

# Memorandum

135.0010

To: Hollywood – District Administrator  
(Glenn A. Bystrom)

Date: January 16, 1974

From: Tax Counsel (GJJ) - Headquarters

Subject: F--- --- ---, Inc.

In reference to our telephone conversation of January 8, 1974, we are of the opinion that the corporate attorney-in-fact of a reciprocal or interinsurance exchange is exempt from payment of the California use tax by virtue of the application of Insurance Code Section 1530, which provides:

“...that each corporate attorney-in-fact of a reciprocal or interinsurance exchange shall be subject to all taxes imposed upon other corporations doing business in the state, other than taxes directly attributable to property used exclusively in...its principal business as corporate attorney-in-fact.” [Emphasis added.]

J:alicetilton

**M e m o r a n d u m****135.0010**

To: Hollywood – Auditing (Glenn A. Bystrom)

Date: January 30, 1974

From: Tax Counsel (GLR) - Headquarters

Subject: F--- --- ---, Inc.

SR -- XX-XXXXXX

This is in follow-up to our discussion of January 8, 1974.

It is our understanding that at a reciprocal (or interinsurance) exchange, an unincorporated aggregation of individuals, firms, or corporations, called subscribers, exchange contracts of insurance through an attorney in fact who issues the contracts and manages the exchange. Each subscriber enters into a subscriber's agreement, under which the attorney in fact is given authority to represent the subscriber in insuring all other subscribers. The attorney in fact may be an individual, a partnership, or a corporation. His remuneration for services as manager of the reciprocal is usually a portion of the premiums. [Nowbray/Blanchard/Williams, Insurance: Its Theory and Practice in the United States, Sixth Edition, McGraw-Hill Book Co., p. 380.]

Prior to its amendment in 1963 Section 1530 of the Insurance Code read, in relevant part, as follows:

“In lieu of all other taxes, licenses or fees whatever, state or local, each exchange shall pay annually on account of the transaction of such business in this state, the same fees as are paid by mutual insurers transacting the same kind of business, and the annual tax imposed by Section 14-4/5 of Article XIII of the Constitution of the State of California and by the applicable provisions of the Revenue and Taxation Code. ...”

Section 1530 was amended in 1963 to read, in relevant part, as follows:

“In lieu of all other taxes, licenses or fees whatever, state or local, each exchange and its corporate attorney in fact considered as a single unit shall together pay annually on account of the transaction of such business in this State, the same fees as are paid by mutual insurers transacting the same kind of business, and the annual tax imposed by Section 14-4/5 of Article XIII of the Constitution of the State of California and by the applicable provisions of the Revenue and Taxation Code, except that each corporate attorney in fact of a reciprocal or interinsurance exchange shall be subject to all taxes imposed upon other corporations doing business in the state, other than taxes directly attributable to property used exclusively in or on income derived from its principal business as corporate attorney in fact. ...” [Stats. 1963, Ch. 1909, Sec. 2, Emphasis added.]

We are of the opinion that the use tax is a tax “...directly attributable to property used exclusively in [a corporate attorney in fact’s] principal business as corporate attorney in fact” within the meaning of that phrase as it is used in Section 1530. We are thus of the opinion that the referenced taxpayer is exempt from payment of the use tax with respect to property used by it exclusively in its insurance operations as corporate attorney in fact.

J:alicetilton