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Executive Director

April 29, 1997

Mr. M--- M---  
Ms. P--- P---  
XXXX- --- Drive, #XXX  
---, CA XXXXX

**Re: *Purchase of Motorhome and Auto Tow Trailer***

Dear Mr. M--- & Ms. P---:

This is in response to your letter dated February 18, 1997 regarding the application of California use tax to the purchase of a motorhome and auto tow trailer. You state:

“We are purchasing a motorhome and auto tow trailer from a dealer in Oregon. The motorhome was made by a manufacturer in California and sold to this Oregon dealer in September of 1996. The manufacturer only produced about forty of these particular coaches last year and then discontinued making this model. We decided to purchase this motorhome model in January of 1997, but could not find the model in the state of California.

“We plan to use this motorhome in Minnesota, Wisconsin and New Jersey as a second home when we visit our families every year for five or six months. This year we are purchasing the motorhome at the end of February and driving to our home in California to clean and pack the vehicle. Then within one or two weeks we will proceed to New Jersey, Minnesota and Wisconsin for at least five months.

“We prefer to register the vehicle in California for insurance purposes. All of our insurance is through an agent in California including a liability umbrella policy and we want this vehicle to be included under that policy.”

Your letter goes on to state that the motorhome and auto tow trailer will be purchased in the state of Oregon, and will be driven to your home in California where you will clean and pack the motorhome, and then proceed to New Jersey, Minnesota and Wisconsin where you will use the motorhome as a second home. Specifically, you ask whether the purchase of the motorhome and auto tow trailer is exempt from California use tax.

Revenue & Taxation Code section 6201 imposes a use tax on the storage, use or other consumption in this state of tangible personal property purchased from any retailer. Regulation 1620(b)(3) explains when property purchased outside California is regarded as purchased for use in California:

“[P]roperty purchased outside of California which is brought into California is regarded as having been purchased for use in this state if the first functional use of the property is in California. When the property is first functionally used outside California, the property will nevertheless be presumed to have been purchased for use in this state if it is brought into California within 90 days after its purchase, unless the property is used or stored outside of California one-half or more of the time during the six month period immediately following its entry into this state....

“For purposes of this subparagraph ‘functional use’ means use for the purposes for which the property was designed.”

If the only use of the motorhome outside of California is to drive it empty into California for you to clean, pack, and outfit it for use, the first functional use of the motorhome would be in California. (BTLG Annot. 570.0430.) If such is the case, the motorhome will be regarded as having been purchased for use in California, and use tax will apply.

If you use the motorhome to tow the auto tow trailer to California, you would make the first functional use of the motorhome outside California. Nonetheless, if you bring the motorhome into California within 90 days after its purchase, the law presumes you have purchased the motorhome for use in California. (Rev. and Tax. Code § 6248.) Tax applies unless you overcome this presumption. You would overcome the presumption by making normal use of the motorhome outside of California more than one-half of the time during the six-month period immediately following its entry into California. You state your intention to drive the motorhome and the auto tow trailer to New Jersey, Minnesota and Wisconsin and use the motorhome as a second home for at least five months. We understand that you will use the motorhome exclusively outside California for at least five months during the 6 months immediately following its entry into California. If such is the case, you will overcome the presumption that you purchased the motorhome for use in California, and use tax will not apply. In that event, you should retain records for audit purposes to document the use of the motorhome during the time it is used outside California. The records should consist of fuel purchase receipts, vehicle service receipts or other documents showing the use of the vehicle outside the state.

Of course, the same analysis applies to your use of the tow trailer. If you use it to carry your car back to California, the first functional use of the auto tow trailer would be outside California. If the only use of the auto tow trailer is to tow it to California, where you will load your vehicle onto it for your travel to New Jersey, Minnesota and Wisconsin, the first functional

Mr. M--- M---  
Ms. P--- P---

-3-

April 29, 1997  
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use of the auto tow trailer would be in California. If such is the case, the auto tow trailer will also be regarded as having been purchased for use in California, and use tax will apply.

Mr. M--- M---  
Ms. P--- P---

-4-

April 29, 1997  
325.0080.400

This opinion is based on the facts stated in your letter and the assumptions made above. If our assumptions are incorrect, this opinion may not apply . If such is the case and you wish an opinion applicable to the actual facts of the transaction, please write again and describe the transaction with specificity.

Very truly yours,

Ronald L. Dick  
Senior Tax Counsel

RLD:cl

cc: Oakland District Administrator (CH)  
Our-of-State District Administrator (OH)