

M e m o r a n d u m**295.0427**

To: X-----
X----- Compliance

Date: April 14, 1993

From: Thomas Cooke
Tax Counsel

Subject: X-----

Gordon Adelman has requested that I respond to your memorandum to him dated January 25, 1993 concerning the above subject.

In your memorandum, you state that the X----- Police Department has asked for BT-111's to register vehicles purchased with funds obtained through asset forfeiture laws. The police department seizes certain vehicles involved in drug dealing. The vehicles are sold through an auctioneer. The auctioneer purchases smaller and less conspicuous vehicles with the proceeds of the earlier vehicle sales. You ask if Health and Safety Code sections 11473.2 or 11473.3(c) provide a sales tax exemption for the police department in this situation?

Health and Safety Code section 11473.2 states that seized vehicles may be placed in the name of the law enforcement agency for use in its law enforcement program. The statute provides that a copy of a declaration, or judgment of forfeiture, filed with DMV shall constitute authority to convey clear title to the law enforcement agency.

Health and Safety Code section 11473.3(c) provides a similar procedure to vest title to seized property in general in the law enforcement agency.

The forfeiture of vehicles and the vesting of title to those vehicles in a law enforcement agency is nontaxable because there was no sale and therefore there was no consideration paid for the transfer. Health and Safety Code sections 11473.2 and 11473.3(c) are merely enabling statutes permitting DMV to transfer title to the agency. If the law enforcement agency sells the forfeited vehicles, tax applies to the sales to the same extent as in any other transaction. The agency's purchase of less conspicuous vehicles with the proceeds from the sale of the forfeited vehicles will be subject to tax to the same extent (and subject to the same procedures) that the agency purchases vehicles in general.

TC:wk

cc: Mr. R. A. Slater