



STATE BOARD OF EQUALIZATION

June 7, 1971

Tax Coordinator – Western Area

Dear Mr.

This is in response to your letters and attached briefs of November 23, 1970 and January 20, 1971 addressed to Mr. Robert Nunes which were referred to the undersigned for reply.

In an audit of --- by the State Board of Equalization, the measure of unreported tax liability includes amounts paid under certain time charter contracts between --- --- --- and various owners of tankers. The owners involved in the contacts forwarded to us were --- --- --- Inc., and --- --- --- Inc. The tankers in question transported crude oil for --- from --- Long Beach, California. No tax was paid by --- --- --- under the time characters in question. The Board's auditor is including in his recommended assessment that portion of the monies paid to the owners of the tankers which represent payment for character time spent in California waters. --- --- --- contends that the time characters constitute the rendition of transportation services, and that no lease, rental, or hire of tangible personal property or tax liability arises.

After reviewing your briefs and conferring with the Attorney General's staff, we have concluded that the time characters of oil tankers in question represent agreements for transportation services and are not taxable as leases under the Sales and Use Tax Law.

Our conclusion in this matter is predicted on the body of maritime and admiralty law which has often discussed time characters as contracts of affreightment. We, therefore, consider our decision to have application only to time charters of vessels.

We shall communicate our decision to the audit staff so that the necessary adjustments can be made in the audit of --- --- ---.

If you have further questions on this matter, feel free to contact the undersigned.

Very truly yours,

Donald J. Hennessy
Legal Counsel

DJH:lt

Bc: Los Angeles Dist. – Dist. Admin.,
Hollywood – Subdist. Admin.,Mr. Robert Nunes
Mr. J. D. Dotson