



STATE BOARD OF EQUALIZATION
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June 24, 1997

Mr. M--- A. S---
Tax Manager
B--- L---, Inc.
XXXX W. --- St.
P.O. Box XX
---, OH XXXXX

Re: Handicapped Vehicle Modification Exemption
B--- L---, Inc.
Account No. SS -- XX-XXXXXX

Dear Mr. S---:

This is in response to your inquiry of May 2, 1997 in which you inquired about the application of the sales and use tax exemptions accorded under Revenue and Taxation section 6369.4, captioned "Vehicles for physically handicapped persons."

Your company, B--- L---, Inc.(B---) of ---, Ohio, is engaged in the business of leasing commercial vehicles. You explain that B--- purchased vehicles for the purpose of leasing them to M.V. T---, Inc. (MV), a ---, California corporation engaged in the business of transporting handicapped persons. After the purchase and prior to the lease, B--- modified these vehicles to accommodate the needs of handicapped persons. You have provided ten copies of current lease agreements with MV, five of the agreements are conditional sales agreements, considered to be sales at the inception, and the remainder are "true lease" agreements.

MV has submitted a document entitled "Uniform Sales and Use Tax Certificate-Multijurisdiction" claiming a sales tax exemption attributable to the costs of performing the modifications to accommodate handicapped persons. You explain that you rejected this document because it is your understanding that the exemption accorded under section 6369.4 "is only available to handicapped persons as opposed to those in the business of transporting physically handicapped persons."

As you know, the general rule is that retail sales of tangible personal property in California are subject to sales tax, measured by gross receipts, unless specifically exempted by statute. (Rev. & Tax. Code § 6051.) Revenue and Taxation section 6369.4 provides:

“(a) There are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption, in this state of items and materials when used to modify a vehicle for physically handicapped persons.

“(b) In the case of the sale of a modified vehicle described in subdivision (a) to a disabled person who is eligible to be issued a distinguishing license plate or placard for parking purposes pursuant to section 22511.5 of the Vehicle Code, there are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption attributable to that portion of the vehicle which has been modified for physically handicapped persons.”

Thus, under subdivision (a) of this provision, an exemption from sales and use measured by the gross receipts of materials purchased or used to modify a vehicle to accommodate handicapped persons is only available at the time the modifications are performed. If there is a subsequent sale or resale of the vehicle after the modifications have been performed, the exemption is available to the portion of the sales price attributable to the modifications **only if** the purchaser of the vehicle is a disabled person eligible to be issued a license plate or placard for parking privileges accorded to disabled persons pursuant to section 22511.5 of the Vehicle Code. Under these circumstances, since B--- is the party that modified the vehicle, it is the only party eligible for the exemption provided under section 6369.4 (a). If MV had modified the vehicles after it gained possession of them it would have been eligible for the exemption provided under this subdivision. Since MV, as a corporate entity, can not be considered a “disabled person who is eligible to be issued a distinguishing license plate or placard,” the transfer of the vehicles to MV do not qualify for the exemption under subdivision (b) of section 6399.4.

We would like to point out that even if MV had been eligible for this exemption, the certificate tendered, “Uniform Sales & Use Tax Certificate Multijurisdiction,” would not have been valid to support this exemption. This certificate, which is authorized by the Multistate Tax Commission, is prepared for use by businesses that make purchases for resale in any of the 31 states identified on the certificate. If the exemption under section 6369.4 had been allowable, an exemption certificate prepared in the format recommended by Regulation 1667, copy enclosed, would be required to verify the exemption.

Mr. M--- A. S---

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June 24, 1997
425.0168.165

If you have any further questions please feel free to contact this office again.

Sincerely,

Patricia Hart Jorgensen
Senior Tax Counsel

PHJ:rz

Enclosure: Reg 1667

cc: Out-of-State District Administrator - OH