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**STATE BOARD OF EQUALIZATION**

March 11, 1966

Attention: \_\_\_\_\_

Gentlemen:

This is in reply to your letters of March 3 and January 25, 1966. Upon receipt of your most recent letter, a search was made for your letter of January 25 since it had not yet been received by this office. This disclosed that the letter had been included with a routine processing of a large volume of paid returns which was not completed until March 7. Please accept our apologies for this inadvertent delay.

Your letter of January 25 restates in detail the fact situation related to me by telephone on January 20. It has been treated as a claim for refund of taxes paid by \_\_\_\_\_ Co., Inc. We understand that the underlying facts of the subject transactions are as follows:

A Mr. \_\_\_\_\_, a nonpermittee, sold the vessel "[A]" to a Mr. \_\_\_\_\_ for a total consideration of \$15,000, receiving in payment cash of \$10,100 and the vessel "[B]" priced at \$4,900. Mr. \_\_\_\_\_ immediately listed the "[B]" for sale. An offer to purchase was received, and this vessel was sold by Mr. \_\_\_\_\_ for the sum of \$5,500 to a Mr. \_\_\_\_\_. The period of time which elapsed from the receipt of the vessel "[B]" by Mr. \_\_\_\_\_ and its subsequent sale was approximately three weeks. During this period, no use whatsoever was made of this vessel other than demonstration and display for purposes of sale. Use tax was paid by Mr. \_\_\_\_\_ measured by the \$15,000 purchase price for the vessel "[A]". Use tax was also paid by Mr. \_\_\_\_\_ measured by the \$5,500 purchase price of the vessel "[B]".

Your tax payment is measured by the agreed price of Mr. \_\_\_\_\_ acquisition of the vessel "[B]". Your position is that this later tax should not be imposed because the purchaser \_\_\_\_\_ intended to sell the vessel at the time of purchase and did, in fact, sell it without prior use.

After conducting further review of the applicable law and discussing with tax counsel, we have concluded that your claim for refund be granted. We have reasoned that there was no storage, use, or other consumption of the vessel since it was acquired for the sole purpose of resale.

Your claim for refund will now be submitted for board action. Upon approval of our recommendations by the board, a warrant for the amount of tax refund will be issued.

Very truly yours,

W. E. Burkett  
Associate Tax Counsel

WEB:hm

cc: Santa Rose – District Administrator  
Headquarters – Occasional Sales (LR)  
Headquarters – Petition Unit (RNZ)