



STATE BOARD OF EQUALIZATION

December 15, 1952

Mr. R--- J. L---
Attorney at Law
--- Building
---, California

Account No. XXXXXX
L. A. W--- Company

Dear Mr. Walker:

You will recall that we have been withholding collection procedure with respect to the liability under the Sales and Use Tax law of the above-named firm pending clarification by the Attorney General of his Opinion NS3582 relating to the sales tax liability of yacht brokers. We are now in receipt of a letter from the Attorney General signed by Ernest P. Goodman, Deputy Attorney General, a copy of which is enclosed.

It appears that under the facts of the present case the L. A. W--- Company did have the power to transfer title and exercised it with respect to the automobiles in question. Our information is to the effect that in some instances the company obtained title to the automobile prior to its sale. In other cases it executed the bill of sale to the purchaser under power of attorney from the legal owner and in still other cases it obtained a signed bill of sale from the legal owner which it delivered to the purchaser. We, therefore, believe that the company is properly regarded as the retailer and that the determination against it properly included the sales in question within the measure of the tax.

Inasmuch as the determination is final, it is our suggestion that the company pay the amount thereof and, if it desires to contest the matter further, that it file a claim for refund, presenting any further argument or data that it may desire which will be considered before action is taken on the claim. As you know, upon denial of a claim for refund, an action may be brought within ninety days to recover the tax. If the claim is not acted upon for six months, the claimant may deem it denied and bring an action to recover the tax.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:ph

cc: San Francisco – Tax Administrator