



STATE BOARD OF EQUALIZATION

May 14, 1958

Mr. P--- F. B---
Tax Manager
L--- A--- C---
---, California

SZ -- XX-XXXXXX

Dear Mr. B---r:

This will confirm the recent telephone conversation between myself and your Mr. B. M. H--- regarding the applicability of sales tax to your receipts from the sale of an aircraft under the following conditions:

An airline wishes to buy an aircraft from you, but requires financing. To accomplish this, it is proposed that the engine and propeller equipment of the aircraft be titled in a third party who will concurrently lease the engine and propeller equipment to the airline. The airline, however, will take title to the balance of the aircraft. Actual delivery of the complete aircraft including engine and propeller equipment will be made to the airline. It is your understanding that the lease will contain an option permitting the airline to acquire title to the equipment from the lessor in due course.

In view of the provisions of Sales and Use Tax Ruling 46-F(3), the exemption for which provision is made in Section 6366 of the Sales and Use Tax Law will be unaffected by this arrangement. The ruling provides that the exemption will apply "If title to the aircraft passes to a third party not defined in paragraph (a), for security purposes only, beneficial ownership of the aircraft remaining with a carrier, foreign government, or nonresident".

If the entire aircraft could be titled in a third party without affecting the exemption, it seems even more clear that certain parts of the aircraft could be titled in a third party for financing purposes without affecting the exemption. Clearly, the airline has beneficial ownership of the entire aircraft as well as actual title to all but the engine and propeller equipment, and will ultimately secure title to this property.

It is our opinion, accordingly, that the exemption for which provision is made in Section 6366 will not be lost by handling the transaction in the manner described in and for the purpose indicated in your letter.

Mr. C--- K--- of the A--- A-- telephoned me yesterday and discussed the same problem with me after explaining that he had discussed the matter with you and had learned of your telephone conversation with me. I expressed the same viewpoint to him, and you will no doubt inform him of the confirmation of this viewpoint as expressed in this letter.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:tl

cc: --- --- - Administrator