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November 18, 1992

BURTON W. OLIVER
Executive Director

Ms. M--- . K---
S--- A--- Corporation
XXX --- --- Boulevard
--- ---, CA XXXXX

Re: Overseas Shipment of Vehicles
SR -- XX-XXXXXX

Dear Ms. K---:

This office has received your letter dated September 8, 1992 in which you referenced a letter sent to S--- A--- Corporation ("S---") by this office. In that earlier letter dated August 19, 1992, we recommended that S--- should be listed as the shipper when it arranges for the tax-free export of vehicles sold by it.

In your September 8th letter, you state that there are situations where S--- cannot be listed as the shipper of exported automobiles. You further state that, as an example, a purchaser may be shipping many items overseas and a bill of lading cannot be prepared until all of the items are containerized and placed aboard ship. You state that this process could take months and S--- cannot be listed as the shipper when most of the items shipped were purchased from other sources.

In the situation where S--- has sold a vehicle for export on a tax-free basis and cannot be listed as the shipper:

- 1) S--- should deliver the vehicle directly to the shipper, freight forwarder or export packing company.
- 2) S--- should provide written instructions that the vehicle is to be delivered to the foreign designation and the purchaser is not to have the ability to divert or cancel the shipment. S--- should receive a written confirmation from the shipper, freight forwarder or export packing company that it will comply with these instructions.

3) S--- should obtain a copy of the bill of lading indicating that the vehicle was shipped to the foreign destination.

If this procedure is followed, it is our opinion that the vehicle "is irrevocably committed" to the exportation process within the meaning of Regulation 2610 and the sale will be considered tax-free.

We would call to your attention a section of the California Revenue and Taxation Code (§ 6366.2). This section provides that if a resident of a foreign country arranges for the purchase of a new vehicle through an authorized dealer in the foreign country, the vehicle may be delivered directly to the purchaser in the United States. He/she may drive the vehicle for a limited period in the United States and the purchase will not be subject to tax if certain conditions are met. Those conditions are:

1) The purchaser has been issued an in-transit permit pursuant to section 6700.1 of the California Vehicle Code.

2) Prior to the expiration of the in-transit permit issued to the purchaser, the retailer ships or drives the motor vehicle to a point outside the United States by means of facilities operated by the retailer, or by delivery to a carrier, custom broker or forwarding agent for shipment to that point.

Very truly yours,

Thomas J. Cooke
Tax Counsel

TJC:wk

bc: --- --- District Administrator