

(335,0016, 190

(916) 323-7712

March 6, 1985

[REDACTED]

Your letter of January 4, 1985 has been referred to me for response. You request our opinion as to whether the following described assets are "Mobile Transportation Equipment" as defined in Revenue and Taxation Section 6023 and Regulation 1661.

"The first type of assets are tour boat class vessels. These range in size from 65 to 135 feet in length. They are operated in Northern and Southern California and engaged in ferry activities from San Francisco to Tiburon and Sausalito, Bay excursions, Summer trips to Sacramento, and year round runs to Catalina Island. The majority of the vessels are capable of handling the entire complement of activities and are commonly inter-changed.

"The second group of assets are derrick barges. These range in size from 115 to 250 feet in length. They are operated in Northern and Southern California and are used in construction of wharves and piers, building of breakwaters, dredging of harbors and heavy lift loading and unloading of vessels."

R & T Code, Section 6023 provides, in pertinent part: "Mobile transportation equipment includes equipment such as railroad cars and locomotives, buses, trucks (except "one-way rental trucks"), truck tractors, truck trailers, dollies, bogies, chassis, reusable cargo shipping containers, aircraft and ships" (emphasis added.)

Regulation 1661 (enclosed), in interpreting R & T Code Section 6023, provides, in pertinent part:

"(b) (1) The term "mobile transportation equipment" includes only equipment for use in transporting persons or property for substantial distances. The term does not include items of a kind commonly used only in loading

29

March 6, 1985

or unloading persons or property, or short distance moving within the confines of a limited area, such as a loading dock, warehouse, terminal, bay or airport. Examples of such items are hand dollies, forklift trucks, mine cars, pilot boats, tugboats and lighters, not including, however, lighters or barges specifically designed to be carried regularly aboard vessels for substantial distances. The term does include pickup trucks and tangible personal property which is or becomes a component part of mobile transportation equipment."

"(5) The term "ships" includes vessels 30 feet or more in length. The term does not include vessels less than 30 feet in length."

The tour boats you describe are vessels in excess of 30 feet and, therefore, are "ships" for purposes of R & T Code, Section 6023; the vessels are used for transporting persons for substantial distances. These tour boats are mobile transportation equipment.

The status of the derrick barges you describe is not as clear. The barges are in excess of 30 feet and, therefore, are "ships" for purposes of R & T Code, Section 6023. However, the barges are not mobile transportation equipment unless they transport persons or property for "substantial" distances.

We have previously taken the position, at Business Taxes Law Guide Annotation 335.0048, that mobile cranes are mobile transportation equipment. The mobile cranes discussed in Anno. 335.0048 were trucks which carried rigs attached to the truck chassis and body. You describe the derrick barges as being "used in construction of wharves and piers, building of breakwaters, dredging of harbors and", in analogy to mobile cranes, "heavy load lifting...." If, as seems likely, the barges are moved from job site to job site, carrying equipment, they are being moved substantial distances and are mobile transportation equipment.

If we may be of further assistance please write this office.

Sincerely,

James A. Davis
Tax Counsel

JAD:mw

Enclosure

bcc: Mr. Donald Hennessy