



STATE BOARD OF EQUALIZATION

February 17, 1959

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Re: -----

Dear Mr.:

You will recall that during the preliminary hearing held on February 11, 1959, you were informed your client's use of two busses purchased by him in Michigan did not fall within the local use tax exemption provided for public utilities in common carriers since the property was not used exclusively in common-carrier operations.

Upon my return to Sacramento, I discussed sales and use tax Ruling 2205 with Mr. E. H. Stetson, Tax Counsel, and Mr. Bill Holden, and was informed that, since the ruling requires exclusive exempt type use, we are without authority to recommend deletion of the two busses from the measure of tax.

It was determined, however, that the requirement of exclusive common-carrier use for an indefinite period places an undue hardship on persons in the common-carrier business, and that the ruling should, therefore, be interpreted to require exclusive common-carrier usage for the first six months following the purchase of the property. I think you will agree that this is a reasonable test period.

Since it was brought out at the hearing that the equipment in question was not used in charter service within ninety days after its purchase, we do not feel that we can recommend that your petition can be granted. Along with our recommendation that the petition be denied, we are reserving for your client a Board hearing as per your request. If you no longer desire said hearing, please complete the enclosed Waiver of Board Hearing form and return it to this office.

Very truly yours,

J. J. Delaney  
Assistant Counsel

JJD:o'b  
Enc.

cc: Oakland -- Auditing