



STATE BOARD OF EQUALIZATION

August 22, 1967

Gentlemen:

This is with reference to your letter of August 10 addressed to our Long Beach office.

Your inquiry related to the application of tax on the acquisition of the liner A..

We understand that title to and delivery of the ship will be in Long Beach.

The transaction, in our opinion, would not qualify as an occasional sale.

Section 6273 of the Sales and Use Tax Law contains the definition of a "vessel" for purposes of the application of use tax on sales of vessels.

The A falls within the definition. Under Section 6275 the "C" would be a retailer of the vessel.

Section 6367 specifically excludes the retail sale of a vessel from being an exempt occasional sale. In other words, there is no occasional sale exemption on the retail sale of any boat, ship, barge, craft or floating thing that meets the definition of a vessel.

The fact that the vessel is going to be used by the purchaser as a tourist attraction would preclude finding the purchase to be exempt under the watercraft exemption in Section 6368. The use to be made by the purchaser, and not the seller, is controlling.

The sale of the tangible personal property which is not a part of the ship itself, such as bedding, linens, tableware, may be exempt as an occasional sale under Section 6006.5(a). There may be some items of tangible personal property held and used in an activity which would require a seller's permit if that activity were conducted in California. The sale of these items would be subject to sales tax. For example, the glassware used in the sale of cocktails. However, since the city is taking title to the ship and its contents there, the tax liability, if any, would be on the seller and not on the purchaser.

Summarily, the use of the vessel is subject to use tax under Section 6401, and the purchaser is liable for that tax under Section 6291. The sale of the vessel is exempt from sales tax under Section 6283.

Offhand, it would appear that the value of the tangible personal property that is not a part of the ship would be small compared to the sales price of the vessel.

Very truly yours,

Robert H. Anderson
Tax Counsel