



STATE BOARD OF EQUALIZATION

To : Mr. Glenn Bystrom

July 10, 1996

From : Gary Jugum

Subject : Non-Attorney Opinions

I have reviewed your memorandum of June 4, 1984 to District Administrators.

We are in agreement with his conclusion as follows:

Sales of a Vehicle With Foreign Delivery. Under a foreign auto manufacturer's Tourist Order Sales Program, the dealers act within the terms of the Tourist Order Limited Agency Appointment agreement. Accordingly, the dealers will be considered agents of the manufacturer. The manufacturer, engaged in business in this state, will be held responsible for the collection of use tax on tourist order sales.

Conversely, where the dealer acts as a principal in the transaction, as evidenced by documentation that indicate the dealer is acting as the seller as opposed to an agent of the manufacturer, such dealer will be considered the retailer liable for the collection of use tax.
6/4/84

M e m o r a n d u m**125.0050**

To: District Administrators

Date: June 4, 1984

From: Principal Tax Auditor

Subject: Sales of [X] With Foreign Delivery

Section 2205.15 of the Audit Policy and Management Guidelines discusses the application of tax to sales of foreign vehicles with foreign delivery.

Paragraphs 4 and 5 of Section 2205.15 will be revised as follows:

It has been found that in some transactions which involve [X] is the retailer for purposes of Sections 6203 and 6247 rather than the California dealer. Careful scrutiny of all aspects of the sales transaction is necessary to determine who the retailer is. Generally, under [X]'s Tourist Order Sales Program, where the dealer acts within the terms of the "Tourist Order Limited Agency Appointment" agreement, the dealer will be considered an agent for [X] and [X] will be held responsible for the collection of use tax on tourist order sales. Conversely, where the dealer acts as a principal in the transaction, as evidenced by documentation that indicates the dealer is acting as the seller as opposed to an agent of [X], such dealer will be considered the retailer liable for collection of the use tax.

This procedure for sales involving [X] is effective May 1, 1984, and [X] has been so notified of its responsibility for the collection of use tax. For periods prior to May 1, 1984, if the dealer cannot be established as a principal the details of questioned transactions should be forwarded to the Occasional Sales Unit.

These revised revised guidelines should be followed in all audits of [X].

If you have any questions, please contact the Principal Tax Auditor's office.

GAB:jb

Attachment

cc: Mr. J. D. Dotson
Mr. R. Nunes
Mr. Gary Jugum
Headquarters Audit Supervisors
Mr. P. M. Fiorino
Mr. A. L. Cade