

M e m o r a n d u m**715.0310**

To: Headquarters – Return Review
F. A. Zuppan

Date: September 16, 1983

From: HDQRS – Legal
John Abbott, Tax Counsel

Subject: [W] – S- --- XX-XXXXXX
Pillowcases Used Aboard Aircraft

In your August 4 memorandum to Legal, you enclose correspondence which raises the issue whether pillowcases used aboard aircraft are exempt from transit district sales and use taxes, and exempt from 1% of local 1-1/4% local sales and use taxes.

Among the items you enclosed is an exemption certificate issued by [W] to a seller, [S], dated December 22, 1982, which claims an exemption from these taxes under Sales and Use Tax Regulations 1805 and 1825 because the property purchased is “pillowcases for use aboard aircraft.”

Sales of tangible personal property are exempt from these taxes if, among other things, the property is used “directly and exclusively in the use of such aircraft as common carriers of persons or property....” Revenue and Taxation Code Sections 7202(h) (counties); 7202(i)(9) (cities), 7202.6(a)(9) (redevelopment agencies), and 7261(f) (transit districts). Similarly, the storage, use or other consumption of such property is exempt from these taxes. Revenue and Taxation Code Sections 7203(f) (counties), 7202(i)(10) (cities), 7202.6(a)(10) (redevelopment agencies), and 7262(f) (transit districts).

We have interpreted the scope of this exemption in three Sales and Use Tax Annotations. Our opinion was that the sale of alcoholic beverages was not exempt, in Annotation 715.0200 (5/4/65). We concluded that booklets and playing cards placed on aircraft for the convenience of passengers were not exempt, in Annotation 715.0220 (4/18/67). In Annotation 715.0230 (6/27/73), we concluded that the phrase “directly used” refers to items reasonably necessary for the operation of the aircraft (fuel, repair parts, etc.) and items reasonably necessary for the sustenance of passengers in flight (including food service and commissary supplies, but excluding tobacco products, alcoholic beverages, playing cards, books, etc.).

We consider that pillowcases, like the pillows they cover, are for the convenience and comfort of the airlines' passengers, but are not items necessary for their sustenance. Accordingly, our opinion is that pillowcases are property subject to transit district sales and use taxes and subject to the full 1-1/4% local sales and use taxes.

JA:ss