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**STATE BOARD OF EQUALIZATION**

May 26, 1977

Dear Mr.

This is in response to your letter of May 18, regarding the sale and lease of a 1977 Ford E150 window van.

I understand that a dealer, --- --- --- sold the van to you with a front seat only and paid sales tax. You leased the van to a lessee on the basis that the lease was a "sale", with tax due on the lease receipts. At some time after the lease began, the lessee added rear seats and intends to register the van with DMN as a non-commercial vehicle.

Under the Sales and Use Tax Law, in general, the lease of a passenger vehicle designed to carry no more than 10 persons is a "sale", while the lease of a vehicle designed to haul property is not. A vehicle designed to haul property falls in the classification of "mobile transportation equipment" the lease of which is excluded from the definition of "sale".

We regard a van equipped with a seat only in the front as "mobile transportation equipment".

Since you leased the van here involved with front seating only, the sale to you was taxable as a retail sale and not exempt as a sale for resale. The later addition of rear seats by the lessee did not affect the character of the sale to you.

Your contract with the lessee should be revised so that tax on the lease receipts is not separately stated.

For your future guidance, I am enclosing a copy of Regulations 1660 and 1661 on the subject of leasing.

Very truly yours,

Thomas P. Putnam  
Assistant Chief Counsel

TPP:po

Enclosure

bc: Robert Nunes , Donald Brady , Glenn L. Rigby , San Jose - Dist. Admin.