

570.0000 USE OF PROPERTY IN STATE AND USE TAX GENERALLY

Payment and collection of use tax, see also “Engaged in Business”; Collection of Use Tax by Retailers; Payment of Tax by Purchasers; Receipts for Tax Paid to Retailers; Information Returns. See also Construction Contractors; Containers and Labels; Demonstration, Display and Use of Property Held for Resale; Gifts, Marketing Aids, Premiums and Prizes; Interstate and Foreign Commerce; Motion Pictures; Occasional Sales—Sale of a Business—Business Reorganization; Packers, Loaders, and Shippers; Property Used in Manufacturing; Resale Certificates; Sale; “Tax-Paid Purchases Resold”; and Vehicles.

(a) IN GENERAL

570.0022 Billing Insert Purchased Out of State. A printer in Oregon prints billing inserts for a telephone company in California. The inserts are sent to a billing service in California who acts as a billing vendor for the telephone company. The inserts are placed into customers’ invoices which are subsequently mailed into Oregon and Washington.

Since the billing inserts are being consumed or used by the telephone company in California, the purchase of the inserts is subject to tax. 1/30/92.

570.0035 Catalogues Distributed Door to Door . A taxpayer operates a chain of stores in California and also maintains its business office in California. Catalogues for its stores are printed by an out-of-state printer and the catalogues are distributed door to door to California donee-recipients by independent delivery companies hired by taxpayer. The taxpayer allows the delivery companies to arrange with the printer for deliveries via contract or common carriers to warehouses, designated by the delivery companies, from which door to door deliveries are made. The catalogues owned by the taxpayer are shipped bulk and are not pre-addressed to the California donee-recipients. The independent delivery companies are agents of taxpayer. Title to these catalogues is still vested in taxpayer while they are located at the various California warehouses.

Section 6009 provides that “use” includes the exercise of any right or power over tangible personal property incident to ownership of the property. Thus, the transfer of title to the catalogues in California by taxpayer to the donee-recipients constitute such a “use.”

In addition, the imposition of the tax upon this use of the catalogues after it has been brought into the state does not violate the Commerce Clause of the United States Constitution. Title to the catalogues was vested in taxpayer while they were located at the warehouses, at which point the interstate commerce portion of the transactions ended. Following the interstate shipment the taxpayer, through its agents, then performs the local intrastate act of transferring title to the donees. 9/10/85.

(Note: Subsequent statutory change re printed sales message.)

570.0037 Charitable Donations. Company A, a wholly owned subsidiary of out-of-state company B, operates a warehouse in California that is the center for the receipt of goods purchased from out-of-state companies. Company A mails numerous charitable donations to tax exempt organizations throughout the United States. Company A estimates 80% of the donations are made to entities located outside California. All donated goods, prior to shipment, either have been stored at the California facility or have been shipped to the California facility from the Seattle, Los Angeles, or Denver sub distribution centers of Company B for reshipment to the charitable recipients. The donees generally contact a common carrier and refer it to Company A to arrange for shipment. In other instances, the donees pick up the goods at Company A’s California facility or Company A’s employees will deliver the goods from the California facility to the donee. Some of the goods are shipped to Indian tribes both inside and outside California.

Company A delivers its gifts to the donees and/or their agents (the common carriers) within this state. At the time the property is transported, Company A no longer has any right, title, or interest in the property. Company A often ships out-of-state inventory into California, not for purposes of resale, but specifically to facilitate making its donation from one place in one load. The storage of the merchandise for donation is storage for a purpose other than “subsequently transporting it outside the state for use thereafter solely

outside the state'' by the purchasers. Instead, it is a taxable use inside this state by company A. The donations are complete at the time the items are loaded onto the common carriers and/or personal conveyances of the donee. Since there is a transfer of title and actual delivery in this state, the local act or taxable event occurs at the point of delivery to the donee or its agent.

The fact that some of the merchandise is shipped to Indian tribes does not affect the application of the use tax. Company A's reliance on Regulation 1616 is misplaced since the transactions under consideration involve gifts to Indians not sales to Indians or a use of property sold to Indians. 4/23/92.

570.0038 Church Directories. Company A is engaged in the sales of portraits, slides, prints, and directories. It sells primarily to members of various religious organizations.

Company A agrees to take portrait photos of members of the organization who are willing to sit for a photo session. It produces a directory of the organization which contains the members' photos together with their names, addresses, telephone numbers, and other information. A copy is given, without charge, to each member who sat for a photo. A copy is also given to the organization. Additional copies are sold to members of the organization or others.

The organization contends that it does not owe use tax on the copies given away because (1) the directories given away are premiums under Regulation 1671, or (2) the directories are exempt "works of art" under section 6365, or (3) the directories are not subject to tax because the cost is built into the marked up price of the directories which are sold.

The contention that the directories given away are premiums under Regulation 1671 is without merit. Regulation 1671 covers trading stamps and related promotional plans which are characterized by the use of indicia furnished based on the amount of purchases. Here, there is no such plan.

The directory is not a "work of art" as contemplated in section 6365.

As a matter of practical economics, all promotional and overhead costs are included in the selling price of goods sold. The fact that tax is paid on the sales price of goods sold does not negate the application of use tax on goods purchased to promote sales. 7/21/83.

570.0070 Credit Card Issuers Retain Title of Their Credit Cards. Most credit card issuers retain title to the cards by a specific statement on the back, thereby incurring use tax liability on those cards purchased outside California and issued to recipients in California. (See Annotation 570.0080.) Some credit cards do not contain such a specific statement. The statement on the card may give the issuer the right to withdraw credit privileges and demand the return of the card; or may require the customer to agree to surrender the card on demand; or may give the issuer the right to demand the surrender of the card. In each case, the wording gives the issuer sufficient control over the cards to be considered the consumer of those sent to California recipients. The tax consequences are the same as expressed in Annotation 570.0080. 9/13/72.

570.0080 Credit Cards. An out-of-state credit card company which mails credit cards to California members and retains title thereto is the consumer of the cards and subject to use tax measured by its cost of the cards. 2/13/68.

570.0100 "Deadheaded" to California—Effect. When a truck is purchased in Oregon by a common carrier in California, is consigned and delivered to a point outside this state, is deadheaded to California for the first payload, the use tax applies. Since the truck was brought to California to pick up its first payload, there is a taxable use in California in the absence of any explanation for the out-of-state delivery other than a device to escape tax without sufficient business purpose to justify it as a legitimate means of tax avoidance. 1/24/58.

570.0110 Display Racks—Section 6009.1. A firm, which manufactures and sells plywood, provides its customers with display racks without charge. There are no minimum purchase requirements in order for the customer to receive the racks. The racks are purchased outside the state and shipped to the firm's California

location. The racks are then shipped to out-of-state customers. The firm has made a taxable use of the racks in California. It relinquishes control over the property in California by making delivery of the racks to the carrier here and thereby makes a gift in California. 1/28/74.

570.0113 Display Shelving and Signage Purchased by Retailers. A company offers a co-operative advertising plan that provides advertising support for retail advertising of its products. The plan is offered on a proportionately equal basis to its retailer customers in the United States. Retailer co-op funds are accrued by the company, on behalf of the retailers, into a single trust fund from purchases made by retailers. Qualifying media advertising, visual-merchandising shelving, signage and other items are reimbursed from the collective fund at up to 50% of the cost price. Purchase of merchandising shelving and signage can occur by three methods:

(1) A retailer can arrange for the purchase and shipment of promotional shelving and signage to its own stores located in California. The shelving and signage manufacturer's invoice will note the retailer as the 'sold to' and 'ship to' entity. When the retailer receives the invoice from the manufacturer, the retailer remits the invoice to the company for reimbursement of 50% of the cost price.

Under this scenario, the company has no obligation to collect, report or pay tax to this Agency with respect to the sale of the shelving and signage from the third party vendor to the company's customer. The vendor must report and pay tax measured by its gross receipts where its sale to the company's customer is subject to sales tax. The vendor must alternatively collect use tax from the company's customer where the sale is subject to use tax and the vendor is a retailer engaged in business in this state pursuant to section 6203 of the California Revenue and Taxation Code. If the purchaser does not pay use tax to a retailer engaged in business in this state, the purchaser is obligated to self-report use tax measured by the purchase price of the shelving and signage. The taxable gross receipts or sales price from this transaction include all amounts received with respect to the sale of the shelving and signage. The amount of co-op funds paid by the company to its customer as reimbursement may not be excluded from the measure of the gross receipts or sales price.

(2) The company arranges for the purchase and shipment of promotional shelving and signage on behalf of its customer. The customer is shown on the invoice as the 'sold to' and, in some cases, the 'ship to' entity. The company does not obtain possession of the shelving and signage; they are drop shipped directly to its customer's stores. The company will pay the invoice it receives from the shelving and signage manufacturer with funds from the retailer co-op trust fund and will bill its customer for 50% of the cost.

In this situation, the company directly contracts with the vendor for the purchase of shelving and signage. This is a sale of tangible personal property to the company. If the company is a retailer engaged in business in this state pursuant to section 6203, it may purchase the shelving and signage for resale. The company's subsequent sale of these items to its customer is subject to tax. The amount of co-op funds utilized by the company toward the purchase of the shelving and signage that were earned by its customer may not be excluded from the measure of taxable gross receipts or sales price.

(3) This scenario contemplates the same facts as number two except the company does obtain temporary possession of the shelving and signage; however, they are subsequently transported to the retailer store locations.

The application of tax to this situation is the same as in number two. 09/18/00. (2001-3).

570.0116 Exemption from Use Tax—Section 6401. Gross receipts are required to be included in the measure of sales tax unless the gross receipts are exempt under the Sales and Use Tax Law. If a seller is properly liable for sales tax, the purchaser is exempt from use tax. The failure of the seller to pay the tax to the State does not invalidate the use tax exemption under this section nor does it result in the purchaser being responsible for use tax.

The presumption of taxability under section 6091 is not applicable to a purchaser asserting an exemption pursuant to section 6401 that the sale was subject to sales tax. 12/2/91.

570.0120 **Exhibition.** Use tax liability does not accrue on locomotives used solely for exhibition purposes in the state when, following the exhibition of the locomotives, they are placed in service entirely outside this state. 5/17/57.

570.0140 **Experimental Use of Raw Materials.** Mere specification testing of raw materials purchased out of state, prior to its incorporation into a manufactured product for resale, does not amount to a taxable use. However, where such material is utilized in research efforts testing the quality of other products of an experimental nature, a taxable use results. 6/1/55.

570.0150 **Fine Art.** An individual purchased many pieces of fine art from out-of-state sellers without paying sales tax reimbursement or use tax. The paintings were either placed on the walls of the individual's home or in a vault there. This home is and has been a California historical monument. Based on the following, it was concluded that this individual's purchases of fine art was for the purpose of investment and not for resale and the paintings are therefore subject to use tax.

The following factors tend to show that he was not an art dealer. (1) He did not obtain a seller's permit which was required to be held by each person engaged in or conducting business as a seller in California. (2) He also did not file sales tax returns listing his gross receipts which he would have been required to do as a seller. (3) He apparently did not obtain a local business license. (4) He also appears to have not notified the IRS about the details of his art activities. He represented to the IRS that the paintings were not inventory of a business because he declared the paintings to be capital assets for which depreciation deductions and capital gain treatment benefits were taken.

There was no desire to immediately resell any paintings because he would have incurred either a loss by a sale at or below cost, or a small profit which did not please the investment goals of a person with his stature. He needed to hold each painting "off the market" rather than as inventory in order to treat it as a depreciable asset and to allow an increase in value prior to eventual sale. The primary purpose for the initial storage or wall hanging of each painting at his home was to retain the paintings as an asset for the necessary holding period in order to allow the appreciation in value. That use was not a demonstration or display for purposes of attempting to make an immediate resale. Once a painting was held long enough to appreciate in value sufficient to satisfy this individual, then an attempt was made to sell it for a long term capital gain. 9/19/94.

570.0160 **Foreign Purchases.** Use tax applies to the storage or use of mobile ramps purchased in Florida by a foreign air carrier and a tugmaster purchased in England, which were brought to California and stored or used in California prior to their being placed in use in foreign commerce by such carrier. 12/21/62.

570.0167 **Horse-Birth of More than One Foal as an Incident of Use.** A holder of a seller's permit (issued for the purpose of engaging in the sale of horses) purchased, in March 1981, a horse under a resale certificate. For the period from March 1981 through March 1983, when the permit was closed out, the purchaser made no sales and reported as such on the sales and use tax returns which he filed. Evidence provided by the purchaser substantiated that the subject horse was held for resale in the regular course of business until April 1985, the approximate date the second foal was born.

Evidence provided is as follows:

- (1) The horse was consistently advertised for sale.
- (2) The purchaser maintained a separate bank account for his business with a "d.b.a." name.
- (3) The horse was shown at a number of horse shows for the purpose of finding a purchaser.
- (4) The purchaser entered into an agreement with a third party for the purpose of, among other things, marketing the horse for sale.

In this situation, the fact that the horse was depreciated for income tax purposes for several years is inconsistent with the holding of the animal for sale in the regular course of business. If the depreciation had been in error, the taxpayer would generally be required to have filed amended returns undoing the depreciation. However, a review of the income tax returns for the years the horse was depreciated disclosed that the purchaser of the horse derived no tax advantage from the depreciation claimed since claimed deductions from other sources were more than sufficient to shelter the purchaser's entire income. There was, thus, no need to file amended returns to undo the tax benefit from the depreciation. The fact that the horse was depreciated, therefore, did not dictate the finding that the horse was not held for sale in the regular course of business. Instead, we look to the other applicable facts.

The birth of one foal generally increases the sales price of a horse because it shows that the animal is capable of production. Generally, the birth of more than one foal is an indication that the horse is being held for breeding rather than resale.

Under the above circumstances, the horse was purchased for resale and was held for sale in the regular course of business until April 1985, the approximate date the second foal was born. Use tax is due on the purchase price as of that date. The fact that the horse was held for breeding is supported by the fact that the horse is now awaiting the birth of yet another foal in 1986. 8/27/85.

570.0170 Horses. Breeding a mare and selling the foal can be consistent with holding the mare for resale because it proves to potential buyers that the mare is healthy and capable of reproduction. However, the taking of depreciation deductions on the mare for income tax purposes is inconsistent with holding it for sale in the regular course of business. If the mare was purchased outside the state and was purchased for breeding purposes in California, the purchaser is liable for use tax.

If the purchaser can show that the mare was not purchased for use in California, tax does not apply. See Sales and Use Tax Regulation 1620(b)(3). The breeding of the mare or the giving birth to a foal by the mare outside this state is a "functional use" of the mare outside the state within the meaning of the Regulation. 5/11/87.

570.0174 Integration of New Computer System with Old. A taxpayer purchases a computer and network software from a manufacturer located outside California. The items purchased are shipped from the manufacturer's out-of-state location with title passing to the taxpayer at the point of shipment. The computer and software are shipped to the taxpayer's facility in California on a temporary basis for a period of two to five months in order to permit the taxpayer's programmers to fully integrate the new computer with the one that is in place in California. After testing and integrating the new and old systems, the taxpayer will use the new system to run programs and perform tasks useful to the taxpayer in its business, even if the programs or tasks are duplicated in some other fashion by the taxpayer's existing systems. Integrating the systems rather than testing the new system simply to see if it can communicate with the existing system and to see if it meets the taxpayer's specifications consumes the majority of the taxpayer's time and effort during the two to five month period that the property remains in California.

The above purchase of the computer and software is subject to use tax because the first functional use of the property is in California. The taxable activity to which use tax applies is the taxpayer's integration of the computer system, including the hardware and software, into its existing computer system for compatibility with the existing system. The taxpayer is making a use in California of the property for a purpose for which the system is designed, namely to run programs and perform tasks related to the taxpayer's business needs. Because the first functional use of the property is in California and not out of state, it does not matter whether or not the property is principally used outside of California more than one-half of the time within the first six months after the property enters California. That is, the taxpayer owes use tax on the property regardless of whether the period of testing and integration in California lasts as little as two months or as long as five months.

Integrating the new system with the existing system is not a storage or use of the kind excluded from use tax by section 6009.1. The taxpayer's use of the new system to modify existing programs, write new programs, modify the new software, or in other ways develop processes and procedures to ensure that the

two systems function as a unit in the taxpayer's business operations, is not of a kind excluded from use tax under section 6009.1. The integration of the system is an end in itself which is necessary for the taxpayer's business purposes, regardless of the property's ultimate permanent location. 9/30/83.

570.0175 Interstate Use of Vehicle. A vehicle is not subject to California use tax when it is purchased outside of California, is first functionally used outside of California in interstate commerce, enters California in course of such use, and is thereafter continuously used in interstate commerce both within and without California. When such vehicle operates between points within this state, the character of the cargo determines whether the vehicle carrying it during a six month test period is regarded as used in interstate commerce. For example, if every load includes an interstate portion of its cargo, the vehicle qualifies as being used in interstate commerce, provided the vehicle is not used exclusively in California (i.e., it must be used within and without this state). However, if there is a wholly intrastate event or haul during the six month test period, use of the vehicle other than interstate use has occurred. If so, the vehicle has not been used continuously in interstate commerce. Thus, the use tax exemption for use in interstate commerce would not apply. 8/2/95. (Am. 2000-1).

570.0176 Invoices Used by Retailer. A wholesale grocery company purchases certain invoices to list the products it sells to its customers but also supplies the customers a copy upon the delivery of the property. The company believes that since it must supply the invoices to its customers, it is selling rather than consuming the invoices.

In this case, the company is using the invoices as part of its accounting system and primarily for a check on the flow of goods. Accordingly, the invoices are purchased for some purpose other than resale in the regular course of business and may not be purchased for resale. 11/22/71.

570.0180 Loan of Property to Private Schools. Since private schools are not school districts, property loaned to them is not exempt from use tax under section 6404. 3/8/68.

570.0200 Loans to Out-of-State Customers. A manufacturer of gas lasers loans them from stock and delivers them outside this state to out-of-state buyers who have contracted to buy other lasers which are not ready for delivery. When the manufacturer sends the laser that the customer ordered, the loaned laser is in all cases returned to the California manufacturer, who then checks, calibrates, and returns it to stock to be sold as new equipment. Sometimes the returned laser will be loaned again under like circumstances. The manufacturer will not be considered to be making a taxable use of the loaned laser by virtue of the use of the out-of-state customer. 2/2/65.

570.0220 Oil Self-Consumed by Petroleum Product Refiners. Oil refiners acquire oil from various sources, i.e., purchased from the United States, extracted from the earth, purchased under resale certificates, and purchased from out-of-state vendors without issuing a resale certificate. Fuel oil self-consumed is exempt to the extent there is sufficient fuel oil on hand at the time of consumption from sources which would not involve tax. That is, self-consumed fuel oil is presumed to come first from available exempt sources (U.S. government, extracted from the earth) and then, thereafter, from taxable sources (out-of-state purchases, purchases for resale). 8/26/82; 5/20/96.

570.0225 Out-of-State Use. A person may not issue a resale certificate to purchase property in this state for the purpose of transporting the property outside the state and claiming the exclusion from "use" provided by section 6009.1. The exclusion contained in section 6009.1 applies only to transactions governed by the use tax. Purchases of items in California known at the time of purchase to be for use albeit out of state, under an improperly given resale certificate, are not covered by the exclusion. The exclusion does apply if at the time of purchase it is not known whether the property will be used or sold. 6/9/60.

570.0230 Person—Joint Operating Agreements. Operating agreements for the operation of an oil well involving several participants may result in the creation of a "person" under the Sales and Use Tax Law (i.e., any group or combination acting as a unit). However, it may not have any tax liability if it is not the "person" which is buying or selling tangible personal property. The "person" who exercises the right of power over the tangible personal property "incident to the ownership of the property" is the one

responsible for any tax liability. If the facts demonstrate that ownership of the property rests in one or more of the participants, these “person(s)” bear the responsibility for any sales or use tax liability. Unless the unit was buying or selling property in its own name, it would not incur any tax liability despite the fact that it is a “person” for sales and use tax purposes. 1/17/91.

570.0240 Pipeline Transportation—Property Used in.

(a) Tax applies to the sales price of any tangible personal property used by a person who transports petroleum products by pipeline primarily for purposes of:

- (1) Flushing or cleaning the pipeline,
- (2) Removing additives or moisture, or
- (3) Serving as a minimum buffer between other products transported through the pipeline.

(b) Where, and to the extent that, a person who transports petroleum products by pipeline uses crude oil of his own production, or a product he has derived from such crude oil, for the purposes stated in (1), (2), and (3), above, no tax liability is incurred by reason of such use.

(c) A minimum buffer is that quantity of a product which is required to prevent two other products, one immediately preceding and one immediately following the buffer product, from commingling with one another while being transported by pipeline from one place to another.

Whenever a product is introduced into a pipeline in larger quantities than required for buffering purposes, it will be presumed that the introduction was for the purpose of transportation. No portion of the product will be considered to function as a “minimum buffer.” Tax will not apply to the sales price of the product. 8/31/70.

570.0280 Principal Use—Place of. In fixing the place of “principal use” of an aircraft used in multistate operations for purpose of determining if it is subject to California use tax, it is proper to count storage of the aircraft. 12/7/64.

570.0300 Principal Use—Place of. Use tax is applicable with respect to tankers sold and leased back when the vessels received their principal use in this state after the sale. Principal use in this state includes all use within the boundaries of the state whether used in interstate or intrastate commerce, and whether used in transporting property for hire or in transporting the user’s own property. Likewise included is any use on the high seas during a journey from one point in California to another point in California. 1/18/55.

570.0308 Purchase for Use in California. An aircraft is purchased outside California. The first flight is made from the out-of-state purchase location to California for the purpose of picking up a specific passenger or specific passengers for transport within or outside of California. This flight is a “first use” of the aircraft outside the state. Accordingly, the use of the aircraft will not be subject to tax if the aircraft is used or stored outside California for one-half or more of the time during the six-month period immediately following its entry into California. 11/12/93.

570.0320 Receipt Paper. The sale of receipt paper for use in a cash register is purchased for use in a business rather than for resale and is subject to tax. 4/21/54.

570.0328 Rejected Property Not Returned to Resale Inventory Used in Testing. A manufacturer of integrated circuits purchases silicon wafers under resale certificates. These wafers are etched with micro-circuitry to produce integrated circuits for sale. Each batch of wafers is tested to assure proper manufacturing by withdrawing a sample wafer and testing it. Some percentage of wafers fail to meet quality control standards and are rejected. Most rejected wafers are scrapped. Some are back-lapped by the integrated circuit manufacturer. Back-lapping consists of cleaning and coating. Back-lapped wafers do not meet the manufacturer’s quality standards for manufacturing integrated circuits for resale. The

manufacturer uses the back-lapped wafers to test various manufacturing processes. These test wafers are processed through the individual manufacturing processes separately from production wafers as a verification that the process is operating properly. If the process is operating properly, new production wafers are fed through the process as part of the normal manufacturing operation.

If property was purchased for resale and is withdrawn from the resale inventory for research and development use, tax will apply to the cost of the property at the time it is withdrawn from resale inventory. In the above situation, the conditions are different in that the back-lapped wafers are not returned to the manufacturer's resale inventory. The quality level of those wafers is not acceptable for use in the manufactured products which are resold. Further, the back-lapped wafers are not used in research and development. In this situation, the rejected wafers are treated as scrap and should be regarded as having been purchased for resale and tax does not apply to its sales price to the integrated circuit manufacturer. 12/20/88. (Am. 2000-1).

[570.0335](#) **Research and Development Credit on Federal Income Tax Return.** A taxpayer's taking of a research and development credit on a federal income tax return will not, by itself, constitute a "use" under section 6009. A research and development credit is unlike a depreciation deduction or investment tax credit involving tangible personal property which does require a "use" of tangible personal property in order for the taxpayer to take the income tax deduction or investment credit. 10/6/97. (M99-1).

570.0340 **Sales Tax Applicable.** Section 6401 prevents the use tax from applying to the use of property purchased from a retailer whose gross receipts are subject to the sales tax. It does not exempt from the use tax the use in this state of property which is eventually sold at retail by the user. 5/7/57.

[570.0350](#) **Sales Tax vs. Use Tax.** Property sold by an out-of-state vendor, but delivered from its California warehouse is subject to sales tax not use tax.

Property sold by an out-of-state vendor, shipped from an out-of-state warehouse and delivered to one of its independent dealers in California, for installation, is subject to use tax not sales tax. There is no evidence of any in state participation by an office or other place of business of the vendor and pursuant to the contract of sale title passed under the contract at the out-of-state point of shipment.

Property shipped by an out-of-state vendor and delivered by its own trucks from an out-of-state point to California is subject to use tax. Again, there is no indication of in state participation by an office or other place of business of the vendor. 12/6/90.

[570.0372](#) **Specific Payload.** For purposes of determining whether the first functional use was out of state, if a new truck is dispatched from out of state to pick up a specific payload in California, the first use of that truck occurs outside the state. It is not necessary that the "specific payload" be identified by serial numbers or other identification of such specificity. For example, instructions to pick up appliances at the Ontario warehouse at a specific time and date is sufficient for the load to be a specific payload. On the other hand, if it is dispatched to the warehouse to pick up the next available payload, it would not qualify as a "specific payload," but rather is "any payload." 1/5/94. (Am. 2000-1; Am. 2007-1).

[570.0380](#) **"Standby" Purposes.** An item actually in "standby" service such as a fire extinguisher or any equipment held in readiness for use should the need arise is considered used for purposes of sales and use taxes, even though the need never arises and the property is ultimately sold or discarded. In the event it is sold, no deduction of the tax paid purchase price as a "tax-paid purchase resold" item is allowable. 11/7/66.

570.0386 **Storage Charges.** An out-of-state retailer contracts for the sale of equipment to a company with a business location in California. The contract provides for storage charges with eventual shipment of the equipment to California. The storage charges were part of the original purchase order. After change orders were received, the storage charges were separately stated. The ultimate disposition of the property stored outside California is uncertain. The property may not leave the state it is stored in.

The total amount of the sales price includes any services that are part of the sale. The storage charges are considered a part of the sales price whether separately stated or not. Therefore, those storage charges related to property sent to California are included in the measure of the use tax. 8/2/95.

570.0400 Testing. A piece of equipment was purchased and sent to California and use tax paid thereon. Subsequently, a similar piece of equipment was also shipped to California where both pieces were tested for local fitness. As a result, the piece of equipment first shipped, and upon which use tax was paid, was reshipped out-of-state, and the second piece of equipment was retained in use in California. The use tax is payable on both pieces of equipment as each was placed to a taxable use in the state. 3/9/53.

570.0405 Testing—Computers. When computers are taken off the production line and utilized for testing other components, such as plug-in boards and trunk lines, a taxable intervening use takes place. The fact that the company sometimes tests, improves, and refines the computers as a result of their being in the testing area does not alter the fact that a taxable use of the machinery is made prior to its being covered and sold. 9/29/78.

570.0410 Testing and Training. Machinery is purchased from a California retailer or an out-of-state vendor, delivered to a California location, and set up alongside a counterpart for:

- (1) Testing to insure it performs as required.
- (2) Training key employees from the out-of-state facility.
- (3) “Burn-in.”

Upon completion of these functions, the machinery will be shipped to the out-of-state facility.

If the machinery is purchased from California vendors, delivered in this state, and later shipped out-of-state, the transaction is subject to sales tax. If the machinery is purchased outside this state and shipped to a California location, the matter of interest is whether any taxable use occurs in this state.

- (1) The testing of machinery, by itself, would not be a taxable use.
- (2) The training of the key employees from an out-of-state facility would be a taxable use.
- (3) The installation of machinery in this state used to produce a product which is used in R&D labs or placed in inventory for the “burn-in” period would constitute a taxable use of machinery.

Thus, any use of the machinery, other than testing for defects before it is shipped out-of-state is a taxable use of the machinery in this state. 8/23/93.

570.0411 Testing as Only Use in State. An out-of-state bank has subsidiaries in California and other states. It institutes a plan to upgrade the computer systems used in the branches of all of its subsidiaries. It purchases the equipment which it will resell to the subsidiaries. It arranges for all of the equipment which it buys for the upgrade plan to be shipped to a service center in California which is owned and operated by another party. The other party unpacks the hardware, loads software and arranges packages as they will be used at specific branches in order to test the system. Once tested, equipment is repackaged by the other party and shipped at the bank’s direction to specific branches inside and outside California. The equipment will not be functionally used until it is installed at the individual branches.

Tax will apply to the equipment sold to and used by California branches. Tax does not apply to equipment sold and shipped to and used by out-of-state branches. 2/24/94.

570.0415 Tractor Pulling Trailer Out of State. A tractor is sold by a California vendor to an out-of-state purchaser under a purchase order which requires the vendor to deliver the tractor to the purchaser at an out-of-state location. The purchaser requests the vendor to arrange for the delivery carrier, who furnishes only a

driver, to tow to the out-of-state location a newly purchased trailer or the purchaser makes the arrangement directly with the carrier. The towing of the trailer by the tractor is not a taxable use of the tractor provided no cargo is carried, and provided that the purchase order for the trailer requires the trailer vendor to deliver the trailer to the purchaser at the same out-of-state location. We will treat the tractor and trailer as a single unit under this set of circumstances regardless of whether the tractor vendor is also the trailer vendor. 8/23/76.

570.0420 Transportation Charge. Measure of tax is price at point of delivery to purchaser and does not include the transportation charge that would be included if delivery had been made at dealer's place of business in this state. 5/25/50. See generally, Transportation Charges.

570.0425 Use Tax Payment to DMV—Nearest Dollar. Although there are no statutory provisions under the Sales and Use Tax Law which allow the rounding off of a purchaser's use tax liability to the nearest dollar, there is such authorization under section 4750.5(d) of the Vehicle Code. Therefore, if DMV follows the above reference statutory provisions concerning rounding off, such a procedure would be legally correct. 6/24/76.

570.0427 Use Tax—Principal Use Test. One of the tests used in determining whether property is subject to use tax is whether or not during the first six months following the entry of property into this state it was stored or used here more than one-half of the time. This test is solely to ascertain intent. The tax, if applicable, applies to the taxable moment following entry of the property into this state. This moment, no matter how brief, between the initial journey into this state and the beginning of continuous use in interstate or foreign commerce, is sufficient to sustain the imposition of the use tax. The taxable moment need not involve functional use of the property. It may be "keeping and retaining," "retention and installation," etc. If the property in question is stored in this state and is used to further the intrastate activities as well as the interstate activities of the owner, it cannot be said to have been used exclusively in interstate commerce. 10/9/67.

570.0435 Withdrawals from Ex-Tax Inventory. "Storage or use" and "stored or used" within the meaning of subdivision (a)(2) of Regulation 1668 is storage or use in this state. A person who properly issues a resale certificate when purchasing property and thereafter uses the property solely outside California does not owe California use tax with respect to that out-of-state use. (See Regulation 1661 for the application of tax to out-of-state use of mobile transportation equipment which is purchased under a resale certificate for the limited purpose of leasing.)

Storage or use includes, but is not limited to, the withdrawal of property from resale inventory or other ex-tax inventory (such as property purchased from outside California without the payment of California use tax) for functional use in this state by the purchaser and for the transfer of title in this state to other persons in transactions that do not constitute sales (e.g., making gifts, loans, donations, and transferring marketing aids for less than 50 percent of the purchase price). For example:

(1) A person purchases 1000 watches under a resale certificate. The purchaser withdraws 100 watches from the California resale inventory and ships them to the purchaser's Nevada store. The Nevada store places 90 watches in resale inventory and makes a gift of 10 watches to its employees and customers. Under these facts, the purchaser continues to hold the 90 watches in resale inventory, and California use tax does not apply. The purchaser makes a use of the other 10 watches, but that use is in Nevada and is not subject to California use tax.

(2) Same facts as above except the purchaser ships the 10 watches given to its customers and employees from California by common carrier. Under these facts, the purchaser uses the 10 watches given to customers and employees when the purchaser delivers the watches in California to the common carrier for shipment to donees outside California. There is no interstate commerce exemption for such use because it is not a sale in interstate commerce. The use in California is complete at the time of delivery to the common carrier. The purchaser owes California use tax on the purchase price of the 10 watches.

(3) A person purchases 1000 watches under a resale certificate. The purchaser's logo is on the face of 100 of the watches and, at the time of purchase, the purchaser plans to give these 100 watches to its employees

and customers for promotional purposes. The purchaser takes delivery of the 1000 watches in California and places them in its California warehouse. The purchaser sends all the watches to its Nevada store and places 900 of them in resale inventory. The Nevada store distributes the 100 watches with the purchaser's logo to customers and employees without charge. The Nevada store also removes 50 other watches from Nevada resale inventory and distributes them to customers without charge.

Since the purchaser knew at the time of purchase that it would use, and not resell, the 100 watches with its logo, it was improper to issue a resale certificate for their purchase. Use tax is due on the purchase price of these 100 watches. The remaining 900 watches were purchased as a fungible, commingled lot, all or most of which the purchaser intended to resell. Since the purchaser did not know at the time of purchase which, if any, of the fungible, commingled lot would be withdrawn for use, the resale certificate was properly issued for their purchase. The subsequent withdrawal by the Nevada store of the 50 watches was a use outside California and no California use tax applies. 5/19/95.

570.0438 Withdrawals from Ex-Tax Inventory. When a person properly buys tangible personal property ex-tax for resale and withdraws some of it for use in California, he/she is liable for use tax measured by the cost of the property. However, where the property is consumed out-of-state, tax does not apply. (Revenue and Taxation Code 6009.1.)

(Note: A gift of property in this state is a use in this state notwithstanding out-of-state shipment. See Annotations 280.0040 and 280.0640.) 2/5/93.

570.0440 Withdrawals from Manufacturer's Inventory. A manufacturer of scientific research machines withdraws machines from inventory and uses them for training, application research, and quality assurance. Machines withdrawn from inventory and used to train employees in servicing, for study to determine new applications, and to test other machines, are subject to tax measured by the cost thereof. 7/21/67.

(b) USE IN STATE, PURCHASED FOR—INTENT OF PURCHASER

570.0480 Contract to Purchase—Intent at Time of. If at date of purchase of car (normally date of delivery) purchaser knew that car was to be used in this state, tax applies irrespective of lack of such knowledge when he placed order for car, or when he contracted to purchase car. 4/3/51.

570.0500 First Functional Use of Property—Effect of. Property purchased from an out-of-state retailer is subject to the California use tax if the first functional use of the property is made in this state. If the first functional use is made outside this state, use tax may nevertheless be applicable if the property is determined to have been purchased for use in this state by means of a "principal use" test. 8/17/77.

570.0505 First Functional Use. For purposes of Regulation 1620, "functional use" is defined as "use for the purposes for which the property was designed." This definition distinguishes between property designed for personal use and property designed for commercial use. Vehicles, vessels and aircraft are not necessarily functionally used simply because they are driven or piloted. Thus, for example, while automobiles (including vans designed for families) are designed for personal use and are first functionally used when initially driven on a public street, "big rig" trucks, buses, commercial vans, limousines and hearses are first functionally used when they carry cargo or passengers, or when driven pursuant to dispatch orders for the same. A similar distinction exists between vessels designed for personal use and vessels, like a sightseeing boat, that are designed for commercial use. Likewise, aircraft designed for personal use (e.g., small prop airplanes that seat six or fewer) can be distinguished from aircraft designed for commercial use (e.g., jet aircraft).

Regardless of size, any vehicle, vessel or aircraft specifically modified or outfitted for commercial use is not designed for personal use. However, where a purchaser establishes that a vehicle, vessel or aircraft ordinarily considered to be designed for commercial use was, in fact, purchased for personal use, such property will be considered first functionally used when first driven or piloted. By establishing that the property was purchased for personal use, the purchaser is necessarily contending that it was not purchased

for the primary purpose of business use in interstate or foreign commerce and the provisions for exclusion from use tax based on commercial miles traveled by a vehicle, commercial nautical miles traveled by a vessel and commercial flight time traveled by an aircraft in interstate or foreign commerce as set forth under Regulation 1620, subdivision (b)(4)(B), are not applicable. 5/31/02.

[570.0510](#) **First Functional Use.** If a lessor of a vessel were to transport the vessel by its own power into California in order to lease it to any lessee he could find, the first functional use would be in California. However, if the vessel were transported by its own power into California in order to fulfill delivery to a specific lessee, the first functional use would be outside California. 4/7/78.

570.0580 **Foreign Country—Purchase for Use in.** A purchaser of an automobile in Europe who brings it into the state is not liable for use tax when at the time of purchase she intended to use the car for sight-seeing purposes in Europe and then sell it prior to returning to California, but on her failure to find a purchaser had shipped it to California where she subsequently sold it. 8/22/60.

570.0590 **Functional Use.** A vessel was built and delivered to the purchaser outside California for the stated purpose of racing in the “Around Alone” solo sailing race around the world. One week after it was purchased, the vessel was sailed into California where it made various appearances at boat shows and other events, participated in both crewed and solo races and was used to conduct “classroom seminars” over the next 10 months. These activities were conducted in order to obtain funds for equipping the vessel and to attract race sponsors. The vessel then departed California and, to date, has not returned to this state.

The purchaser asserts that the first functional use of the vessel occurred when the vessel raced solo for the first time from the East Coast of the United States in the “Around Alone” race after departing this state. The purchaser makes this assertion because the vessel was created specifically to be sailed around the world by one person in the “Around Alone” solo sailing race and is not suitable for recreational sailing or coastal yacht racing. Therefore, the purchaser contends that no California sales or use tax is owed because no functional use was made of the vessel in this state.

Sales and Use Tax Regulation 1620(b)(3) specifies that “functional use” means use for the purposes for which the property was designed. The functional use of a racing sailboat is to sail. When the vessel was delivered to the purchaser outside California and it subsequently was sailed from the out-of-state location into this state, the first functional use of the vessel occurred outside California. Although the first functional use of the vessel occurred outside California, the vessel entered this state within 90 days of its purchase and was used in California more than one-half of the time during the six-month period following its entry into this state. [See note below.] Therefore, although the vessel was first functionally used outside California, it was also used in this state in such a way that it is considered to have been purchased for use in this state. Therefore, the purchase of the vessel is subject to use tax. 3/6/03. (2004–1). (Am. 2006–1; Am. 2008–1).

(Note: For the period October 2, 2004 through June 30, 2007, under certain conditions any vehicle, vessel, or aircraft purchased outside of California and brought into the state within 12 months from the date of its purchase is presumed to be acquired for storage, use, or other consumption in California and subject to use tax.) (Regulation 1620(b)(5).)

570.0620 **Government-Owned Foreign Airline.** A foreign airline company, a public corporation formed and substantially owned by a foreign government, is liable for use tax measured by the purchase price of spare aircraft parts purchased outside California and shipped into California for storage and installation, as needed, where tax treaties between the United States and the foreign government grant no immunities from state use taxes. However, parts later transshipped to points outside for installation are exempt. It is immaterial that such parts, when purchased, were not specifically intended or earmarked for storage and installation in California. 6/8/64; 7/15/64.

570.0640 **Intrastate Use Over I.C.C. Routes.** Vehicles which haul substantially wholly intrastate shipments over routes for which a firm holds Interstate Commerce Commission operating rights are subject to use tax. The character of the cargo determines the classification of the hauling operation rather than the

operating rights. The fact that the various vehicles in question originally were licensed only in this state further supports the conclusion that the vehicles were purchased for use in this state. 1/7/64.

570.0665 Replacement Automobile. An individual plans to go to Europe, to stay there at least 3½ months, and to buy an automobile for use while there. The individual plans to bring the automobile back to California with him after using it for more than 90 days in Europe. Shortly after he took possession of the automobile in Europe, it was stolen. The individual's insurer replaced the automobile and he brought the vehicle back to California with him. Because of the theft of the first automobile, the second automobile was used for less than 90 days in Europe. It was the intent of the individual that the second vehicle be used in California prior to the passage of 90 days. Accordingly, tax applies. 3/23/95.

570.0670 “Storage” and “Use” Exclusion—Commingled Property. A purchaser purchases property which is consumed at locations both within and outside California. The seller of the property ships the property from his California warehouse and out-of-state warehouse to the purchaser's California receiving warehouse. Property shipped from the seller's California warehouse and out-of-state warehouses are identical in many instances. The purchaser at the time of purchase does not know at which location the property will be used. All property purchased is commingled.

Since the purchaser is consuming the property purchased and the seller is aware of this, a resale certificate cannot be accepted in good faith. Either the sales or use tax applies to property delivered to the purchaser's California warehouse. The purchaser cannot issue a “use tax exclusion certificate” since all property is commingled and he does not know what specific property will be shipped to an out-of-state location. Also, not all of the property will be removed from the state.

The purchaser may file a claim for refund for use tax not due. To accomplish this, the purchaser should maintain updated inventory records showing what percentage of the property is shipped from the seller's California warehouse and the percentage from out-of-state warehouses. The measure of the refund is calculated by multiplying the percentage of inventory from the out-of-state warehouse to total inventory at the time the property is removed from the state times the total purchase price of property removed from the state. 5/19/93.

570.0690 Testing. A purchaser stated that a machine was received in California from outside the state, but was not yet functional. The purchaser had anticipated using it in California for several months before shipping it to Illinois. It is now anticipated that it will be tested in California for about a month before shipping to Illinois.

If the sole use of the property within California is testing prior to its functional use, and the property is subsequently shipped out of state, the exemption requirements of section 6009.1 are met. However, if the testing is not limited to pre-production test of the machine itself, but includes practice runs for such purposes as “testing” for its suitability for a particular purpose, or an operator's capabilities, the use tax will apply. 4/28/93.

570.0720 Transient Use—Place of Ultimate Use. Kinescopes first used in this state were purchased for use in this state within the meaning of the Sales and Use Tax Law, even though they are subsequently used elsewhere, and perhaps are properly regarded as purchased for use in other states as well as California. 11/10/52.

570.0740 Transient Use—Place of Ultimate Use. A motion picture advertising firm in the business of furnishing prints of advertising films concerning local merchants to local theaters is the consumer of such prints. Accordingly, tax is applicable to its fabricated cost of prints produced and purchased outside the state which have not been used substantially prior to being used in this state. 10/11/67.

570.0780 Transient Use—Place of Ultimate Use. The use tax would not apply to lumber brought into California which had been grown on the owner's timber farm out-of-state, to be used by such owner in erecting a cabin. Likewise, a trailer used for transporting such lumber to California, if purchased out-of-state prior to any intention to use it in California, would not be subject to use tax. 11/12/53.

[570.0800](#) **Transient Use—Place of Ultimate Use.** Car purchased in Kansas for use there, which owner tried to sell before coming to California, is not subject to use tax when brought to California because owner was unsuccessful in deal to sell in Kansas. 6/8/50.

[570.0840](#) **Transient Use—Place of Ultimate Use.** Where an automobile is purchased through a dealer in Hawaii and delivery taken in Missouri, and subsequently driven to California and placed in storage, the owner proceeding to Hawaii intending to remain there and have the car shipped to him, but in view of subsequent determination that car was not needed there, ordered it sold, the use tax does not apply. 2/4/53.

[570.0848](#) **Use of Property in State—Reporting Period.** The use tax applies to the storage, use or other consumption of tangible personal property purchased from out-of-state vendors for use in California. The tax applies at the time of first use, which occurs when the purchaser first exercises any right of ownership over the property. First use is not limited to the first functional use of the property, and includes the storage of property in this state, while the California location where the equipment will be used is being prepared for the equipment's installation. 12/9/94.

(c) PRESUMPTIONS

[570.0860](#) **Construction of Statute—Incidence of Involvement.** Section 6247 applies with respect to property delivered outside this state to a purchaser known by the retailer to be a resident of this state, whether delivery is made from a point in or outside the state, if there are sufficient incidences of involvement by this state with the transaction, e.g., if the property is located here at the time the contract for sale is entered into, if the contract is negotiated here, or if the order originates here. However, if there are circumstances known to the Board which make it appear that the property was used outside the state, as where it is shipped from California to a contractor for use in fulfilling a contract outside the state, the presumption specified in the section may be considered controverted. 8/25/77.

[570.0880](#) **Construction of Statute.** Section 6247 applies solely to the use tax and relates to presumption of use tax liability when shipments are made out-of-state to a known resident of California.

The second paragraph of such section does not, however, operate to release from tax, sales made and delivered to California purchasers in this state, even though subsequent out-of-state use of property was contemplated. 12/23/53.

[570.0920](#) **Intent to Use in State.** A vehicle purchased in California for use overseas and sold upon return to California within 90 days of original purchase is presumed to have been acquired for storage, use or other consumption in this state and therefore is subject to tax. If it can be shown that use in California was not intended within 90 days of purchase, the Board will exempt the use from tax. However, changing the registration of the car to that of the wife indicates intent to use the vehicle in California. 10/5/64. (Am. 2006-1).

(Note: SB 1100 (Stats. 2004, Ch. 226), operative October 2, 2004, amended Revenue and Taxation Code section 6248(a). As amended, for the period October 2, 2004 through June 30, 2006, and under the conditions specified in subdivisions (a)(1), (a)(3), or (a)(4) of section 6248, any vehicle, vessel, or aircraft purchased outside of California and brought into the state within 12 months from the date of its purchase is presumed to be acquired for storage, use, or other consumption in California and subject to use tax.

[570.0940](#) **Intent to Use in State.** If at the time of purchase the purchaser actually intends to use the car in this state and does so use it, the tax applies. If, on the other hand, at the same time of purchase the purchaser did not intend to use the car in this state, we will regard the tax as not applicable, even though through a subsequent change of intention the car is used in this state.

There is a presumption in the Sales and Use Tax Law (section 6246) that tangible personal property shipped or brought to this state by the purchaser was purchased for storage, use, or other consumption in this state. It is, therefore, necessary for a purchaser who claims that he did not purchase the car for use in

this state to overcome this presumption by satisfactory evidence such as affidavits, travel orders, or changes of assignment of duties that will reasonably establish that at the time of purchase the purchaser did not intend to use the car in this state. 3/31/50.

570.0980 **Pending Employment Transfer**, where automobile is purchased with knowledge of, [purchaser](#) deemed to have bought car for use in this state. 12/19/50.

(d) EXCLUSIONS

[570.1038 Aircraft Parts](#). An out-of-state retailer, who is engaged in business in California, sold aircraft parts to an Oregon vendor who requested that they be shipped to California via common carrier for repair. After repair, they were shipped to Oregon via common carrier.

Since the aircraft parts were brought to California for repair and were then sent to the purchaser in Oregon, the repair in California may come within the section 6009.1 storage and use exclusion. If the repaired parts shipped to Oregon do not return to California during the six month test period, they are considered used "solely" outside this state and are not subject to tax pursuant to section 6009.1. If the parts are returned to California within six months, the exclusion does not apply. 6/9/95.

[570.1040 Aircraft Parts and Engines](#). With respect to aircraft parts and engines transferred from a maintenance base in California and installed on aircraft outside this state, which aircraft are subsequently used in this state in both interstate and intrastate commerce, the use tax applies if the parts and engines were purchased for use whenever and wherever (including California) such items would be needed and were actually used in California in either interstate or intrastate operations, or both.

If the aircraft on which the parts and engines were installed are not used in California within 6 months from the date the parts and engines were transferred out-of-state, the parts and engines, will be considered as exempt from the use tax under section 6009.1, provided, however, the aircraft with the parts and engines installed therein are actually substantially used in revenue or company service outside this state within the 6-month period.

The mere holding of the parts and engines for standby or emergency purposes for 6 months or more outside this state does not exempt the initial storage or retention in California from the use tax. 2/3/66.

[570.1100 Building](#). After purchase of a building from the Public Housing Authority, if the taxpayer moved the building out of California for his own use or if he sold it and title passed outside of California, his retention of the property in this state comes within the terms of section 6009.1 and is not subject to use tax. 7/24/57.

[570.1115 Consumable Supplies for Foreign Air Carrier](#). A foreign air carrier has certain disposable trays, bowls, flatware, and the like shipped into California from out of the country and stored in duty free warehouses. The carrier contracts with another company to cater the in-flight meals. The company prepares the food, places it on the carrier's trays with the carrier's cups, bowls, flatware and napkins, and delivers the meal trays to the airplane. The carrier also stores passenger comfort items such as razor blades, eye shades, and slippers in the duty free warehouses. These items are delivered to the flight crew for disposal at their discretion with instructions not to give out the travel kits until after take-off. The carrier believes that the disposable food supplies and travel kits are used outside of California and are exempt from tax.

The only "use" of the disposable food supplies was to take the individual items and assemble them with food products to form a meal tray. In interpreting section 6009.1, the courts have stated that there is no taxable use if the property has no function in California other than to move through the state for consumption elsewhere. Accordingly, use tax does not apply to the storage of those items in this state for use outside the state. However, if any of the items used to prepare the meal trays are items which can be reused in California such as stainless silverware, cloth table napkins, glasses, etc., the use to assemble the trays will be subject to tax. section 6009.1 requires that the property be used solely outside the state.

Although the crew members do not have control over the comfort items and could give them out early to a passenger, it does not appear that they are given to passengers in California; accordingly, they are not subject to use tax pursuant to section 6009.1. If they were given away in California, a gift would have taken place in California, and the carrier would be responsible for the use tax. 5/23/91.

570.1120 Delivery of Property in State for Out-of-State Use. An out-of-state company sold and shipped equipment to a customer in San Diego from the out-of-state location. The customer stated the purchase was exempt because the equipment was to be used in Mexico. The company did not receive any type of exemption certificate.

While it is possible that the customer's use of the property may qualify for an exclusion from the use tax, the sale is not exempt merely because the customer states the property will be used in Mexico. For example, the property may be nontaxable under section 6009.1. In order for a use tax exemption or exclusion to apply, the customer must prove the facts required to meet an exemption or exclusion. 10/14/88.

570.1121 Delivery of Property in State for Out-of-State Use. A firm purchases component parts for its manufacturing equipment from a foreign manufacturer's sales office in California. The California sales office accepts the order, arranges for delivery from the foreign plant, and handles processing through customs. Title passes to the purchaser at the sales office in California. Pursuant to the purchaser's instructions, the sales office ships the property to a third party in California to incorporate into other equipment. The third party then ships the equipment to the purchaser's location outside of California for use by the purchaser outside California. Under these facts, where the sale of the property is made through the foreign manufacturer's California sales office and title passes (and thus the sale occurs) in California, the applicable tax, if any, is sales tax. Since the section 6009.1 exclusion applies only to use tax, it does not apply here. The manufacturer owes sales tax on its sales.

If title to the property passes to the firm outside California, the sales tax would not apply; rather any applicable tax would be the use tax. If the storage or use of the parts in California is for the purpose of incorporating them into equipment that will be transported outside this state for use solely outside this state, such storage or use comes within the section 6009.1 exclusion and the purchaser would not owe use tax on such storage or use. 6/19/96.

570.1140 Material Withdrawn from Inventory for Use Outside California. An in-state company has agreements with two out-of-state firms for the collection of blood plasma for the company. The original purchase order indicates that the in-state company will supply disposable blood-collecting equipment for \$6.00 and \$6.60 per set. An amended purchase order provides that the in-state company will furnish the equipment to the firms without charge.

The out-of-state firms are not authorized to use the equipment furnished by the in-state company when collecting plasma which is not being sold to the company. Also, title to the equipment furnished by the in-state company for no charge is retained at all times in the in-state company. Accordingly, the company does not sell such equipment to the out-of-state firms pursuant to a sale in interstate commerce.

Notwithstanding the above, the company's withdrawal of such equipment from resale inventory for its own use outside this state constitutes the exercising of power over tangible personal property in this state for the purpose of subsequently transporting it outside this state for use thereafter solely outside this state. Such exercise of power over tangible personal property is not a use subject to tax. (Section 6009.1.) 1/31/66.

570.1160 "Outside State" for Purposes of Section 6009.1. Sections of pipe will be purchased outside the state and welded together in the state. The pipe will then be laid on the ocean floor and used to transport oil from a drilling platform on the outer Continental Shelf to the California shore. That portion of the pipe that lies on the outer Continental Shelf will be regarded as used solely outside the state for purposes of section 6009.1 and no use tax will apply to the purchase price of that portion of the pipe. Similarly, where electric cable is purchased outside the state, splice welded in the state, laid on the ocean floor and used to

provide electrical service between the platform and the shore, no use tax will apply to the purchase price of that portion of the cable that lies on the outer Continental Shelf. 6/18/68.

570.1165 Purchased for Use. Where property is purchased outside this state for use here, is brought here and later transported for use solely outside the state, and nothing is done with the property while it is here except store it, such property is exempt from use tax under section 6009.1. 8/24/70.

570.1168 Purchases for Use Outside California—Section 6009.1. A company services offshore rigs which are located in federal waters off the coast of California. The company purchases materials and consumables (i.e., items used at the job site) both inside and outside of California. The items purchased are transported to the dock warehouse inside California and remain there until needed at the rig.

When the company purchases the property inside of California, the applicable tax is sales tax owed by the retailer to the state of California. The storage and use exclusion provided in section 6009.1 is an exclusion from use tax, not from sales tax. Therefore, when the sale takes place in California, the storage and use exclusion does not apply. However, when property is purchased outside this state for storage in California, the use tax applies. Therefore, the exclusion provided in section 6009.1 applies to property purchased outside this state, stored in California and subsequently transported to the rig for use solely outside this state. 6/8/95.

570.1170 Race Horses. The training of a horse is a use. Therefore, when training occurs outside the state for more than three months, there has been a substantial out-of-state use of the horse preventing the application of use tax even if the horse is first raced in California.

If the horse trains out of state, comes into California in less than 90 days, and is first raced here and then removed from the state and it does not return for a year, use tax also would not apply. This is the case both when the owner is an out-of-state resident or in-state resident who does not maintain any stables in California. 1/21/66.

570.1173 Storage In-State of Property Usable Only at an Out-of-State Point. A taxpayer with facilities both inside and outside California purchased custom equipment outside the state for use in a facility being constructed outside California. Construction of the facility was delayed such that the fabrication of the custom equipment was completed before the facility was prepared to receive it. Accordingly, the equipment was shipped to the taxpayer in California for storage pending delivery for installation at the out-of-state facility. It was in fact ultimately shipped to the out-of-state facility and permanently installed there. The equipment was specifically designed and intended for use at the out-of-state facility. The taxpayer had no facility inside California that could utilize the equipment or that was sufficiently compatible with the equipment as to permit testing of the equipment or training of personnel to operate the equipment.

The storage of the equipment is excluded from the use tax under section 6009.1 of the Revenue and Taxation Code. 9/2/76.

570.1180 Testing. The testing of equipment in this state which is not used in production here and is subsequently used solely outside this state meets the requirements of section 6009.1 for exemption from use tax. 9/14/64.

570.1182 Testing to Destruction. The testing to destruction of property purchased ex-tax for resale and then removed from the production line for testing does not result in a use tax liability. The fact that the customer specifically requested the testing and was charged a separate price for the testing does not alter this conclusion.

If following the testing, an entire production lot was junked, no use tax would apply to the cost of those junked items. 2/18/75.

[570.1200](#) **Transportation.** The use tax does not apply to off-highway trucks purchased from an out-of-state manufacturer for use by the buyer in another state even though delivery of the trucks was made to the buyer in California, who then transports the trucks to the point of use. Such transportation is excluded from the definition of storage and use under section 6009.1 of the Sales and Use Tax Law. 4/13/64.

(e) INSTALLATION; REPAIRING

[570.1220](#) **Aircraft—Installation of Interior.** A new airplane purchased out-of-state is brought to California for the sole purpose of having an interior installed. Upon completion of the installation, the airplane is to be delivered to the purchaser out-of-state without any other use or storage here. Installation of the interior is a step in the manufacturing process necessary to put the airplane in a functional condition. Assuming that the airplane is put to its first functional use outside California, the period during which the airplane is here while the interior is being installed will not be considered for use tax purposes. Thus, the airplane will be subject to use tax only if it re-enters California within ninety days [see note below] of its completed delivery and thereafter is principally used here during the ensuing six months. 11/4/66. (Am. 2006-1; Am. 2008-1).

(Note: For the period October 2, 2004 through June 30, 2007, under certain conditions any vehicle, vessel, or aircraft purchased outside of California and brought into the state within 12 months from the date of its purchase is presumed to be acquired for storage, use, or other consumption in California and subject to use tax.) (Regulation 1620(b)(5).)

[570.1243](#) **Aircraft Refurbishing.** An out-of-state company purchases a used commercial aircraft which is delivered outside California with title and possession transferring out of state. Shortly after the purchase, the first functional use of the aircraft is transporting representatives of the purchaser to another location outside California. Prior to ninety days from the date of purchase [see note below], the aircraft is flown to California for refurbishing which includes the installation of a new interior to modify the aircraft for noncommercial use. The refurbishing in California will take more than six months to complete. Upon completion of the refurbishing, the aircraft will be delivered to the purchaser outside California. Thereafter, the aircraft will be used noncommercially, solely outside the state.

The installation of an interior in an aircraft is the incorporating of tangible personal property into other tangible personal property. Accordingly, the act of installing the interior does not constitute “storage” or “use” of the aircraft when the aircraft is to be immediately transported outside California and thereafter used solely outside this state. If the sole utilization of the aircraft in California will be that of installing a new interior, the use tax will not be applicable pursuant to Regulation 1620(b)(5). The transportation of the aircraft into California under its own power will also be excluded from the term use. 5/7/86. (Am. 2006-1; Am. 2008-1).

(Note: For the period October 2, 2004 through June 30, 2007, under certain conditions any vehicle, vessel, or aircraft purchased outside of California and brought into the state within 12 months from the date of its purchase is presumed to be acquired for storage, use, or other consumption in California and subject to use tax.) (Regulation 1620(b)(5).)

[570.1260](#) **Drawings and Instructions.** Certain equipment was shipped from out-of-state factory to customer in another state. The instructions and drawings for the purpose of installing such equipment were sent to the California office of the customer. The latter material will subsequently be sent by the customer to their out-of-state location for use in installation of the equipment.

The use which the customer makes in California of such instructions and drawings determines their taxability. If merely retained in the California office and then sent out-of-state for use, the use tax would not apply. If, however, the drawings and instructions were utilized in instructing engineers or workmen in California, preparatory to installation of equipment, a taxable use would result. 3/4/53.

[570.1280](#) **Lumber.** The use of lumber produced by a sawmill in the course of its operations but used in repair and additional construction by the mill at its own plant is a taxable use. If the logs from which the

lumber was obtained were purchased in California presumably they were purchased for resale and resale certificates given. In that event the use of a portion of such lumber for repair and construction at the mill is a use other than for resale and tax for self-consumed property is payable. If the logs were purchased outside of California for cutting into lumber and partially used as above, that portion would be subject to use tax.

The measure of the tax is the purchase price to the sawmill of the portion of the logs from which the lumber used is cut. 1/14/53.

[570.1300](#) **Unsuccessful Repairing.** If a person purchases tangible personal property intending to use it and attempts to repair the property to make it suitable for use but the reconditioning effort fails and the item is sold in the regular course of business by that purchaser without being actually put into service, the efforts to repair do not constitute a taxable use. 4/1/54.

(f) LOST OR DESTROYED PROPERTY

[570.1340](#) **Business Losses.** Property lost in operating a bar, due to fire, theft, breakage, spillage, or otherwise not resold, but without there having been any intervening taxable use, is not subject to tax. 12/15/52.

[570.1360](#) **Destruction of Defective Property.** A TV cable bought from an out-of-state vendor for use in California was stored for two years in California and subsequently destroyed by the buyer because the cable was allegedly defective. Use tax was applicable to the purchase price of the cable even if the cable was voluntarily destroyed before it was used for the purpose it was bought, because “use” included any exercise of right of ownership over the cable. Storage and voluntary destruction of the cable were acts incident to the exercise of the right of ownership. The price of the cable could not be excluded as “Defective Merchandise” because there was no evidence that the cable was defective. The amount paid by the vendor to the buyer pursuant to the settlement agreement was not a refund due to defective cable. 12/18/69.

[570.1380](#) **Destruction of Property Purchased for Resale.** The deliberate destruction of goods purchased for resale is not a taxable use when the goods are not suitable for their intended purpose and the purchaser has sound business reasons for destroying the goods rather than marketing them. 10/23/64.

[570.1400](#) **Production Loss—High Quality Testing.** Items selected from a production run for high quality testing, a greater degree of testing than is normally used for quality control, entail no tax consequences and are treated as a production loss the same as quality control test samples or defective items which are removed from the production and destroyed. The theory is that production involves certain losses and that items removed from production are not really self-consumed by the taxpayer. 6/4/64.

[570.1413](#) **Repairing Before Removal.** A person purchases a vessel from a nonretailer with the intention of using it outside of California. The vessel remains in California for extensive repairs for an 18 month period. The period during which the vessel is being repaired does not preclude the application of section 6009.1. If, after the repair, the vessel is removed from California for use solely outside the state, the exclusion provided by section 6009.1 is applicable and the purchase of the vessel is not subject to use tax. 12/1/88.

[570.1420](#) **Replacement of Damaged Government Property.** A firm’s purchase of cable material and subsequent transfer to the United States Navy in order to replace the property which this firm previously had damaged constitutes a taxable “use” under section 6009. 9/17/64.

(g) LEASING

[570.1440](#) **Carriers.** Use tax liability is not incurred where a certificated carrier sells an airplane to a noncertificated carrier (delivery being made at a point outside the state) who, after bringing it into this state to be overhauled, transfers possession to a lessee at a point outside this state, who flies it on an overseas revenue flight with no intention of flying the airplane back to California; for although the use of the plane

by the lessee for the revenue flight is attributable to the lessor, the principle use of the plane is made outside of the state. 10/4/60.

[570.1460](#) **Carriers.** A and B, both common carriers, are considered to have made use of equipment where: A and B purchased equipment out-of-state; A and B leased the equipment to C, a company jointly owned by A and B; and C subleased the equipment on a daily rental basis to A, B, and other carriers, some of whom physically used the property in California. But if a lessee or sublessee takes delivery of property at an out-of-state point and thereafter uses the property in California exclusively in interstate commerce, the use tax is inapplicable. 7/29/64.

570.1480 **Leased Back Equipment.** Where a California seller sells its operating equipment and leases it back, the equipment being out-of-state when title passed, the sales tax does not apply, but the use tax would apply as to such equipment which was leased back and received its principal use in this state after the sale. The seller would be liable for the amount of use tax required to be collected from the purchaser-lessor. 3/16/55.

[570.1500](#) **Locomotive.** When a locomotive is purchased outside of California and is leased by the purchaser to a railroad company which uses it in for-hire transportation of property into California where within 90 days after purchase the purchaser takes possession of the locomotive and then uses it solely in interstate commerce, in and out of California although principally in California, no sales tax applies since the purchase is outside of California and no use tax applies since the property is purchased for use in interstate commerce, placed in use in interstate commerce prior to its entry into this state, and is thereafter used continuously in interstate commerce. 8/1/78.

[570.1520](#) **Out-of-State Use of Leased Property.** A lessor purchases tangible personal property (none of which is mobile transportation equipment) for resale from suppliers both inside and outside California. The first lease is at a location outside California. Following termination of this first lease, the lessor brings the property into California, not for lease to another lessee, but for use in the lessor's own operations in California.

If the property was purchased by the lessor outside California, and does not enter California within 90 days of the start of the out-of-state lease, the lessor's use of the property in the lessor's own operations in California is not subject to use tax.

If the property was purchased by the lessor inside California, and did not reenter California until after six months from the start of the out-of-state lease (section 6009.1), the lessor's use of the property in the lessor's own operations in California is not subject to use tax. 3/17/88.

[570.1540](#) **Out-of-State Use by Lessee.** A truck will not be subject to the use tax where a California lessor enters into an agreement with an out-of-state lessee to lease a truck for 36 months under a pure lease and the truck will be picked up by the lessee in another state, and the lessee will drive it to his home state for use there for the leased period. 8/10/62.

(h) CREDIT FOR TAX IMPOSED BY OTHER JURISDICTIONS

[570.1603](#) **Arizona Tax.** The Arizona tax is imposed upon every person engaging within the state in the business of leasing or renting tangible personal property. As a business privilege tax, the Arizona tax qualifies as a retail sales tax for purposes of section 6406. Therefore, a lessee who has paid the lessor the Arizona tax for leased property situated in California can offset that tax against the use tax based upon the rentals payable. 9/18/70.

[570.1617](#) **Credit for Previous Transactions.** A Nevada business made sales in Nevada to California consumers. It collected California use tax and remitted it to the Board. The state of Nevada later imposed a sales tax on the same transactions. The business may not take a credit for Nevada sales tax on these past sales against California use tax on future transactions. Under section 6406, credit for Nevada tax can only be taken by a purchaser.

For convenience purposes, a Nevada retailer who is required to collect the California use tax may take the credit, but only on the same transaction for which the California use tax was collected. Under these circumstances, the conditions of section 6406 are met in that the purchaser pays the Nevada tax reimbursement and gets the benefit of the credit against the California use tax with respect to the particular property that is sold. 8/25/69.

570.1623 Credit for Tax Imposed by Other States. A vehicle is leased in a state that imposes on the lessor a tax that must be paid upon the inception of the lease. The vehicle is relocated to California by the lessee. Unless the lessor has paid California use tax or California sales tax reimbursement, a “purchase” as defined in section 6010(e)(5) results. When a lease is a purchase, California tax applies measured by rentals payable for the period during which the vehicle is located in this state. The applicable tax is the use tax which is due from the lessee, although it must be collected and paid by the lessor. No credit for tax paid to another state is allowable in this situation because section 6406, which authorizes such credit, allows it only in situations in which the tax of both states has been paid by the same person. Where the other state’s tax is imposed on the lessor, the credit is not allowable since the California use tax is imposed on the lessee.

Even if the other state’s law permitted the tax to be paid on rentals, no offsetting credit would be allowed unless the other state required that tax payments continue to be made while the vehicle was in California. If such tax is imposed while the property is in California, a section 6406 credit is available for the period the vehicle is in California. 8/15/90.

570.1625 Credit for Tax Due in Other State. Where it is established that a use tax has been paid to another state and such liability arose prior to the use in California that gave rise to California use tax liability, the taxpayer is entitled, under section 6406, to offset the amount of the other state’s tax against that due in California. 4/24/72.

570.1630 Credit for Tax Paid to Another State. When a taxpayer is entitled to a credit or refund of tax paid to another state, his/her obligation for payment of that tax (to the other state) ceased to exist. In such cases, the credit allowed under section 6406 for the tax paid to that other state is not available. This applies regardless of whether the taxpayer actually claims the credit or refund from that other state. 3/29/71.

570.1635 Deliveries from Storage. A taxpayer manufactures, prints, and purchases for resale business forms and supplies. The taxpayer stores the merchandise in its warehouses and ships the merchandise, as needed, by common carrier to customers in California and in other states. Some customers periodically order merchandise to be stored in the warehouse until needed. A customer may agree to a specific time limit for the storage of merchandise. The taxpayer may not know where specific merchandise so stored will be shipped until instructions are received from the customer. Some customers are billed for the merchandise when it is received for storage at the taxpayer’s warehouse. Others are billed when the merchandise is actually shipped to the customer. The contract provides that title passes upon full payment.

When merchandise is shipped from an out-of-state warehouse to a California customer, California use tax would apply. If the customer incurs tax or tax reimbursement liability in the other state, the customer is allowed a credit for the tax or tax reimbursement liability actually incurred. However, if tax was mistakenly paid to the other state, no credit would be allowed.

If shipment is made from a California warehouse to a customer’s location outside the state and the contract specifically requires delivery to the out-of-state location, the tax will not apply even though title may have passed in California. This result is valid only if the purchaser is not authorized under the contract to direct that the property be diverted to a California destination.

If a shipment is made from a California warehouse to a California customer located in a different tax district, the applicable district tax is that of the destination district if the taxpayer is required by the contract to ship the merchandise to the customer in the other tax district.

If it is unknown at the time of the contracting whether merchandise will be shipped in-state or out of state, the application of tax will depend on the time of title passage. Under the contracts provided, title passes upon full payment. Accordingly, if the customer is billed when merchandise is delivered to the taxpayer's warehouse, tax will apply at that time. If the customer is billed at the time that the taxpayer makes shipment, tax will apply at that time if the merchandise is shipped to a California location. Also, when billing takes place at the time of shipment, no tax applies if the merchandise is shipped out of the state pursuant to the contract of the sale. 8/26/94.

570.1640 Foreign State Tax on Storage. A foreign state provides that use tax applies to the temporary storage of goods inside that state for sales in the regular course of business outside that state. The credit provided for under section 6406 of the Revenue and Taxation Code applies only against California use tax due on the owner's own use of the property in California.

The tax in the foreign state is a tax imposed on the retailer for storing property in that state. The retailer may not take a credit for that tax against a sales tax liability it incurs in California, nor can it claim a credit against any California use tax it is required to collect, since the tax imposed by the foreign state is not imposed on the sale to or use by the California consumer. The tax imposed in the foreign state was on the retailer's purchase and use of the property in that state. The transaction being taxed in California is a different transaction, that is, the subsequent sale and purchase of the goods. A credit for tax paid to another state would be available only if the tax had been paid on this transaction. 11/29/94.

570.1655 Indian Tribal Tax. A California resident (in this case, a non-Indian or an Indian not living on a reservation) purchased an automobile from an automobile dealership located on an out-of-state Indian reservation. The automobile was brought into California for use in this state. The purchase price of the automobile included an Indian tribal tax identified on the sales contract as a sales tax. The California resident was informed, presumably by the dealership, that a credit for the tribal tax was allowable under Revenue and Taxation Code section 6406, against his or her California use tax liability.

The tribal tax shown on the dealership's sales contract is identified as a sales tax defined by the out-of-state statute as a tax imposed on the retailer for the privilege of selling tangible personal property on the reservation. The tribal tax paid by the purchaser to the dealership is reimbursement to the retailer for sales tax that the retailer must pay to the Indian tribe. The tribal tax is a cost of acquiring the vehicle and is included in the measure of the California use tax. (Revenue and Taxation Code section 6011(a)(1).)

Furthermore, under section 6406, a credit against California use tax for tax paid to another state is allowable only when such sales and use tax is imposed by a state or a political subdivision of a state. The Indian tribe is not a political subdivision of the state. The tribe imposes the tribal tax based on its retained sovereignty subject to limits imposed by federal law. Therefore, the purchaser is not entitled to a credit against its California use tax liability for payment of the tribal tax. 4/5/05. (2006-1).

570.1660 Lessee. A lessee who leases equipment from a Nevada dealer and who brings the equipment into California for use in California must pay tax measured by the rental price of the equipment, unless the lessor of the equipment has paid California sales tax reimbursement or use tax with respect to the property. A credit will be allowed against the California tax only if the lessee himself pays to the lessor, or to Nevada, the Nevada sales tax or use tax or sales or use tax reimbursement for the periods that the equipment is present in California. 7/17/69.

570.1662 Lessee-Credit for Tax Paid to Texas. A lessee entered into a lease of a vehicle in Texas and thereafter moved to California, bringing the vehicle with him. The lease contract showed an amount of \$3,147.38 in "rental tax" paid to the state of Texas.

In Texas the tax is imposed on the lessor although the lessee may end up bearing the ultimate economic burden. In California, the use tax is imposed on the lessee. Since the tax is imposed on a different person (the lessor), the section 6406 credit is not available to the lessee. Furthermore, the section 6406 credit is not allowed against taxes measured by the periodic payments due under a lease to the extent that the taxes

imposed by the other state were also measured by periodic payments made under the lease for a period prior to the use of the property in this state.

Accordingly, the lease of the vehicle is subject to California use tax for periods in which the vehicle is in this state. 3/16/95.

570.1667 New Mexico's Gross Receipts and Compensation Tax. The State of New Mexico's Gross Receipts and Compensation Tax qualifies as a state sales and use tax for which California will grant credit under section 6406. 1/5/84.

570.1670 Ninety-Day Rule. A person purchases tangible personal property outside California, paying tax reimbursement or tax with respect to the purchase in the state of purchase. The buyer leases the property outside the state for more than 90 days and then brings the property into California for lease in this state. The buyer claims a credit for the tax reimbursement or tax paid in the other state, intending to collect and pay use tax on rental receipts.

The lease of the property outside the state for more than 90 days creates a presumption that the property was not purchased for use in this state. The presumption could be rebutted by the buyer and the buyer would then be entitled to a credit against his or her own California tax liability. However, where tax is paid on rental receipts, the tax is a use tax on the lessee. Since there is no tax liability of the buyer, there is nothing against which to apply a credit for the out-of-state tax or reimbursement which was paid by the buyer. 1/21/69.

570.1673 Person Entitled to Credit. A person must pay the sales tax directly to another jurisdiction in order to take credit under section 6406. A claim that the person's agent paid the sales tax must meet the conditions that an agency exists by fulfilling the conditions as set forth in Regulation 1540(a)(2)(A). 5/29/86.

570.1675 Prefabricated or Modular Nonschool Buildings—Purchases of Materials. Contracts to furnish and install prefabricated or modular buildings, which are not factory-built school buildings, are construction contracts. With respect to sales of materials to the contractor made out of state, these transactions would not be subject to California sales tax. However, as the consumer of the materials furnished and installed in the performance of a construction contract in this state, the installing contractor will owe California use tax on the cost of the materials to it. The installing contractor may claim a credit under section 6406 against the amount of California use tax it owes to the extent it has paid a retail sales or use tax, or reimbursement therefore, with respect to that property imposed by another state. 2/27/98. (M99-1).

570.1677 Taxes Paid to Another State. A California dealer sold a vehicle to a Utah company which furnished a resale certificate. The Utah company leased the vehicle to a California resident and states that Utah tax was paid on the lease payments.

The Utah company is required to collect use tax from the California resident since the Utah company is a retailer deriving rentals from a lease of tangible personal property situated in this state and is thus engaged in business in this state. The California resident, as the consumer, is also liable for the use tax. The Utah Code provides that tax need not be paid if the leased property is used exclusively in a foreign state. Therefore, credit for tax paid to another state (section 6406) is not allowed since Utah law does not impose a tax on the rental to the California resident. 8/25/75.

570.1680 Third Party—No Credit for Tax Paid by. Washington State sales tax paid by an out-of-state parent corporation on a purchase of a vehicle could not be applied as a credit to California use tax due on the same vehicle sold by the parent corporation to its California subsidiary. Payment of another state's sales tax by one corporation cannot be applied as a credit against a California use tax liability of another corporation. 5/25/70.