



STATE BOARD OF EQUALIZATION

April 16, 1968

Dear Mr. ---:

This is with reference to your letter of March 26 addressed to the attention of Mr. Russell Tibbetts in Van Nuys.

You have requested a ruling relating to the sale of a glider which is completely without an engine of any sort. Section 6274 of the Sales and Use Tax Law defines aircraft to mean any powered contrivance designed for navigation in the air except a rocket or missile. The sale of a glider, for tax purposes, would be treated like any tangible personal property except automobiles, boats and aircraft. In other words, there could be an occasional sale of a glider and if so, no sales or use tax would apply to the sale or purchase.

The following are your examples and our opinion on the application of the tax:

1. Seller, not a glider dealer, sells a glider he manufactured and it is the only sale of its kind made in the preceeding 12 months. Sale is made in Calif.

Under the circumstances, the seller is not a retailer, and no sales tax would be applicable. The buyer is not subject to use tax, since the glider, under section 6274, is not an aircraft.

2. Same facts as in 1 above, except that the seller is in another state.

Sale would not be subject to California sales tax, whether the glider was sold in California or outside the state. We are assuming that the sale is an exempt occasional sale under Section 6006.5(a). In other words, the glider is not held or used in an activity that would require the owner to hold a seller's permit, and was not one of a series of sales sufficient in number, scope and character so as to require that the seller hold a seller's permit.

3. Seller in California, not a dealer, sells a glider that he purchased from a dealer and on which he paid sales tax.

Sale to a buyer in California will not be subject to sales tax so long as the transaction meets the test for an occasional sale under Section 6006.5(a). Buyer will not be liable for use tax.

4. Same as 3 above, except the seller is in another state.

Mr. ---

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If the seller is not a dealer and the buyer purchases the plane out of state, the buyer will not have to pay use tax, since the sale was an occasional sale. This is based on the assumption that had the sale been made in California, the transaction would have qualified as an occasional sale under Section 6006.5(a).

We trust this is the information you seek.

Very truly yours,

Robert H. Anderson
Tax Counsel

RHA/vs [1b]