

M e m o r a n d u m

580.0008

To: Mr. Vic Anderson, Supervisor
Petitions Section (MIC:38)

Date: October 21, 1996

From: Charlotte Chyr
Tax Counsel

Subject: _____

This is in response to your August 12, 1996 memorandum to Assistant Chief Counsel Gary Jugum regarding the application of use tax and statute of limitations where the Department of Motor Vehicles ("DMV") issues apportioned registration to a purchaser. Specifically, you request clarification as to whether an application for apportioned registration with the DMV is considered the filing of a return, thereby relieving the purchaser of the obligation to file a return with the Board of Equalization ("Board") under Revenue & Taxation Code section 6292(c). You also ask whether the filing of an application for apportioned registration with the DMV triggers the three year statute of limitations under Revenue & Taxation Code section 6487(a).

A person purchasing tangible personal property for use, storage or consumption is liable for use tax and must file a use tax return, unless the purchaser has paid the use tax due to a retailer required to collect the tax. (Rev. & Tax. Code § 6452(b)(1).) The return must show the amount of the taxes for the period covered by the return. (Rev. & Tax. Code § 6453.) Purchasers of vehicles the sales of which are exempt from sales tax must pay use tax to the DMV (acting for and on behalf of the Board) at the time of making application for registration, unless the purchaser establishes that the use tax is inapplicable or furnishes to the DMV a use tax exemption or tax clearance certificate issued by the Board. (Rev. & Tax. Code § 6292(a); Reg. 1610(c)(1).) Application for registration to the DMV by the purchaser relieves the purchaser of the obligation to file a return with the Board. (Rev. & Tax. Code § 6292(c).) If the purchaser does not pay the amount of use tax due, interest and penalties apply with respect to the unpaid amount. (Rev. & Tax. Code § 6292(d).)

We do not believe that an application for apportioned registration is an application for registration for purposes of Revenue & Taxation Code section 6292(c). Therefore, a purchaser is not relieved from the obligation to file a return where the purchaser makes an application for apportioned registration to the DMV. The DMV manual on apportioned registration and DMV applications for apportioned registration do not request the necessary information to calculate use tax upon an application for apportioned registration. (See DMV manual and applications attached.) In other words, the DMV application for apportioned registration does not request the necessary information to constitute a use tax return. As a practical matter, DMV does not collect use tax, or require a registrant to furnish a use tax exemption or tax clearance certificate, upon an application for apportioned registration. Thus, the filing of an application for apportioned registration (where

use tax is not collected) cannot relieve a purchaser from the obligation of filing a return, and cannot thereby trigger the three year statute of limitations under Revenue & Taxation Code section 6487(a).

If you have further questions, feel free to write again.

CC:cl

Attachments