



STATE BOARD OF EQUALIZATION

March 30, 1955

Attention: Mr. X-----

Gentlemen:

This is in reply to your letter of February 28 f(J which you inquire concerning the sales tax with respect to trucks sold by X----- to an out-of-state dealer for resale whose driver drives the truck from the X----- plant at to the dealer's place of business outside this state with no aid by any employee or representative of the ultimate consumer. We agree that under these circumstances, X----- does not incur tax liability under the second paragraph of Section 6007.

You inquire whether there would be any different tax consequence if the ultimate consumer reimburses the out-of-state dealer for fuel and other operating expenses including wages, meals and hotel accommodation of the driver. We do not believe that such reimbursement would have any tax consequence, it being understood that the ultimate consumer does no more than make reimbursement for these expenses and does not exercise direction or control over the driver in the operation and delivery of the truck to the dealer, the driver being in no sense the consumer's agent.

You also inquire whether there would be any tax liability accruing to X----- if the truck purchased by the out-of-state dealer and driven by the driver from the factory to his place of business contains a load or partial load of parts which the dealer has purchased from for use or resale at his out-of-state place of business. We do not believe that this condition subjects X----- to payment of the sales tax with respect either to the truck or those parts purchased by the out-of-state dealer for resale.

As you point out, there would appear to be no question as to any use having been made of the parts prior to the time they are delivered to the dealer outside this State. There might be more basis for such a question in the case of the trucks, but we do not believe that it would be a sound conclusion to regard the trucks as having been purchased for a purpose other than resale merely because while being driven from the factory to the dealer's place of business, they contain parts also purchased for resale; some of which parts, may be consumed by the dealer. The truck must make the trip in order for delivery

to be effective. We do not believe that its incidental use as a carrier of parts should destroy its status as an article being purchased for the purpose of resale.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:djr

cc: X----- Auditing