Washington.

On March 29, 1967, parent purchased a 1967 Ford Ranch Wagon in Tacoma, Washington, upon which Washington Sate sales tax was paid. The vehicle was purchased for use in Washington and was so used until January 1969 at which time it was transferred to subsidiary for use in California. California motor vehicle registration was effected by subsidiary in February 1969, but California use tax was not paid to the Department of Motor Vehicles upon registration of the vehicle. As a result of the audit of subsidiary dated January 1, 1970, covering the period 7/1/67 to 6/30/69, use tax was assessed on \$2,000, the purchase price of the vehicle. The tax determined has been paid.

You request that we reconsider whether or not the use tax is due and payable, and whether a taxable sale did, in fact, occur.

Section 6006 of the Revenue and Taxation Code provides that "sale" means and includes: (a) Any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever of tangible personal property for a consideration.

The "transfer" of the vehicle by parent to subsidiary for \$2,000 constitutes a sale within the meaning of the above section. A subsidiary is a separate legal entity which qualifies as a "person" as defined in Section 6005 of the code. The transfer of tangible personal property between a parent and its subsidiary is a transfer between separate persons and cannot be treated as an intercompany transaction exempt from the application of Section 6006.

The use tax is imposed on the storage, use or other consumption in this state of tangible personal property (§ 6201, Rev. & Tax. Code).

When a vehicle which is subject to registration under the Vehicle Code is purchased from other than a manufacturer, dealer or dismantler, the purchaser must pay the use tax measured by the sales price to him, to DMV, acting for and on behalf of the Board, at the time of making application for registration. (Copy of Regulation 1610, Vehicles, Vessels and Aircraft, enclosed for your ready reference.) Whenever the purchaser of a vehicle incurs use tax liability but does not pay the full amount of the tax to DMV, the liability for the tax may be enforced by the Board.

Summarily, the transfer of the vehicle from parent to subsidiary for \$2,000 constitutes a sale of tangible personal property purchased by subsidiary for use in California for which subsidiary incurs a use tax liability measured by the sales price to it of the vehicle.

Since the use tax was not paid to DMV, the tax was properly assessed in the audit.

You question whether there is any reciprocity agreement between the State of California and the State of Washington on sales and use taxes which would be applicable in this situation.

There is no such agreement; however, Section 6406 of the Revenue and Taxation Code provides in pertinent part that a credit shall be allowed against, but shall not exceed, the taxes imposed on any person... by reason of the storage, use or other consumption of tangible personal property in this state to the extent that person has paid a retail sale or use tax, or reimbursement therefore, imposed with respect to that property by any other state...prior to the storage, use or other consumption of that property in this state.

The credit provided in the above section is not applicable in the instant situation. The Washington state tax was not paid by subsidiary, consequently, no credit for the Washington tax is allowable. Payment of the Washington tax by parent on its purchase of the vehicle in 1967 may not be applied as a credit against the California tax liability of a separate and distinct juristic entity upon the subsequent sale of the vehicle by parent. Credit under such circumstances is not within the contemplation of the above section.

In view of the above, it is our recommendation that the determination be redetermined without adjustment.

You will be notified of the official action taken in due course.

Very truly yours,

Joseph Manarolla
Tax Counsel

JM:smb [lb]