



**STATE BOARD OF EQUALIZATION**

September 14, 1955

Your letter of June 21

Gentlemen:

Recently you sold an automobile to a Seattle dealer with delivery trips made to the Seattle dealer's customer through an Oakland dealer. The customer is engaged in the business of leasing automobiles and operates in California.

It is true that you will normally charge sales tax where you make delivery in California to a customer of an out-of-state dealer. The basis for this is the second paragraph of Section 6007 of the Sales and Use Tax Law. For the purposes of the sales tax the term "retail sale" means a sale for any purpose other than resale in the regular course of business. The second paragraph of Section 6007 provides an exception to this rule. A transaction is a retail sale in this state if an owner or former owner of tangible personal property delivers it in this state to a consumer pursuant to a retail sale made by a person not engaged in business in this state. The person making the delivery is regarded as making a retail sale and is liable for tax measured by the amount paid by the consumer.

This applies, however, only if the person taking delivery is a consumer. Under the California Sales and Use Tax Law a person engaged in the business of leasing may purchase property under a resale certificate. If such a person furnishes you with a resale certificate, you may report your sale as being for resale and therefore exempt.

In the particular case involved, you state that the leasing company has a California seller's permit and that they are willing to furnish a resale certificate. Your acceptance of such a certificate in the form required in the ruling, copy enclosed, will relieve you of liability for the tax.

Very truly yours,

Bill Holden  
Associate Tax Counsel

RH:tj

cc: Oakland - Auditing