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**STATE BOARD OF EQUALIZATION**

(916) 445-8485

May 9, 1991

RE: Taxability of Inspection Fees

Dear ---:

This is in response to your letter of November 27, 1990, inquiring whether fees charged by --- to perform the U.S. Dept. of Transportation Federal Highway Administration Periodic Inspection are subject to California sales and use tax. Please be advised that we had not received your prior letter dated October 16, 1990.

Facts and Assumptions

You described the facts as follows:

The U.S. Dept. of Transportation requires an annual inspection on trailers. Pursuant to Federal Motor Carrier Safety Regulation Section 396.17, the motor carrier cannot use the trailer unless it has passed such an inspection at least once during the preceding twelve months and a copy of the inspection report is in the vehicle. --- offers this inspection to its customers in conjunction with the sale of trailers. You contend that this is an optional charge and that alternatively, the trailer can be purchased and the motor carrier or a commercial garage could do the inspection the next day. (We assume for the purposes of this opinion that the inspection occurs after the trailer is sold and that the contract documents and/or the sales literature substantiate that this is truly an optional charge.)

Sales and Use Tax - General Discussion

Except to the extent specifically excluded or exempted by statute, the California Revenue and Taxation Code imposes sales or use tax on the gross receipts from the retail sale of all tangible personal property sold or purchased for use in this state. (Sections 6051 and 6201). (All statutory citations are to the California Revenue and Taxation Code, unless otherwise noted herein.)

Services That are a Part of the Sale

Section 6012 provides in relevant part:

"Gross Receipts". (a) "Gross Receipts" mean the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise ...

(b) The total amount of the sale or lease or rental price includes ... (1) [a]ny services that are a part of the sale.

The Board of Equalization has long-taken the position that a charge for an optional inspection conducted after the sale of the item inspected is not a service that is part of the sale under Section 6012 (b)(1). Consequently, the inspection service charge should be excluded from the measure of gross receipts which are subject to California sales and use tax.

If you have any further questions, please do not hesitate to write to us again.

Cordially,

Victoria Lani Arena  
Tax Counsel

VLA:es 37971

bc: Out-of-State District Administrator