



STATE BOARD OF EQUALIZATION

February 17, 1959

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

M e m o r a n d u m**715.0040****To** : Mr. Donald J. Hennessy**Date** : October 25, 1989**From** : John Abbott**Subject** : Annotations – Bradley-Burns and district tax exemptions
for public utilities

In your August 3, 1989 memo to me, you write that Mr. Alan Widmeyer of the Ventura District office suggests deleting or modifying certain 715 series annotations because the public utilities exemptions from Bradley-Burns and district taxes have long since been repealed. You ask for my recommendations.

I agree with Mr. Widmeyer that there are a number of annotations which should be deleted or modified as a result of the repeal of the public utilities exemptions. I suggest we delete the following annotations in their entirety:

715.0020	(3/21/67)
715.0060	(9/27/65)
715.0100	(10/2/56)
715.0240	(9/2/66)
715.0280	(4/20/65)
715.0300	(6/16/66)
715.0320	(8/9/66)
715.0340	(4/1/58)
715.0380	(3/30/67)
715.0400	(12/8/64; 5/31/67)
715.0420	(8/3/64)
715.0440	(10/17/56)

In addition, there are five annotations which should be modified. I have set out below my suggested changes.

715.0040 Exclusive Use -- General. The requirement that the property shall be used "exclusively" in common carrier operations will be considered satisfied if the property is so used for at least six months after use commences. 2/17/59; [date].

715.0120 Leases. The exemption requirements are not met if the exempt property is leased to someone by the purchasing carrier. It is immaterial that the property may be used by the lessee in operations which fall within the scope of Regulation 1805. The exemption controlling factor is that the carrier did not use the property in its own operations as such and thus, did not meet the requirements of the regulation. 2/28/67; [date].

715.0140 Sales by Carriers and Vessels. Sales of personal property by common carriers and waterborne vessels are not exempt from local sales and use taxes. The taxability of such sales is unaffected by the exemptions applicable under certain conditions with respect to sales to such carriers and vessels. 4/3/56; [date].

715.0260 Forms -- Office Machines. Freight billing forms are "office or shop equipment or supplies," which under Regulation 1805 do not qualify for the common carrier local tax exemption. 1/14/66; [date].

715.0455 Cargo Containers. Cargo containers purchased and use for transportation of cargo on trucks of rail cars to the shipping company, then loaded onto waterborne vessels and carried to another state or foreign port are not exempt from tax under the waterborne vessel exemption operative January 1, 1974. Such cargo containers are not exclusively used in the operation of the vessel. 3/22/74; 7/10/74; [date].

JA:jb

John Abbott