



STATE BOARD OF EQUALIZATION

October 5, 1964

Mr. J--- W. M---
XXXX --- Avenue
--- XX, California

Dear Mr. M---:

Your automobile use tax problem was referred to this office for an opinion regarding use tax liability. A note by you to Mr. Porter advises that you purchased the vehicle in California for use overseas, and you sold it in California upon your return here.

Section 6248 for the Sales and Use Tax Law provides for a rebuttable presumption that any vehicle bought outside this state which is brought into California within 90 days from the date of its purchase was acquired for storage, use or other consumption in this state. The board has concluded many times that the sale of a vehicle in this state comes within the meaning of "other consumption." Where use tax is due it cannot be negated by disposing of the vehicle.

The 90 days are measured from the date of delivery and not the date on which an order for a vehicle is placed. Were the latter to be used, it would be a simple matter for persons who were contemplating a purchase to place the order and intentionally delay taking delivery at some out-of-state point, thereby avoiding any California sales tax or use tax, as the case may be.

The presumption of purchase for use is rebuttable and where the delivery date and entry date are less than 90 days, the board will exempt the use tax if it can be clearly shown that the vehicle came to California under circumstances not contemplated at the time of delivery. An intent to bring a vehicle into California and sell it here immediately would not rebut the presumption that there was no intended storage, use or other consumption. Further, your case is weakened by the fact that you had the registration changed to include your wife's name on the certificate after the vehicle came into this state. This would indicate an intent to keep the vehicle, rather than sell it, or that the intent to sell came after the vehicle was in California.

Mr. J--- W. M---
Account - - XXXXXX

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An intent to first use a vehicle in a foreign country is not uncommon, but that is insufficient to rebut the presumption that it was not intended for use in California.

In our opinion, the facts in your case do not warrant an exemption from use tax.

Very truly yours,

Robert H. Anderson
Associate Tax Counsel

RHA:fb

cc: --- – District Administrator