

**STATE BOARD OF EQUALIZATION**

450 N STREET, SACRAMENTO, CALIFORNIA  
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)  
(916)920-6563

WILLIAM M. BENNETT  
First District

BRAD SHERMAN  
Second District, Los Angeles

ERNEST J. DRONENBURG, JR.  
Third District, San Diego

MATTHEW K. FONG  
Fourth District, Los Angeles

GRAY DAVIS  
*Controller, Sacramento*

BURTON W. OLIVER  
*Executive Director*

August 19, 1992

Re: Sales and Re-Purchase of Shuttle Van

Dear \_\_\_\_\_,

This letter is in response to your letter dated June 25, 1992 inquiring as to \_\_\_\_\_ liability for state sales tax in the re-purchase of a shuttle van. You state in your letter that \_\_\_\_\_ entered into a contract with \_\_\_\_\_ by which \_\_\_\_\_ subcontracted shuttle service (which it had previously operated) to \_\_\_\_\_. \_\_\_\_\_ permitted \_\_\_\_\_ to purchase one of its shuttle vans for use in the shuttle operation. You also state that, as part of the contractual agreement, \_\_\_\_\_ assumed insurance liability for the shuttle operation so it was necessary for \_\_\_\_\_ to acquire ownership of the vehicle. You further state that \_\_\_\_\_ has decided not to renew its agreement with \_\_\_\_\_ and it will be necessary for \_\_\_\_\_ to re-purchase the shuttle van from \_\_\_\_\_.

In California, a sales tax is imposed upon all retailers on the gross receipts from the sale at retail of tangible personal property. (Rev. & Tax. Code § 6051.) A "retail sale" or "sale at retail" is defined as a sale for any purpose other than resale in the regular course of business in the form of tangible personal property. (Rev. & Tax. Code § 6007.) "Sale" is defined as any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. (Rev. & Tax. Code § 6006.) Every person making any retail sale ... of a vehicle required to be registered under the Vehicle Code ... is a retailer for the purposes of this part ... regardless of whether he or she is a retailer by reason of other provisions of this part ..." (Rev. & Tax. Code § 6275.)

Since there are no statutory exemptions applicable to this particular situation which would treat the same and re-purchase of the shuttle van as a tax-exempt transaction, it is our opinion that \_\_\_\_\_ was subject to state tax in its sale of the vehicle to \_\_\_\_\_ and \_\_\_\_\_ will be subject to state tax when \_\_\_\_\_ re-purchases the vehicle unless \_\_\_\_\_ is licensed or certificated pursuant to the Health and Safety Code or the Vehicle Code as a dealer or lessor-retailer, subject to section 11615.5 of the Vehicle Code, in which case \_\_\_\_\_ will be

responsible for the payment of use tax on the re-purchase. In each case, sales tax reimbursement may be collected from the purchaser pursuant to an agreement between the parties.

Very truly yours,

Thomas J. Cooke  
Tax Counsel

TJC:wk