



STATE BOARD OF EQUALIZATION

PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001
TELEPHONE (916) 445-6450

May 30, 1991

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Your File No. 3799

Dear Mr. ---:

Your March 12, 1991 letter to the Sacramento District Office of the State Board of Equalization regarding the application of use tax to the transfer of a vessel has been referred to the legal staff for reply.

You explained that your client, Mr. B, is the owner of a vessel which is registered with the Department of Motor Vehicles. C is the secured lienholder of the vessel. Mr. B wishes to transfer the vessel into the A Trust, established August 9, 1990. The trust is a revocable family trust of which Mr. B is both the trustor and the trustee.

Given this information, you asked whether the proposed transfer of the vessel to A would cause the imposition of use tax.

When a person purchases a vessel which is registered with the Department of Motor Vehicles from anyone other than a vessel dealer, the purchaser is required to pay use tax on the use of the vessel. (Rev. & Tax. Code §§ 6201, 6275, 6283; Sales and Use Tax Reg. 1610.) If the vessel is documented with the United States Coast Guard, the purchaser is required to pay the tax directly to this Board. (Reg. 1610, subd. (c)(2)(A).) If the vessel is undocumented, the purchaser is required to pay the tax to the Department of Motor Vehicles which acts as an agent for this Board in collecting tax. (Reg. 1610, subd. (c)(2)(B).)

Since a trust is a "person" as defined at Revenue and Taxation Code section 6005, the purchase of a vessel by a trust from a non-dealer is subject to use tax. The issue which arises from the facts you presented is whether the trust pays a consideration for the vessel. The use tax is measured by the sales price of the property. (Rev. & Tax. Code § 6201.) Revenue and Taxation Code section 6011 defines "sales price" to mean the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise. Of course, if there is no measurable sales price, the use tax would not be due.

Based on the facts you provide, however, we understand that there is an outstanding loan on the vessel payable to C. If Mr. B transfers the vessel to the trust and continues to make the payments on the loan from his own funds, use tax would not apply to the transaction, because the transfer to the trust would be for no consideration. On the other hand, if Mr. B's transfer of the

Mr. ---

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vessel to the trust is for a consideration, the transfer would be subject to tax. For example, if, in addition to transferring the vessel to the trust, Mr. B also transferred his checking account to the trust, and the payments on the outstanding loan were made from trust funds, use tax would be due to the extent of the amount paid by the trust for the vessel.

We hope this answers your question; however, if you need further information, feel free to write directly to me.

Very truly yours,

Ronald L. Dick
Senior Tax Counsel

RLD:sr
Enc.