



STATE BOARD OF EQUALIZATION

July 12, 1976

To: Mr. Robert Nunes

From: Glenn L. Rigby

This is in response to the Chicago office's June 21 memo requesting our opinion concerning leases of trucks. The facts, as stated in their memo, are as follows:

--- a program whereby it leases vehicles to franchised dealers for use by the dealers in a daily rental or service rental operation. These vehicles are typically rented to customers who must leave their own vehicles with the dealer for several days for repair or are rented to the general public in much the same manner as is done by Hertz or Avis.

The vehicles are registered by the dealers with DMV in the name of --- The term of ---'s lease agreement with the dealer is for a maximum of 15 months and may be terminated by the dealer after six months. Upon termination, the dealer pays for the wholesale price of the car but receives a partial credit for rentals previously paid. The dealer must then sell the vehicle as a used car.

Both passenger vehicles and trucks (pickups and vans) are leased under this program. Chicago's only problem concerns the leasing of trucks.

---tor Company has not paid tax on its cost of the trucks nor has it elected, as a registered vehicle dealer, to pay tax measured by fair rental value. Ford has a blanket resale certificate from each of its dealers, but it does not have a specific certificate covering cars and trucks under the lease program.

Chicago initially advised --- that it was the consumer of mobile transportation equipment and liable for tax on cost. In order to determine how the dealers were handling their leases, Ford sent out a number of inquiries. The dealers' responses indicate:

1. Most of the dealers feel that their leases come within the definition of "one way rental trucks". Since these are excluded from the definition of mobile transportation equipment, the dealers have collected and reported tax on a rental receipts basis.

2. Some of the dealers have added campers to the pickup trucks and registered them as “house cars” rather than as trucks. These are also excluded from the definition of mobile transportation equipment and the dealer would report rentals even though rented for periods exceeding 30 days.

While the application of tax to these transactions is not covered specifically in the statutes, it is our opinion Ford’s leases to its dealers can be allowed as a sale for resale provided the purchaser certifies as part of the resale certificate that the trucks are to be subleased either as one-way rental trucks or house cars.

GLR: lb

cc: Mr. T. P. Putnam