

**STATE BOARD OF EQUALIZATION**1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)

September 21, 1971

Mr. G--- L. P---
Excise Tax Counsel
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Of California
XXX --- Street
--- ---, CA XXXXXIN REPLY REFER TO:
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Dear Mr. P---:

We have completed our review of your letter of July 26, 1971 and the authorities you have cited in support of your position.

Your first concern is whether certain parties will qualify as "carriers" within the meaning of section 6396 of the Revenue and Taxation Code. For purposes of this section, our regulation 1620(a)(3)(B)2 provides that the term "carrier" means a person or firm regularly engaged in the business of transporting for compensation tangible personal property owned by other persons, and includes both common and contract carriers.

The operations in question involve the transportation by boat of property purchased by oil companies from points in California to oil drilling locations in waters outside of California. The parties with which you are concerned fall in two classes:

1. Independent boat operators, other than drilling contractors, who contract with an oil company, either directly or through a drilling contractor, to transport the property regularly for compensation.
2. Boat operators who are also drilling contractors, who contract with an oil company to transport the property regularly for compensation. The contract may be for a lump sum, including compensation for transportation and drilling operations. Approximately 15-20 percent of the total compensation is allocable to the transportation.

It is our opinion that the parties in both of the above classes qualify as "carriers" within the meaning of section 6396. Although we did have some question about the parties in class 2, we believe that the authorities you have cited (Boyes v. State, 459 P.2d 86; Brown v. Blanton, 180 S.W.

2d 288; and State v. Glenwood Mercantile Company, 74 So. 2d 155), support the view that those parties are also carriers since on the facts you have stated the transportation is not merely incidental to the drilling operations.

Your second concern is with documentation acceptable to us in support of the exemption requirements of section 6396 and Regulation 1620. Combining the statements in your letter with record of the understanding at our conference with you earlier this year, the following documentation will be acceptable:

1. A blanket or individual purchase order given the vendor solely covering sales with delivery to Outer Continental Shelf locations wherein a statement in substantially the following form is made:

All property purchased under this order shall be shipped by carrier to those specific locations situated in the Outer Continental Shelf beyond the territorial waters of the State of California as designated to the vendor by the purchaser. Should any property purchased hereunder not be so shipped to a location outside the State of California in the exempt manner prescribed under section 6396 of the Revenue and Taxation Code, purchaser agrees to pay any applicable state and local sales or use taxes that might be imposed with respect to the purchase of the property.

2. The vendor issues an invoice which makes reference to the blanket purchase order and indicates thereon the point at which the goods are to be delivered by the vendor and the drilling site to which the property is to be taken by the carrier.
3. The vendor obtains a receipt, or a receipted invoice, from the carrier to whom the property is delivered. The receipt is retained by the vendor.

If you have any questions concerning this letter, please let us know.

Very truly yours,

T. P. Putnam
Assistant Chief Counsel

TPP:kc