

**STATE BOARD OF EQUALIZATION**

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February 6, 1992

Mr. A--- G---  
A--- S--- T--- C---  
XXXX --- Rd., Suite XXX  
---, California XXXXX

Dear Mr. G---:

This is in response to your letter dated December 6, 1991 regarding the application of the exemptions provided by Revenue and Taxation Code section 6388 and 6388.5. You state:

“A client of our firm is a manufacturer and retailer of tanker trucks that transport petroleum products and propane. The client acquires a truck cab and chassis from a truck manufacturer and then acquires a tank from a tank manufacturer. The client installs the tank and accessories onto the truck chassis. After completion of manufacture, the client sells the complete tanker truck package to California customers and to out-of-state customers.”

Currently, when your client sells a tanker truck to an out-of-state customer, your client delivers the truck to the customer outside of California. However, your client would like to begin delivering the trucks to its out-of-state customers at its California business location. You ask whether, assuming your client and its out-of-state customers meet the documentation and time requirements of section 6388 and 6388.5, these transactions would qualify for exemption from tax under these provisions.

Section 6388.5 applies only to trailers and semi-trailers. Section 6388 applies to trailers and semi-trailers as well as to trucks, truck tractors, trailer coaches, and auxiliary dollies. Vehicle Code section 630 defines trailer as a vehicle designed for carrying persons or property on its own structure which vehicle will be drawn by a motor vehicle and constructed so that no part of its weight rests upon any other vehicle. The term also includes a semi-trailer when used in conjunction with an auxiliary dolly, if the dolly is of the type constructed to replace the function of the draw bar and the front axle or axles of a trailer. Truck tractor is defined by Vehicle Code section 655 as a motor vehicle designed and used primarily for drawing other vehicles and not constructed so as to carry a load other than a part of the weight of the vehicle and load so drawn. When the truck tractor

and trailer or semi-trailer are put together as a single unit, that unit is a truck. (Veh. Code § 410 (motor truck), Beck v. Azcarate (1942) 50 Cal.App.2d 264.) You have correctly referenced to the vehicle about which you inquire as a tanker truck. That is, a motor truck within the meaning of Vehicle Code section 410. Since only trailers and semi-trailers come within the provisions of section 6388.5, the exemption provided by section 6388.5 is not available with respect to these vehicles.

The exemption provided by section 6388 is applicable to the sale of a new or remanufactured vehicle which has an unladen weight of 6,000 pounds. To qualify for the exemption, the vehicle must be of a type listed in section 6388 and must be purchased from a dealer located outside California for use outside California. Further, the purchaser must move the vehicle from the manufacturer's or remanufacturer's place of business in California to a point outside California within 30 days from the date of delivery of the vehicle to the purchaser. Thus, one of the conditions for applicability of this exemption is that the vehicle is purchased from a dealer located outside California. Since you have not stated that the trucks in question are purchased from a dealer outside California, we assume that they are not and that the sales do not qualify for the section 6388 exemption on this basis. We therefore do not reach the question of whether your client qualifies as a manufacturer within the meaning of section 6388.

If you have further questions, feel free to write again.

Sincerely,

David H. Levine  
Senior Tax Counsel

DHL:c1/0561E

cc: --- District Administrator