

**STATE BOARD OF EQUALIZATION**

September 22, 1966

P--- Co., Inc.
XXX --- Street
--- --- ---, CA XXXXX

Attention: Mr. -. -. P---

SR – XX XXXXXXX

Gentlemen:

This is in reply to your letters of August 5, 1966, and September 1, 1966, which have been forwarded to the undersigned for further reply to our initial letter to you dated August 12, 1966.

It is our understanding from your letters that after you lease a fork lift truck to your customer, a "side shifter" attachment is added to the truck. It is also our understanding that this addition will enable the truck to use the forks for lateral motion in loading and unloading merchandise. You indicate that the charge for the addition of the "side shifter" is between 5 per cent and 10 per cent of the original truck cost. However, after examining your original purchase order and supplemental order thereto, which relate to the subject "side shifter" addition, it would appear that the charge in that case is between 15 per cent and 20 per cent of the original cost.

Since the addition of the "side shifter" attachment to the fork lift truck adds to the truck's functional capabilities (i.e., the trucks forks can be used in an lateral motion as well as straight and backwards), it would appear that such an increase in the truck's capabilities constitutes a significant change. Moreover, the fact that it will cost the lessee substantially more to lease the truck with the "side shifters" than without them, makes it even clearer that there has been a material change in the equipment. Thus, after viewing these two features together, we are of the opinion that when your company leases a truck with a "side shifter" which it has attached, there has been a substantial change in the form of the property under lease.

Since we have concluded that the addition of the "side shifter" makes a substantial change in the form of the equipment rented and that the rental is not subject to the provisions of the grandfather clause (§ 6006.3), it is our opinion that the lease of a fork lift truck, to which your company has added a "side shifter," would be regarded as a taxable "sale" under § 6006(g) of the Sales and Use Tax Law.

P--- Co, Inc.
SR – XX XXXXXX

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On the basis of the above conclusion, the rental payments for “side shifter” trucks leased by your company to others would be required to be included in the measure of the tax due for periods in which these trucks were situated in California.

If we can be of any further assistance in this matter, please do not hesitate to call upon this office again.

Very truly yours,

E. H. Stetson
Tax Counsel

By _____
Elliott D. McCarty

EDM:em

cc: --- --- – Subdistrict Administrator