



STATE BOARD OF EQUALIZATION

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Executive Director

April 7, 1997

Mr. J--- C. H---
Chief Financial Officer
T--- A---
XXX --- Street
---, GA XXXXXX

Re: *Taxability of Aircraft Machinery and Equipment*

Dear Mr. H---:

This is in response to your letter of March 3, 1997 in which you inquire about the application of sales tax to aircraft machinery and equipment sold to a "large commercial aircraft carrier that transports persons and property for compensation."

With your letter you have attached a list of thirty five pieces of machinery and equipment purchased by your customer. You provide a brief summary of these products, describing the physical attributes and function of each product. You have asked that we indicate the taxable status of each product with the designation "E" for machinery and equipment which is not subject to sales tax and a "T" for those items that are subject to tax. For purposes of this analysis, we assume that these products are purchased for use in California.

Sales tax is imposed on a retailer's gross receipts from the retail sale of tangible personal property in California unless specifically excluded from taxation by statute. (Rev. & Tax. Code § 6051.) When sales tax does not apply, use tax applies to the storage, use or consumption of property purchased from a retailer for use in California. (Rev. & Tax. Code §§ 6201, 6401.) Revenue and Taxation Code section 6366 was recently amended to provide that, under specified circumstances, tangible personal property, purchased on or after October 1, 1996, which becomes a component part of aircraft used in common carriage under the authority of the laws of California, the United States, or any foreign government shall be exempted from the imposition of California's sales and use taxes. In order to qualify for this exemption the addition of the property as a component part of the aircraft must be "as a result of the maintenance, repair, overhaul or improvement of the aircraft in compliance with [FAA] requirements." In addition, any charges for labor and installation of the property in connection with the installation of the subject property

shall also be exempt from the imposition of California's sales and use taxes. (Rev. & Tax. Code § 6366(a) (2).)

The Board issued a notice in December of 1996, copy enclosed, explaining the criteria for determining whether property purchased for installation on an aircraft qualifies as a "component part" for purposes of section 6366(a)(2). This notice explains that component parts include, but are not limited to:

"Items replaced, repaired or overhauled according to mandatory and nonmandatory manufacturer 'service bulletins'

"Component parts required by 'air worthiness directives' issued by the Federal Aviation Administration (FAA)

"Life-limited parts"

In addition, this notice provides that:

"For tax purposes 'component parts' are essentially those associated with the functional aspects of the aircraft, including those related to safety and air worthiness. 'Component parts' generally do not include general expense items or comfort related items such as attendant carts, blankets, pillows or serving utensils."

The notice further recommends that the person purchasing property that will become a component part of an aircraft provide the seller with an Aircraft Parts Exemption Certificate. The suggested format for this certificate appears on this notice.

From the description of the equipment and machinery you have provided it does not appear that any of these items are attached to aircraft in a manner in which they would become a "component part" of the aircraft. As described, these items appear to be designed and utilized either for assistance in loading and unloading cargo and passengers or for the on ground maintenance and repair of the aircraft. The only item that may have qualified for the exemption provided under section 6366 is item number 9, the fire extinguishers. However, these items do not qualify because, as you have explained, they are not attached to the aircraft but rather "are located on the ramp adjacent to the aircraft." Accordingly, none of the items on the list you have provided are eligible for the exemption provided under Revenue and Taxation Code section 6366. In view of this conclusion, we will not make any notations on the product summary you provided.

From the limited information you have provided it appears that T--- A--- is operating as a retailer, selling tangible personal property for storage, use, or other consumption in this state and is thereby engaged in business in this state. Accordingly, your company must register with this Board, if it has not already done so, for purposes of collecting sales and use tax, as applicable,

from your customers and remitting the tax to the Board. (Rev. & Tax. Code §§ 6203, 6226.) I have included a copy of Board of Equalization Pamphlet 73 which explains what you need to do to obtain and maintain a California seller's permit.

Regulation 1593 is in the process of being amended to reflect the recent changes to Revenue and Taxation Code section 6366. I will add your name to the list of parties to be notified of any Board proceedings regarding proposed amendments to Regulation 1593. If you have any further questions, please feel free to contact this office again.

Sincerely,

Patricia Hart Jorgensen
Senior Tax Counsel

PHJ:cl

Enclosures (December 1996 Notice, Pamphlet 73)

cc: Out-of-State District Administrator