

M e m o r a n d u m**585.0480****To** : Mr. Harry L. Say**Date** : December 20, 1963**From** : R. H. Anderson**Subject** : Antique Vehicles (Horseless Carriages)

A question has been raised regarding the application of tax on retail sales of "horseless carriages" licensed under the Vehicle Code, specifically, whether use tax applies under the provisions of Chapter 1858, Statutes of 1963, when the vehicle is registered pursuant to a retail sale.

The application of use tax on motor vehicles sold at retail by persons who are neither dealers nor wreckers (dismantlers) licensed under the Vehicle Code applied only to motor vehicles subject to registration under the code. Section 6389 of the Revenue and Taxation Code exempts from the computation of the amount of sales tax the gross receipts from sales of motor vehicles subject to registration under the Vehicle Code when the retailer is not a licensed dealer or wrecker (dismantler). The exemption does not apply to gross receipts of a motor vehicle whenever the purchaser is not required to register the motor vehicle under the Vehicle Code.

The question regarding retail sales of "horseless carriages" then turns on whether they are required to be registered within the meaning of registering motor vehicles under the code.

Section 5004 of the Vehicle Code, "Vehicles of Historic Value," provides for the issuance of "special identification plates" for motor vehicles manufactured in the year 1922 and prior thereto that are operated or moved over the highway primarily for the purpose of historical exhibition or other similar purpose. The special identification plates are issued in lieu of regular license plates.

No pink slip is issued on "horseless carriages." Instead, an identification tag is issued, and the special plates are transferable.

It should be kept in mind that the licensing of a motor vehicle manufactured in 1922 or prior thereto as a "horseless carriage" is optional with the licensee. It may, at the owner's option, be registered with regular license plates.

Section 4018 of the Vehicle Code, "Special Identification Plates," provides that vehicles which are issued special identification plates pursuant to section 5004 are exempt from registration.

Thus, issuance of special identification plates is not a registration. Vehicles that qualify for the special plates and are issued special plates are not subject to use tax under Chapter 1858, Statutes of 1963. Accordingly, retail sales of such vehicles are subject to sales tax unless such transactions are "occasional sales" under section 6006.5 of the revenue and Taxation Code.

RHA:cw