

M e m o r a n d u m**220.0140**

To: Out-of-State - Auditing (DMA)

January 21, 1969

From: Tax Counsel (TPP:JM)

Subject: Section 6203(c) and Ruling 73(c)

This is in reply to your memo of January 9 concerning Section 6203(c) [now 6203(c)(3) DHL 3/9/99] and Ruling 73(c) of the Sales and Use Tax Law.

Your understanding for the above section and ruling is correct.

The purpose of the addition of subsection (c) to Section 6203 was to require the collection of the use tax by an out-of-state lessor on leases of tangible personal property in this state where the lessor did not otherwise qualify as “engaged in business in this state” under Section 6203(a) [now (c)(1)] or (b) [now (c)(2)].

The intent of the above section and ruling is to place the responsibility on the out-of-state lessor for collection of the use tax only with respect to leased property, physically located in this state when the lessor’s connection with this state is solely that of leasing tangible personal property. Under these circumstances, the lessor is not also required to collect the use tax on sales in interstate commerce to California customers. The mere presence of the leased property in this state does not constitute the requisite nexus with respect to the sales in interstate commerce to compel collection of use tax on such sales. To be responsible for the use tax on these sales to California customers, the lessor must be “engaged in business” under the provisions of Section 6203(a) [(c)(1)] or (b) [(c)(2)].

JM:SS [1b]