

600.0105



STATE OF CALIFORNIA

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February 17, 1993

BURTON W. OLIVER
Executive Director

[Redacted address block]

Long Beach, CA 90831-1600

Re: Tax Applicability of Derrick Barge

Dear Mr. [Redacted]:

Gary Jugum has requested that I respond to your letter to him dated December 28, 1992 concerning the above subject.

In your letter, you request an informal (non-binding) ruling of the interpretation of certain statutes and regulations. Since you have not identified the taxpayers by name, the written opinion requested is not subject to the provisions of California Revenue and Taxation Code section 6596.

You state that a derrick barge has been purchased outside the state of California. The derrick barge will be renovated and repainted, and then placed in service quarrying rock and building breakwaters in Southern California. You state that all use of the derrick barge will be either for ships engaged exclusively in interstate and foreign commerce or in the maintenance and construction of port facilities used exclusively for ships engaged in interstate and foreign commerce. You ask: 1) if a use tax exemption is available in connection with the use of the derrick barge based upon its use in interstate and foreign commerce, and 2) if such an exemption is available, does the exemption extend to the purchase of materials and supplies used in the renovation, repair and maintenance of the derrick barge?

California Sales Tax Regulation 1594(a)(1) states, in part:

"Tax does not apply if the watercraft for which the exemption is claimed is used either exclusively in interstate or foreign commerce involving the transportation of persons or property for hire or both

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in interstate or foreign commerce and in intrastate commerce provided the principal use of the watercraft is transportation for hire in interstate or foreign commerce." (Emphasis added.)

In your letter, you stated that the derrick will also be used for "ship lift". By this term, it is assumed that the derrick will transport ships (used exclusively in interstate and foreign commerce) for short distances, e.g. in and out of dry dock.

Although the anticipated use of the barge may have an effect on shipping used exclusively in interstate and foreign commerce, the barge itself will be permanently located in Southern California and will not involve the transportation of persons or property for hire in interstate or foreign commerce. It is our opinion that there is no interstate or foreign commerce exemption applicable either to the use of the barge or to the purchase of materials to renovate or maintain it.

We believe that the limited exemption contained in Regulation 1594 for tugs which assist the departure or arrival of vessels to or from points outside the state cannot be expanded to provide an exemption for derrick barges that perform none of the functions associated with tug boats. If the regulation had intended to include other vessels in the limited exemption that it provided to tug boats, it is our opinion that the regulation would have so stated.

Very truly yours,

Thomas J. Cooke
Tax Counsel

TJC:sr