

Memorandum

To: Principal Tax Auditor

Date: August 20, 1985

From: Legal (JEM)

Subject: REDACTED TEXT

Your memo to Mr. Donald Hennessy dated August 13, 1985, has been referred to the undersigned for reply. You ask whether this taxpayer's proposed sale of recycled drain oil will qualify under Section 6358.1, subdivision (b), which authorizes a temporary exemption for sales of "[w]aste byproducts from agricultural or forest products operations, municipal refuse, or manufacturing, which are used in an industrial facility as a fuel source in lieu of the use of either oil, natural gas or coal."

We understand that drain oil is oil which has previously been used as a lubricant in vehicles or other types of machinery. Taxpayer apparently intends to acquire recycled drain oil from service stations, railroads and public utility companies, and then resell it to a customer. Taxpayer implies, and we assume, that the customer will use the recycled drain oil as an industrial fuel in lieu of natural gas.

The legal staff has previously determined that scrap tires acquired from bus and trucking companies could qualify as "waste byproducts from ...municipal refuse..." This determination was based on evidence that the scrap tires were "part of the municipal waste stream." (That is, until their value as an alternative fuel source was discovered, the scrap tires had been dumped in landfills.) Accordingly, the staff concluded that the scrap tires would be exempt under Section 6358.1, subdivision (b), when sold for the use specified in the statute.

By analogy, taxpayer's proposed sales will also qualify for the exemption, provided that the recycled drain oil is part of the municipal waste stream. You should compile evidence on this point before issuing your opinion to the taxpayer.

JEM:ba