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**STATE BOARD OF EQUALIZATION**

(916) 322-3684

February 21, 1986

Your letter of October 22, 1985 has been referred to me for a response. We apologize for the extended delay in our response. You write:

“How would I handle the State Sales Tax on the following situation? If I traded a five acre piece of California land worth approximately \$8000.00 for a Toyota pickup truck. Let us assume the truck is work \$7,000 avg. retail or \$5,000.00 wholesale bluebook.”

Except where the sales are specifically exempted by statute, sales tax is imposed on retailers for the privilege of selling tangible personal property at retail in this state (Rev. & Tax. Code §6051). In pertinent part, a “sale” is defined to mean and include “any...exchange...of tangible personal property for a consideration” (Rev. & Tax. Code §6006(a)).

The use tax is imposed upon the storage, use or other consumption in this state of tangible personal property purchased from a retailer unless specifically exempted by statute (Rev. & Tax. Code §6201). In pertinent part, a “purchase” is defined to mean and include “any...exchange...of tangible personal property for a consideration” (Rev. & Tax Code §6010(a)).

We have determined that the measure of “consideration” for the “sale” or “purchase” is the property received (for sales tax) or the property paid (for use tax) at the time of sale and delivery of the taxable property sold (sales tax) or purchased (use tax).

Applying the foregoing criteria to the transaction described in your letter, if you buy the truck from a licensed automobile dealer, then the sales tax in the applicable tax and the measure of the tax is based on the property received by the dealer (the five acre piece of California land worth approximately \$8000). The sale tax is remitted to the Board by the automobile dealer.

On the other hand, if you buy the truck from a private part, then the use tax is the applicable tax. The measure of the tax is based upon the property you paid for the truck (the five acre piece of California land worth approximately \$8000) and the payment of the tax is made by you, the purchaser, when you register the truck with the Department of Motor Vehicles (DMV) pursuant to the provisions of Sales and Use Tax Regulation 1610 (copy enclosed).

We note, however, that if you pay use tax to DMV based upon the vehicle license fees imposed on the truck by DMV, in your case, you will have underpaid the use tax owed by the difference between the purchase price of the truck (\$8000) and the amount of the truck’s vehicle license fees (approximately \$7000) as assessed by DMV. Under these circumstances, you

should write the nearest Board of Equalization district office and remit the difference (\$65, at 6½% tax rate in Los Angeles County) between the amount of use tax already paid to DMV and the correct amount of use tax owed based upon the \$8000 purchase price. Otherwise, the Board's Occasional Sales Use Tax Unit (whose responsibility it is to review transactions where the use tax has been collected for the Board by DMV) will contact you in the future in order to collect the proper amount of use tax owed.

We hope the above discussion answers your questions. For your review and reference, we have enclosed a copy of Regulation 1610 (Vehicles, Vessels, and Aircraft). If you have any further questions concerning this topic, please do not hesitate to contact this office.

Very truly yours,

Robert J. Stipe  
Tax Counsel

RJS:sr