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**STATE BOARD OF EQUALIZATION**

July 17, 1964

“S”

This is with reference to your letter of May 26, 1964 regarding a claim for refund of sales tax paid by your firm pursuant to a retail sale and “courtesy delivery”.

Under Section 6389, the gross receipts from retail sales of motor vehicles made by licensed dealers are to be included in the measure of tax for sales tax purposes.

We did give an opinion some few months ago regarding the tax liability on retail sales of motor vehicles by nonlicensed dealers. That opinion was based on the provisions of Section 6389. However, it is our understanding now that sales are reported to the Department of Motor Vehicles on a Dealer’s Report of Sale form (which is also the application for registration of a new vehicle). The report is made by the dealer making the delivery of the car.

We call your attention to Section 11713(m) of the Vehicle Code which was added to the code when the new automobile use tax law was passed. It reads:

“It shall be unlawful and a violation of this code for the holder of any license issued under this article...(m) To participate in the sale of a motor vehicle reported to the Department of Motor Vehicles under the provisions of Section 5900 of this code without making the return and payment of any sales tax due and required by Section 6451 of the Revenue and Taxation Code.” (Emphasis added.)

Note: The words “licensed under this article” include a dealer’s license.

It is our opinion that where a licensed dealer makes a “courtesy delivery” of a motor vehicle and reports that delivery to the Department of Motor Vehicles on a Dealer’s Report of Sale indicating that he (the dealer) made a sale of the vehicle, he has participated in the sale sufficiently so as to come within the provisions of the above code section.

Accordingly, we are recommending that your claim for refund be denied.

Very truly yours,

Robert H. Anderson  
Associate Tax Counsel

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**STATE BOARD OF EQUALIZATION**

July 17, 1964

“M”

This is with reference to your letter of July 2 regarding the application of tax on retail sales made by your assembly plants.

Reference is made to subsection (m) of Section 11713 of the Vehicle Code. This subsection was added in 1963 and made a part of Chapter 1858, Statutes of 1963. Please see page 7 of the enclosed copy.

Where a licensed California dealer makes a “courtesy delivery” pursuant to a retail sale made by your assembly plants, whether they be in-state or out-of-state assembly plants, and the vehicle is registered under the Dealer’s Report of Sale and Application for Registration of a New Vehicle, we regard him as sufficiently participating in the sale so as to come within the provisions of the above cited section. Accordingly, we will hold the dealer liable for sales tax on the transaction.

If you have any further questions on this, please feel free to write us.

Very truly yours,

Robert H. Anderson  
Associate Tax Counsel

RHA:dse [1b]