

Memorandum

347.0730

To : Glenn A. Bystrom, Deputy Director
Sales and Use Tax Division

Date: October 17, 1995

From : Gary J. Jugum
Assistant Chief Counsel

Subject: Section 6377 and Leasing Transactions

This memorandum confirms the legal staff's position as to who is entitled to claim the partial personal sales and use tax exemption (Rev. & Tax. Code § 6377¹) in situations involving the lease of tangible property to a qualified person.

Section 6377(a) provides a partial exemption from tax on the gross receipts from the sale or use of tangible personal property purchased for use in a manufacturing activity by a qualified person. Staff interprets this to mean that the partial exemption is available only with respect to the lease transaction itself and not with respect to the lessor's acquisition of the property. This means that the partial exemption is not available to lessors who lease to qualified persons or to vendors to such lessors, when the lessor elects to pay sales tax reimbursement at the time of acquisition of the property or use tax measured by the purchase price of the property. Instead, only the taxable rental receipts from the lease of tangible personal property to a qualified person for use in a manufacturing activity may be subject to the partial exemption. The partial exemption may not be claimed on a vendor's gross receipts or a lessor's sales price where the property is acquired for lease to a qualified person.

I recommend that you forward this memorandum to your staff and the district offices for their information.

cc: Mr. Ronald L. Dick (MIC 82)
Mr. David H. Levine (MIC 82)
Mr. Robert W. Lambert (MIC 82)
Mr. Warren L. Astleford (MIC 82)

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¹All further references are to the Revenue and Taxation Code unless otherwise noted.