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**STATE BOARD OF EQUALIZATION**

December 15, 1969

Mr. R--- W---  
Certified Public Accountant  
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Dear Mr. W---:

Mr. Thomas Putnam has asked me to reply to your letter of December 5, 1969, asking for a confirmation of an answer which you received in the discussion group at the conference on December 4, 1969.

You represent a corporation which was formed by several doctors who exchanged their equipment for capital stock in the corporation. The doctors paid sales tax on the equipment when originally purchased. The doctors were not engaged in activities requiring the holding of seller's permits. You and the discussion leader felt that the equipment in the hands of the corporation retained its tax-paid status, and when the corporation subsequently leased the equipment to the doctors, the lease payments would not be subject to sales tax.

We have considered this point on several occasions and came to the opposite conclusion.

A corporation is an entity separate and distinct from its shareholders. It is a separate "person" under section 6005 of the Sales and Use Tax Law. The reason that corporations are formed, particularly one such as you describe, is to create a separate entity for income tax or other business reasons.

Thus the corporation, and not the doctors, is the "lessor" of the equipment. This is significant as section 6010(e)(5) is very clear in excluding from taxable leases only leases of tangible personal property leased in substantially the same form as acquired by the lessor or his transferor as to which the lessor or his transferor has paid sales tax reimbursement pursuant to section 6052 or has paid use tax measured by the purchase price.

“Transferor” is limited to: (a) persons from whom the lessor acquired the property in a transaction described in subdivision (b) of section 6006.5, and (b) to a decedent from whom the lessor acquired the property by will or the laws of succession.

The doctors, not the corporation, paid tax on the purchase price of the property when acquired, and consequently the “lessor” did not pay the tax. Neither are the doctors “transferors” as the property was not acquired in a transfer described in section 6006.5(b), which applies only to property used in activities for which a seller’s permit is required.

Very truly yours,

Lawrence A. Augusta  
Assistant Counsel

LAA:ph