



STATE BOARD OF EQUALIZATION

February 3, 1970

Dear Mr. _____

Mr. John Quick referred your letter of January 23, 1970 to the undersigned for reply.

You purchased an automobile from a private party for \$4,000 and paid \$200 use tax upon registration. After you had used the vehicle for nine months, you were contacted by the F.B.I. who informed you the auto was stolen and confiscated it. You ask whether you are entitled to a refund of the \$200 use tax paid.

Section 6201 of the Revenue and Taxation Code imposes an excise tax on the use of tangible personal property purchased for use in this state. Section 6010 defines "purchase" to include "(a) 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. 'Transfer of possession', includes only transactions found by the Board to be in lieu of a transfer of title, exchange, or barter."

The type of transfer involved in your case is not the type usually found by the Board to be in lieu of a transfer of title. In my opinion, therefore, your purchase of a vehicle from a seller who did not hold title, where possession was subsequently reclaimed by the rightful owner, is not subject to use tax; and you are entitled to a refund of the amount paid.

I will treat your letter as a claim for refund and forward it to our petition and refund unit for processing. The refund, however, will have to be made in the corporate name as that is the person paying the tax.

Very truly yours,

Lawrence A. Augusta
Assistant Counsel

LAA:ph [lb]