

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-8485

April 25, 1984

Mr. J--- E. G---
Corporate Controller
M--- E--- Company
P. O. Box XXXX
--- ---, CA XXXXX

SY -- XX-XXXXXX

Dear Mr. G---:

This is in response to your letter of March 22, 1984. We understand that A Corporation (---) purchased an Alpha 100 Lift Crane ex-tax for resale. On August 15, 1983, A leased the crane to M--- E--- Company (M---) which, simultaneously issued a resale certificate to A and subleased the crane to B--- C--- and R--- Company (B---). M--- has been reporting "tax" to the Board based upon its lease receipts from B---.

In our telephone conversation this morning you indicated that the crane in question is permanently mounted on a truck chassis and that the unit is capable of moving substantial distances at highway speeds. Under such circumstances, we consider the crane to be mobile transportation equipment (mte) as defined in Revenue and Taxation Code Section 6023 (see BTLG anno. 335.0048). Leases of mobile transportation equipment are not "sales" or "purchases" and hence are not subject to sales or use tax [Rev. & Tax. Code §§6006(g)(4); 6010(e)(4)]. However, lessor who purchase mte with the intention of leasing it may issue their vendors a resale certificate and elect to report their use tax liability based on the "fair rental value" of the property so long as the election to pay tax in this manner is made on or before the due date of a return for the period in which the equipment is first leased (Rev. & Tax. Code §§6092.1, 6094, 6243.1, 6244; Reg. 1661(e), copy enclosed).

Applying the foregoing rules to the circumstances herein, it appears the A, the entity liable for the tax, failed to make a timely election to pay tax based on fair rental value. Having failed to so elect, A is liable for tax based upon its purchase price of the crane. Pursuant to Revenue and

Mr. J--- E. G---

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335.0078.050

Taxation Code Section 6901.5 the Board would permit A an offset against its tax liability in the amount paid as "tax" by M---

Very truly yours,

E. Leslie Sorensen, Jr.
Tax Counsel

ELS:rar

Enclosure