

**435.0418**

**M e m o r a n d u m**

**To:** Mr. Dennis Fox  
Program Planning Manager (MIC: 92)

**Date:** December 13, 1996

**From:** Sophia H. Chung  
Tax Counsel

**Subject:** M--- A--- K---  
Account No. SR -- XX-XXXXXX

Your memorandum dated September 9, 1996, to Mr. Gary J. Jugum, Assistant Chief Counsel, has been referred to me for response. You request a legal opinion addressing whether charges made by the referenced taxpayer, a registered dealer of used buses, for converting used buses into motorhomes constitute taxable fabrication labor. You state that after the taxpayer contracts with a customer for the sale of a used bus, if the customer wants the taxpayer to convert the bus into a motorhome, a separate agreement is entered for the conversion work. The customer is not required to have the bus purchased from the taxpayer converted by the taxpayer. In addition, the taxpayer advertises that conversion work will be performed on a bus provided by the customer and not purchased from the taxpayer.

The Torrance District office has requested assistance in determining whether the following constitutes taxable fabrication labor: (1) full conversions from used buses to motorhomes; (2) partial conversions where the taxpayer performs some, but not all of the conversion work; and (3) preconversions involving only a stripping or gutting of a bus in preparation for conversion by the customer or a third party.

**DISCUSSION**

As you know, Revenue and Taxation Code section 6051 imposes a sales tax on all retailers measured by their gross receipts from retail sales in this state of tangible personal property, unless the sale is specifically exempt from taxation by statute. Sales and Use Tax Regulation 1526 provides that tax applies to charges for the producing, fabricating or processing of tangible personal property for a consideration for consumers who furnish, either directly or indirectly, the materials used in the production or fabrication of the tangible personal property.

Producing, fabricating or processing include any operation which results in the creation or production of tangible personal property or which is a step in a process or series of operations resulting in the creation or production of tangible personal property. (Reg. 1526.)

Where the taxpayer contracts to sell a used bus to a customer, then subsequently contracts with the customer to convert the bus into a motorhome, such contracts constitute a single integrated transaction for the sale of the converted used bus, the gross receipts from which are subject to tax. That is, tax applies to the charge made for the bus as well as to any separately stated charges related to conversion work performed by the taxpayer. A delay in executing the contract to convert the bus into a motorhome is immaterial for sales and use tax purposes. This analysis applies whether the taxpayer performs full conversion, partial conversion or preconversion work.

Where a customer provides the taxpayer with a new bus for conversion into a motorhome, tax applies to the entire charge made by the taxpayer for the full conversion, partial conversion or preconversion work if the bus was purchased for the purpose of converting it into a motorhome. A new bus will be considered to have been purchased for this purpose if the contract for the conversion work is entered into within 60 days of the date the bus was first registered with the Department of Motor Vehicles. (See BTLG Annot. 435.0470 (9/8/77).)

Where the customer provides the taxpayer with a used bus for conversion, tax applies to charges for the sale of new parts and equipment whether the parts and equipment are withdrawn from inventory or fabricated by the taxpayer. (*Id.*) However, tax does not apply to the charges for installing the property sold. (*Id.*)

SHC:rz

cc: Mr. Gary J. Jugum  
Mr. David H. Levine  
Mr. Ronald L. Dick  
Sales and Use Tax Attorneys