

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-5550

April 17, 1990

RE: ---

Dear ---:

This is in response to a letter dated April 5, 1990 from your Vice President of the Western Region, ---. He asks how use tax applies to the following charge:

“We are currently charging tax under a closed end lease which allows a charge-back to the lessee for repairs and reconditioning. The lessee has the option to make necessary repairs prior to the return of the vehicle, OR, we will provide such repairs and debit the lessee’s account. At the point of charge-back we are assessing California Use Tax.”

I assume that you do not pay sales tax reimbursement or timely pay use tax measured by purchase price with respect to the vehicles in question and that your leases are therefore taxable continuing sales. The rentals payable from these leases are subject to use tax on the lessee which you are required to collect and pay to the state. Taxable rentals payable include any payment required by the lease, except as relevant here, the cost incurred in disposing of the leased property at expiration or earlier termination of the lease. (Reg. 1660(c)(1)(D).) We consider your charges to the lessees for repairs and reconditioning to come within this provision. We also note that the lessee may avoid making these payments to you by obtaining the services of someone else in order to restore the vehicle to the required condition. We conclude that you should not charge use tax on your charges for repairs and reconditioning.

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

Sincerely,

John L. Waid
Tax Counsel

DHL:wak

cc: --
bc: --- District Administrator