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**STATE BOARD OF EQUALIZATION**

December 18, 1963

Dear Mr. \_\_\_\_\_,

You are correct that we are having some problems in interpreting section 6388 as amended in 1963. We submit the following answers to the four questions which your letter presents.

1. We agree with your conclusion that under the facts stated the tax will not apply, it being assumed, of course, that the procedural requirements of section 6388 are fulfilled.
2. We agree that the exemption applies to the sale of the complete trailer equipped with a Transicold unit prior to sale.
3. We also agree that the statute provides no exemption for a refrigerating unit purchased separately from the vehicle.
4. We agree that either a common carrier or a private carrier may secure the benefits of the exemption and that the exemption is not lost by the purchaser carrying a load in the new vehicle during the course of its journey outside the state so long as the transaction otherwise qualified for the exemption. As to our definition of the "resident," we are guided by the decision of the court in *Garrett Corporation v. State Board of Equalization*, 189 Cal. App. 2d 504, which involved another sales tax exemption available to nonresidents, section 6366, involving aircraft. In this case, the court held that sales of aircraft to out-of-state corporations doing a substantial business in California were not exempt since the vendee corporations were residents due to the fact that they had a factual abode of some permanency in this state. This is a very brief summary of an opinion which goes into the matter quite thoroughly.

I note you state that you may be in Sacramento soon for a conference with Mr. John Wogan, and would like to discuss this matter with me. I shall be glad to meet with you when you come for a conference with Mr. Wogan.

Very truly yours,

E. H. Stetson  
Tax Counsel