

Memorandum

325.0100.500

To : Mr. Glenn A. Bystrom
Deputy Director
Sales and Use Tax Department
MIC:43

Date: August 30, 1996

From : Gary J. Jugum
Assistant Chief Counsel

Subject: Rail Car Parts

This is in response to your memorandum of August 28, 1996.

Your inquiry concerns Revenue and Taxation Code section 6368.5, which provides an exemption for "rail freight cars for use in interstate or foreign commerce."

Unlike Revenue and Taxation Code section 6368, which provides an exemption for watercraft and "property becoming a component part" of a watercraft, there is no express reference in section 6368.5 to parts. However, under Pan American World Airways, Inc. v. State Board of Equalization (1955) 131 Cal.App.2d 638, parts installed outside this state necessary to qualify the aircraft for a certificate of airworthiness are considered to be subject to the aircraft exemption, when the aircraft is brought into this state. It is our understanding that we have extended this concept to replacement parts, repair parts, and additional items provided that the items are installed outside this state before the aircraft is brought into this state. This is consistent with the language of the Pan American decision, as follows:

"These items at the time the planes arrived at San Francisco Municipal Airport had become an integral part of an 'aircraft,' which under C.A.A. regulations would have been incomplete without them. They were not replacement parts, repair parts nor additional items to be installed at some future date."

We have interpreted the words "to be installed at some future date" used in the last quoted sentence above to modify "replacement parts," "repair parts," and "additional items". We should continue to do so in the future.

Thus, tax would apply to repair parts brought into California prior to installation but not to parts previously installed outside this state.

GJJ:sr

cc: Mr. Dennis Fox - MIC:92
Mr. Vic Anderson - MIC:38
Mr. Brian Manuel - MIC:40
Ms. Sharon Jarvis - MIC:82