



STATE BOARD OF EQUALIZATION

February 21, 1956

Dear Mr. C---

Confirming our telephone conversation of today, it is our position that a corporation is not a resident of this state within the meaning of that term as used in Section 6366 of the Sales and Use Tax Law if the corporation is not "doing business" in this state.

The place of which a corporation is a "resident" is not clearly determinable from any statute or decision that we have been able to find. Looking to the purpose of the exemption of sales of aircraft to nonresidents who will not use the aircraft in this state otherwise than its removal therefrom, the reason for limiting it to nonresidents would appear to relate to the fact that residents are generally sufficiently identified with California to enjoy the protection and other benefits of its government.

Corporations, due to their generally wider scope of business operations, frequently enjoy the benefits of government in more than one state at a time through "doing business" in a number of states. A corporation "doing business" in California, enjoying the benefits and protection of the State Government, seems to us to be as much identified with the state as an individual resident, regardless of the place of its incorporation. Many corporations, of course, do little or no business in the state of incorporation.

It is therefore, our opinion that a corporation must not be doing business in California if it is to qualify as a nonresident under Section 6366.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:ds

cc: Glendale - Compliance

M e m o r a n d u m**105.0080**

To: Mr. D. J. Hennessy

Date: April 12, 1984

From: John B. Adamo

Subject: Annotation 105.0080

The Business Taxes Law Guide cites annotation 105.0080 for the following proposition:

“CORPORATIONS. A corporation is not a resident of the state within the meaning of that term as used in Section 6366 if the corporation is not ‘doing business’ in this state. Accordingly, a corporation must not be doing business in California if it is to qualify as a nonresident under such exemption. 2/21/56.”

In a recent hearing involving a taxpayer claiming entitlement to the Section 6366.1 exemption for aircraft purchased to be leased to persons who are not residents of California and who will not use the aircraft in this state except in its removal from California, the taxpayer cited the referenced annotation in support of his position that a corporation organized in California is not a California “resident” if it is not “doing business” in this state. The annotation appears to accurately reflect the letter pursuant to which it was written, and strongly implies that a California corporation is not a “resident” of this state if it is not “doing business” here. In my particular case, the taxpayer’s lessee was incorporated in California but operated solely outside this state.

Annotation 105.0080 does not correctly state the law. A corporation is a resident of the state in which it is organized. (Keystone Driller Co. v. Superior Court of San Francisco, 138 Cal. 738 (1903); Tropico Land & Improv. Co. v. Lambourn, 170 Cal. 33 (1915). A California corporation remains a resident of this state even where it operates solely outside California. (Cf. Tropico Land & Improv. Co. v. Lambourn, supra.) It may be appropriate to amend Annotation 105.0080 to reflect the accurate state of the law.

JBA:ba