

**STATE BOARD OF EQUALIZATION**

916/323-0823

May 7, 1986

Mr. B--- A. D---
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Dear Mr. D---:

Your letter of February 6, 1986 has been directed to me for a response. Your letter states as follows:

“We are reviewing the use tax provisions of the California Revenue and Taxation Code and Regulations to determine whether an aircraft will be subject to California use tax under the following facts:

“An out-of-state company purchases a used commercial aircraft. The aircraft is delivered outside California with title and possession transferring out-of-state. Shortly after the purchase, there is functional use of the aircraft transporting representatives of the purchaser to another location outside California. Prior to ninety days from the date of purchase, the aircraft is flown to California for refurbishing which includes the installation of a new interior to modify the aircraft for noncommercial use. The refurbishing in California will take greater than six months to complete. Upon completion of the refurbishing, the aircraft will be delivered to the purchaser outside California. Thereafter, the aircraft will be used noncommercially, solely outside the state.

“It is our understanding, the period the aircraft is located in California for refurbishing will qualify under the storage and use exclusion of Revenue and Taxation Code 6009.1. This statute excludes for taxable storage and use tangible personal property present in the state “... for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.” Given the refurbishing of the aircraft will result in the fabrication and incorporation of other tangible personal property which will be ultimately transported outside the state and used solely thereafter outside the state, the plane should qualify for this exemption. Additionally, transporting the aircraft under its own power to the California refurbisher, should not affect the aircraft’s qualification under Section 6009.1 pursuant to the Court’s decision in Stockton Kenworth, Inc. v. State Board of Equalization, 157 Cal.App.3rd. 334.

“We would appreciate the State Board of Equalization’s opinion on our findings.

“Your prompt response to this inquiry would be greatly appreciated. If you have any questions regarding the above, please do not hesitate to call.”

Use tax is imposed on the storage, use, or other consumption in California of tangible personal property purchased from any retailer for storage, use, or other consumption in this State. (Revenue and Taxation Code Section 6201.) In relevant part, Section 6009.1 provides as follows:

“‘Storage’ and ‘use’ do not include the keeping, retaining or exercising any right or power over tangible personal property...for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.”

The installation of an interior in an aircraft is the incorporating of tangible personal property into other tangible personal property. Accordingly, it is our conclusion that the act of installing the interior does not constitute the “storage” or “use” of the aircraft when the aircraft is to be immediately transported outside California and thereafter used solely outside this State. Assuming that the sole utilization of the subject aircraft in California will be that of installing a new interior, the use tax will not be applicable. (Section 6009.1.) The transportation of the aircraft into California under its own power will also be excluded from the term “use.”

Should you have additional inquiries, do not hesitate to write again.

Very truly yours,

John B. Adamo
Tax Counsel

JBA:ba