



STATE BOARD OF EQUALIZATION

June 23, 1969

Gentlemen:

It has just come to my attention that there may be some confusion as to the proper application of tax to leases of neon signs entered into or renewed prior to August 1, 1965, and those entered into on or after that date.

To alleviate this possibility, I have taken the liberty of setting forth below the application of the tax for the period on and after August 1, 1965. We have assumed the lessor is the manufacturer of the neon sign.

Standard Form Lease Contract

A leasing company which manufactures the signs must collect use tax measured by the rental receipts from the lease. It has no option to elect to pay tax measured by the cost of the materials as it is not considered leasing the sign in --- substantially the same form as acquired. (Section 6006(g) (4).) *Note (now (g) (5))

The standard form contract providing for the lease or rental of tangible personal property and granting the lessee an option to purchase the property also results in a sale when the option is exercised. Upon the exercise of the option, the tax applies to the amount required to be paid per the contract and not upon some predetermined minimum table as before August 1, 1965.

Leases with Option to Purchase

An option permitting the lessee to obtain title for a small price no longer requires that the lease agreement be considered a sale from its inception. However, if the option price is a nominal one (often \$1), so that it clearly appears that the lessee will obtain title to the property at the end of the lease without giving the lessor anything of significant value, then the contract will be considered a sale from its inception.

*note: Superseded by Reg 1660.

Markup of Primary Materials Under Lump-Sum Monthly Service Contracts

Under optional lump-sum maintenance contracts, i.e., those contracts where the lessee is free to choose if he wishes the lessor to do the maintenance, the lessor is the consumer of the parts and materials he uses in performing the contract.

Under mandatory lump-sum maintenance contracts, i.e., the lessee as a condition of the rental must take the service contract, the total lump sum charge is regarded as part of the taxable rental receipts. The lessor can purchase the materials and parts used under such contracts for resale.

Basically, after August 1, 1965, neon lease contracts are governed by the rules laid down in ruling 70, copy enclosed. They are to be treated as any other tangible personal property.

If you have any questions on the foregoing, please let me know.

Very truly yours,

Glenn L. Rigby
Tax Counsel

GLR: kc
Enclosure