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Mr. Larry Micheli

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March 10, 1993  
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State of California

Board of Equalization  
Legal Division

***CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGE***

## Memorandum

To Mr. Larry Micheli  
Local Tax Section

Date: March 10, 1993

From John L. Waid  
Tax Counsel

Subject: **Operative Date of Local Transportation Authority (LTA)  
Tax Ordinances**

Pursuant to your request during our telephone conversation this morning, enclosed find a copy of Public Utilities Code Section 180204, enacted in 1987 as part of the Local Transportation Authority and Improvement Act ("the Act"). (Pub. Util. Code § 180000 et. seq.). Note that it says that any transactions and use tax ordinance enacted by an LTA under the Act "shall" be operative on the first day of the first calendar quarter which begins more than 120 days after the date the tax ordinance was adopted. (Pub. Util. Code § 180204(a).) Revenue and Taxation Code Section 7265 ("Section 7265") provides that no transactions and use tax ordinance "shall be operative on other than" the first day of the calendar quarter commencing more than 110 days (reduced from 120 days in 1990) after the adoption date. You noted that the two statutes are apparently in conflict.

Apparently conflicting statutes are to be harmonized if at all possible. In addition, specific statutes control over general. We are of the opinion that the provisions of the Act control as an LTA adopts a tax ordinance under that authority rather than under the Revenue and Taxation Code. Since we have always held the date of the election approving the ordinance to be the date of adoption, the operative date under the Act must be the first day of the first calendar quarter beginning after the election date, which will always be after the terminus ante quem set by Section 7265.

In the problem at issue, the REDACTED TEXT County LTA adopted a transactions and use tax ordinance which was approved by the voters on November 3, 1992. The first day of the first calendar quarter commencing 120 days after the election date is April 1, 1993. Thus,

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we conclude that the ordinance is operative on that date, and the contract for administration of the tax (Pub. Util. Code § 180204(b)) must be executed prior to then.

JLW:es  
Operate.lta

Enclosure: Pub. Util. Code § 180204

bc: Mr. REDACTED TEXT