

June 21, 1966

1512.35 Air Charter Service, Interstate and Foreign Commerce. An air carrier (other than a supplemental air carrier) holding a certificate of public convenience and necessity may perform charter trips as a common carrier without regard to the points named in its certificate under regulations prescribed by the Civil Aeronautics Board: (Title 14, Code of Federal Regulations, Part 207.) Thus, sales to such carriers may be exempt from sales tax under §6385 even though the shipment from California is not between points named in the certificate of public convenience and necessity, provided, the shipment is between points where charter service is authorized. 6/21/66.

Indefinite

Attention:

Gentlemen:

We have reviewed the material presented in your letter of March 18, 1966. On the basis of this information supplemented by our own research, it appears that Inc., as an air carrier engaged in air transportation and holder of a certificate of public convenience and necessity under § 401 of the Federal Aviation Act of 1958 (49 U.S.C.A. § 1371), is authorized by that section to perform charter trips without regard to points named in its certificate or the type of services provided therein under regulations prescribed by the Civil Aeronautics Board.

We now are prepared to accept the proposition that charter service performed by a holder of a certificate of public convenience and necessity may be common carriages when such service is performed in accordance with 14 C.F.R., Part 207. Thus, in transporting property under charter arrangements may be acting as a common carrier.

Title 14, Part 207, of the Code of Federal Regulations contains the regulations adopted by the Civil Aeronautics Board relating to charter trips and special services. Section 207.3 provides that:

"Charter trips and other special services may be performed by air carriers, subject, however, to the limitations and regulations set forth in the part."

Section 207.4 provides in part:

"No air carrier shall perform any charter trips or other special services unless such air carrier

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shall have on file with the Board a currently effective tariff showing all rates, fares, and charges for such charter trips and other special services, and showing the rules, regulations, practices, and services in connection with such transportation."

Sections 207.5 and 207.7 set forth certain limitations on the amount of charter services which may be performed by an air carrier.

You have previously presented us with information showing that the frequency of the flights by _____ n would not violate 14 C.F.R., §§ 207.5 and 207.7. We are writing to Civil Aeronautics Board to ascertain whether _____ n had on file tariffs required by § 207.4 covering the period that the seats were transported from Long Beach to Miami. When we hear from the Civil Aeronautics Board, we shall advise you whether we can consider the sale of the seats to be exempt from sales tax by reason of § 6385 of the Revenue and Taxation Code.

Very truly yours,

John H. Murray
Associate Tax Counsel

JHM:md

cc:

Attention: Mr.
cc: West Los Angeles - Subdistrict Administrator
Los Angeles District - District Administrator

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