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**STATE BOARD OF EQUALIZATION**

August 19, 1964

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This is in reply to your letter of August 6.

It is our understanding, from your letter, that you are in the business of selling airplanes. You also furnish tie-down facilities for the storage of aircraft owned by others.

You state that occasionally your tie-down customers advertise their planes for sale at the storage area. Prospective buyers make inquiries of you regarding the condition of these planes. Sometimes the buyer or owner may have you arrange for financing of the sale of one of such planes. You receive, or plan to receive, a commission for your demonstration and financing services.

Pursuant to an opinion of the Attorney General rendered a number of years ago, yacht brokers are not regarded as retailers with respect to transactions in which they merely bring the buyer and seller together and do not have either the beneficial use of the boat or the power, by their own act, to vest title in another and exercised that power, he was a retailer and liable for sales tax with respect to the gross receipts from such transactions. We believe that the some considerations are applicable in determining the application of tax with respect to sales of aircraft.

Accordingly, if your only connection with the sales of airplanes owned by your tie-down customers is to show the airplanes to buyers and answer their inquiries regarding their condition, or to arrange for financing, without your having or exercising the power by your own act to vest title in the buyer, you will not be liable for sales tax. On the other hand, if you have such power and exercise it, you will be liable for the sales tax with respect to the entire gross receipts from such transactions.

Very truly yours,

George A. Trigueros  
Associate Tax Counsel

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