

M e m o r a n d u m**715.0515**

To: Mr. Jack Warner
Out-of-State, District Principal

Date: December 4, 1991

From: John L. Waid
Tax Counsel

Subject: Local Tax Exemption for Aircraft
Common Carriers (Regulation 1805)

Pursuant to your request in your memorandum to Assistant Chief Counsel Gary J. Jugum dated September 10, 1991, he and I reviewed my memorandum to Mrs. Freda Orendt-Evans of the Sacramento Out-of-State District Auditing dated August 30, 1991, regarding the application of the limited exemption from local use tax in Regulation 1805 to various items used by airlines in their business. You attached to your memorandum a copy of a letter by Tax Counsel William Holden to --- --- Airlines dated June 15, 1960, regarding this same exemption contained in the predecessor to Regulation 1805. Unfortunately, when I wrote my memorandum, I was unaware of the existence of Mr. Holden's letter. Since I appeared to be writing on a clean slate, I drew some of my conclusions by analogizing from cases in other states interpreting similar statutes.

Drawing on the guidelines set forth in Mr. Holden's letter, I hereby revise my August 30, 1991, memorandum as follows (by reference to memorandum paragraph):

12. Ground Power Units and Air Start Carts are used in maintenance of the aircraft as well as for flight operations. Regulation 1805 provides that the use tax exemption does not apply to shop equipment. We have previously determined that aircraft engine and systems test equipment do not qualify for the exemption. We thus conclude that the above items are not used directly and exclusively in the carriage trade and so do not qualify for the exemption.

13. Ground Handling Equipment. We have previously determined that tugs for positioning the aircraft; and ground equipment for transporting the baggage to, and loading it on, the aircraft qualify for the exemption. We further conclude that, as potable water is reasonably necessary for the operation of the aircraft, the potable water cart also qualifies.

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cc: Mr. Larry Micheli, Supervisor, Local Tax