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**STATE BOARD OF EQUALIZATION**

April 11, 1994

This is in response to your letter of March 30, 1994.

We understand that you recently went through the sales and use tax redetermination process that concerned the issue of use tax on a boat that you purchased in December 1987. At the conclusion of the appeals process, the recommendation was "Delete the failure to file penalty and redetermine the tax on a sales price of \$140,000."

It was your understanding that based upon this recommendation you would be required to pay tax only. You paid the tax of \$8400 on May 19, 1992. You subsequently received a bill from us in the amount of \$4,024.98, for the interest that had accrued to your date of payment.

You raise three questions:

(1) Is there a basis for relief from the interest amount?

No, there is not. Revenue and Taxation Code section 6593 provides for relief of certain interest obligations where failure to make a timely payment was due to a "disaster." You state that "The reason why a return was not filed was an agreement was in place between the U. S. Coast Guard, which has responsibility for the documentation of vessels, and the state of California, to forward all paperwork on vessels undergoing documentation to the state for determination of sales tax due and subsequently forwarding a tax bill to the purchaser/seller."

Under our regulation 1610, you were required to file a return "... on or before the last day of the calendar month next succeeding the month in which a return form is mailed to the purchaser, or the last day of the twelfth month following the month during which the vessel... was purchased, whichever period expires the earlier." (Emphasis added.) If you had filed a return and made payment by December 31, 1988, no interest would have been due.

(2) Is there a basis for settlement with respect to the interest amount?

No, there is not. AB 3225 added to the Revenue and Taxation Code, section 7093.5, with respect to settlement of certain "civil tax matter disputes." The object of that section was to produce a settlement of a matter in dispute during the administrative process. This section does not apply where the dispute has been resolved by

redetermination of the tax. Your remedy at this juncture would be to pay the interest and file a claim for refund. We would recommend to the Board that any such claim for refund of interest be denied.

(3) You ask whether the transaction in question would be exempt as an "occasional sale."

No, it would not be. Generally, tax does not apply to casual or isolated sales of tangible personal property by private parties. Thus, if you sell a bicycle to your next-door neighbor, tax does not apply. The occasional sale exemption does not apply, however, to private party sales of vehicles, vessels and aircraft. Revenue and Taxation Code section 6367 provides that the occasional sale exemption "does not apply to the gross receipts from the sale of, or to the storage, use or other consumption in this state of, ... a vessel..."

Very truly yours,

Gary J. Jugum  
Assistant Chief Counsel

GJJ:sr

cc: Honorable Brad Sherman  
Honorable Matthew K. Fong  
Honorable Ernest J. Dronenburg, Jr.  
Honorable Gray Davis

bc: Mr. Burton W. Oliver - MIC:73  
Mr. Glenn A. Bystrom - MIC:43  
Mr. E. L. Sorensen, Jr. - MIC:83