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Memorandum

To: Mr. Gary J. Jugum
Assistant Chief Counsel

Date: March 11, 1992

From: Elizabeth Abreu
Tax Counsel

Subject: Sales of Used Cars by GSA

You have asked me to review the first paragraph on page 22 of pamphlet No. 23, "Occasional Sales of Vehicles, Vessels, and Aircraft." This paragraph is based upon Revenue and Taxation Code section 6402 which exempts from use tax purchases of property from any unincorporated agency or instrumentality of the United States except property reported to the Surplus Property Board of the United States, or to any agency succeeding to the functions of that board, as surplus property by any owning agency. "Surplus property," which is now defined in 40 U.S.C. section 472(g) of the Federal Property and Administrative Services Act of 1949, means any excess property required for the needs and the discharge of the responsibilities of all Federal agencies, as determined by the General Services Administration (GSA).

Under 40 U.S.C. § 484(c) any executive agency authorized by GSA to dispose of surplus property may do so by sale, exchange, lease, permit, or transfer upon such terms as GSA deems proper. 40 U.S.C. § 481(c) provides that in acquiring personal property, any executive agency, pursuant to certain regulations, may exchange or sell similar items and may apply the exchange allowance or proceeds of sale in such cases in whole or in part payment for the property acquired. It is the position of the Board, as set forth in Pamphlet No. 23, that property purchased from GSA under 40 U.S.C. § 484(c) is subject to use tax property purchased under 40 U.S.C. § 481(c) is exempt.

Recently, the Department of Finance informed you that someone had complained that persons purchasing motor vehicles from GSA are not being charged use tax when they register the vehicles with the Department of Motor Vehicles. It appears to us that sales to the public of vehicles from the Federal motor vehicle pools are sold pursuant to 40 U.S.C. § 484(c) and are therefore subject to use tax. Oveta Riffle is going to check with DMV to see if they are registering such vehicle ex tax even though the owner does not present a BT-111. If the problem is not with the DMV, I recommend that the Board determine if the districts are issuing BT-111's to persons who have purchased vehicles from GSA pursuant to 40 U.S.C § 484(c).

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