



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-3723

May 13, 1991

Ms. A--- H---
Accountant
D--- - R--- S--- D---
Product Support Division
XXX --- Street, Suite ---
--- ---, CA XXXXX

SS --- XX-XXXXXX

Dear Ms. H---:

This is in reply to your letter of May 6, 1991, which was received in this office on May 10, 1991.

We understand it is the practice of D--- - R--- to lease operating vehicle from H--- P--- to fulfill performance on government contracts.

When a vehicle used for the sold purpose of transporting navy compressors under a government contract, the cost of such performance is passed by D--- - R--- directly to the government. In this instance, no sales or use taxes are paid to H---. If the transportation vehicle is used for various activities not related to a specific government contract, the cost is expensed out to an overhead account and not charged directly to the U. S. government. In this instance, you pay sales or use tax computed on the rental receipts directly to H---.

You indicate that D--- - R--- wants to comply with our tax regulations. If you are at fault, you want to take immediate corrective action.

It is our opinion that both categories are leases which are subject to tax. In both instances, the lessor is H--- - P---, and the lessee using the equipment is D--- - R---. There is no sublease of equipment to the United States in either case. It is immaterial that in some instances the vehicles are used solely for the purpose of transporting navy compressors under a government contract and the cost is passed on directly to the U. S.

While tax does not apply to leases of tangible personal property to the United States, there is no lease of property to the U. S. where the government contractor itself operates the equipment under a government contract.

Our recommendation is that you contact the Principal Auditor in our --- --- District Office to insure proper compliance with our requirements. The Principal Auditor is Mr. Phillip K. Klepin. His telephone number is (XXX) 237-7731.

Very truly yours,

Gary J. Jugum
Assistant Chief Counsel

GJJ:sr

cc: Mr. Phillip K. Klepin
--- --- District Principal Auditor