STATE BOARD OF EQUALIZATION

December 27, 1968

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Gentlemen:

In your letter of October 16, 1968, directed to Mr. Elliott McCarty, you requested that he compare the conclusions reached in his letters of July 31, 1967 and September 26, 1967 with the conclusion reached by Mr. E. H. Stetson in his letter of September 18, 1957, to "A". Since Mr. McCarty is no longer working in this office, your letter was assigned to me for reply.

For the sake of clarity, I have taken the liberty of setting forth below the facts as I understand them:

> A California aircraft manufacturer (Corporation) sold an airplane to a foreign common carrier based in Europe. After taking delivery of the airplane from the corporation's California place of business, the purchaser carrier flew the airplane to "A" which is located in Los Angeles. "A" is a division of "G". The plane remained in Los Angeles for a period of three to ten days during which time "A" performed certain modifications on the airplane.
>
> The common carrier purchased an Aircraft Integrated Data System (AIDS), which includes a crash recorder required by FAA regulations prior to commercial use of the airplane, from another division of "G". The aids is composed of seven black boxes which are attached to the airplane and are plugged into a wiring system. The wiring system was sold and installed into the plane of the common carrier by "A" while the plane was in Los Angeles. The airplane was new and was not put into commercial carrier service until after the wiring system was installed.

Mr. McCarty concluded under these facts that "Inasmuch as the wiring system in question was not purchased by "X" corporation (the aircraft manufacturer) for incorporation into aircraft sold to the common carrier, we are of the opinion that such property cannot be regarded as a component and integral part of aircraft sold by "X" corporation to the foreign carrier. Therefore, the sale of the subject wiring system by your corporation to the common carrier does not fall within the exemption as provided in Section 6366." (Parenthesis added)

Under similar circumstances, Mr. Stetson concluded that the sale and installation of interiors into a new plane came within the purview of Section 6366. This was based on the theory that the installation was a step in the manufacture of a completed aircraft, notwithstanding the fact that the sale and installation was not made by the aircraft manufacturer.

Since these two conclusions are at odds with one another, the determinative question is which one should be followed.

On January 11, 1968 we had occasion to reconsider the conclusions reached by Mr. Stetson and after a great deal of deliberation, we concluded that we should follow the ruling laid down in his letter. In view of this, it is our opinion that the sale and installation of the wiring system by "A" is a step in the manufacturing or completion of the airplane and is, thus, exempt from tax under Section 6366. Accordingly, Mr. McCarty's conclusions should now be disregarded.

Very truly yours,

Glenn L. Rigby
Tax Counsel

GLR: ss [lb]