

M e m o r a n d u m

585.0006

To: Ms. Oveta L. Riffle, Supervisor
Consumer Use Tax Section – MIC:37

Date: November 8, 1995

From: Ronald L. Dick
Supervising Staff Counsel

Subject: Tax Due Date for Aircraft and U.S. Coast Guard Documented Vessels

This is in reply to your August 30, 1995 memorandum regarding Sales and Use Tax Regulation 1610, Vehicles, Vessels, and Aircraft, subdivision (c)(2) which provides, in relevant part:

"A purchaser who does not hold a seller's permit, or to whom a consumer's use tax number has not been assigned, shall make a return and pay use tax, measured by the sales price of the vessel or aircraft, on or before the last day of the calendar month next succeeding the month in which a return form is mailed to the purchaser, or the last day of the twelfth month following the month during which the vessel or aircraft was purchased, whichever period expires the earlier."

Given this information, you posed the following two situations:

"Situation 1:

"The taxpayer purchases an aircraft on June 19, 1987, a return form has not been mailed to the taxpayer. Based upon the Consumer Use Tax Section's interpretation, the due date would be June 30, 1988. This is the last day of twelfth month which follows the purchase month.

"However, the Petition Section's interpretation is that the due date would be July 31, 1988, which is the last day of the twelfth month from the month that follows the month of purchase.

"Question: Which interpretation is correct?"

We agree with the interpretation by the Consumer Use Tax Section that the due date is June 30, 1988. The month of purchase is June 1987. The last day of the first month following the month during which the vessel or aircraft was purchased would be July 31, 1987. The last day of the twelfth month following the month during which the vessel or aircraft was purchased is June 30, 1988.

"Situation 2:

"The taxpayer purchases an aircraft on January 19, 1987, a return form has not been mailed to the taxpayer, but the taxpayer voluntarily goes into the district office and files a return with payment of the tax on April 15, 1987. The Consumer Use Tax Section establishes the due date on voluntary payments as the last day of" the month following the month of payment. In this case, the due date would be set as May 30, 1987. As long as the full tax payment has been received with the voluntary return and it falls within the twelve month period, it is considered timely. However, if the voluntary return was a no remittance or a partial remittance, penalty and interest applies to the tax if not received by May 30, 1987.

"Question: Has the Consumer Use Tax Section applied the correct due date in the above situation?"

Since the Board has not mailed a return form to the purchaser, we believe the applicable due date under Regulation 1610 would be January 31, 1988. Based on the facts of the situation you posed, we believe that, if the voluntary return had no remittance, or a partial remittance, or if for any other reason the Board is not satisfied with the return, staff should write to the taxpayer and enclose a return form. The tax due date would then be "the last day of the calendar month next succeeding the month in which (the) return form is mailed to the purchaser" under Regulation 1610. For example, if the staff had sent a letter and tax return form on May 15, 1987, the tax due date would be June 30, 1987.

We hope this answers your questions; however, if you need further information, feel free to contact me directly.

RLD:sr

cc: Ms. Pat Hart - MIC:82