

M e m o r a n d u m**495.0733**

To: Mr. Robert Nunes

Date: November 21, 1990

From: Ronald L. Dick

Subject: Living Trusts

This is in reply to your September 25, 1990 memorandum regarding the application of use tax to transfers of vehicles to living trusts. You asked for the application of tax to the following transactions:

“1. A vehicle is transferred into a trust with a balance owing. The transferor continues to make payments from current income which is not part of the trust's assets. Effectively the transferor continues to make transfers to the trust from current income from his/her employment.”

We believe that under these facts, the transferor transfers the vehicle to the trust for no consideration, since the transferor of the trust makes the payments. No use tax would be due, since there would be no sale; that is, unless the trust later begins making payments on the vehicle.

“2. A vehicle is transferred into a trust simultaneously with a number of other assets such as household furnishings, a house, and jewelry. The vehicle is free and clear, but there is a balance outstanding on the home and jewelry. The transferor continues to make payments from current income from his/her income.”

The same result obtains. However, if there were a sale whereby the trust were to make the payments, we believe that some of the consideration paid would be attributable to the transfer of the vehicle. Tax would apply pro-rated according to the amount of consideration attributable to the transfer of the vehicle.

If you have any further questions on this, feel free to contact me again.

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