

M e m o r a n d u m

105.0065.500

To : Mr. Philip Spielman
Supervisor, Petitions Section

Date: December 2, 1997

From : Pat Hart Jorgensen
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Subject: Component Parts of Aircraft
S---, Inc.
SR -- XX-XXXXXXX-001

This is in response to your memorandum of October 21, 1997 in which you question whether cargo containers, cargo pallets, and nets qualify for the exemption provided under Revenue and Taxation Code section 6366(a)(2).

Revenue and Taxation Code section 6366 was amended by Senate Bill (SB) 38 (Stats, 1996 Ch. 954) to add subdivision (a)(2) which provides that, under specified circumstances, tangible personal property, purchased on or after October 1, 1996, which becomes a component part of aircraft used in common carriage under the authority of the laws of California, the United States or any foreign government shall be exempted from the imposition of California's sales and use taxes. This subdivision further provides that in order to qualify for this exemption, the addition of the property, as a component part of the aircraft, must be "as a result of the maintenance, repair, overhaul or improvement of the aircraft in compliance with [FAA] requirements."

On Thursday, November 20, 1997, the members of the Board authorized the publication of proposed amendments to Regulation 1593, Aircraft and Aircraft Parts, formerly captioned "Aircraft," drafted, in part, to respond to the amendments of SB 38. Of significance to your inquiry is proposed subdivision (a)(3), copy enclosed for your review. As proposed to be amended Regulation 1593 (a)(3) provides in pertinent part:

"[T]he term 'component part' means an item incorporated by securing to the aircraft for the purpose of complying with Federal Aviation Administration (FAA) requirements, or United States military equivalent, related to the maintenance, repair, overhaul, or improvement of the aircraft which is essentially associated with the functional aspects of the aircraft including those related to safety and air worthiness.

(A) Examples of property which are component parts are ... items replaced, repaired, or overhauled according to manufacturer's service bulletins; ...cargo and baggage containers which are designed to be secured, and which are secured, to the aircraft during flight."

Proposed Regulation 1593(b)(2)(B) explains that the exemption from sales tax for component aircraft parts "applies with respect to tangible personal property purchased and placed in inventory with the intent to thereafter remove the property from inventory and incorporate it as a component part of [qualifying] aircraft...provided the property is so incorporated into qualifying aircraft."

Accordingly, we believe that the sales of cargo containers are intended to qualify for this exemption, so long as they are designed to be secured and are, in fact, secured to qualifying aircraft during flight. As for the cargo pallets, if these items are used to contain the cargo during flight and are designed to be secured and, in fact, are secured to qualifying aircraft during flight, purchases of these items will be eligible for the exemption. The same analysis applies to the nets which, we assume, are used to contain cargo during flight.

PHJ/cmm

Enclosure