

# Memorandum

To : Ms. Shirley Johnson  
Audit Evaluation and Planning

Date: January 15, 1993

From : Donald L. Fillman  
Tax Counsel

Subject: Annotation 600.0260

When we last met, we discussed the need to change Annotation 600.0260. The first sentence is not accurate and should be replaced with the following new first sentence:

The total time spent outside the territorial waters of this state is deducted from the total time spent in all of the actual fishing operations, including the sailing time to and from the fishing grounds.



DLF:wk  
600-0260.mem

March 16, 1951

600.0260

Mr.

(PER)

Ruling 51.5

Apparently the reason your memo of January 4 was not answered was because we discussed the matter in Los Angeles on April 3 or thereabouts, according to the notation placed on the memo of that date regarding

In answer to your question as to what constitutes the "principal use" of the watercraft with respect to operations outside the territorial waters of this State, it is our opinion that probably the total time spent in actual fishing operations, inclusive of the time spent traveling to and from the fishing grounds, should be divided into the time spent outside the territorial waters of this State and the time spent within those waters. If the time spent outside the waters is greater than the time spent within the waters, it is principally used outside the territorial waters of the State. We do not think that the time the watercraft may be in storage or idle in the State should be considered in determining the place of principal use.

You also ask whether a water taxi making trips, for example, from Los Angeles harbor to Avalon, Catalina Island, would be regarded as operating in interstate or foreign commerce. In our opinion such a journey is not interstate or foreign commerce and thus these water taxis, by virtue of this journey or similar journeys, are not used in interstate or foreign commerce, within the meaning of Section 6368 and Ruling 51.5. In this connection I might mention that last summer when I was in Catalina I discussed with Mr. A the

possible application of use tax with respect to a vessel that had been purchased by the company in the east and which was to be brought to California for use between the mainland and the island in the winter months. Mr. B is familiar with this matter since it was at his suggestion that I contacted Mr. A who had previously discussed the question with Mr.

B It appeared that the question turned upon whether the trip between the island and the mainland could be regarded as a part of a continuous interstate journey originating or ending at some point outside this State. This in turn would depend upon whether passengers from outside the State could buy a through ticket to the island, or vice versa, or whether freight could be shipped to or from the island in like manner. Unless such arrangements were permissible, it seems that the trip from the island to the mainland, or vice versa, was merely a side trip and not a part of any interstate journey commencing outside this State and ending at the island or commencing at the island and ending outside the State.

A was going to write to me, supplying information concerning the matter of through tickets and other factors pertinent to determining whether the island trip could be regarded as a part of an interstate commerce journey, but I have not heard from him. Perhaps the tax was paid or for some reason the question has become moot.

The only basis for exemption would, of course, be § 6368 and Ruling 51.5 since the use tax would quite clearly apply with respect to the vessel upon its being brought to this State since there would, upon completion of that journey, be a taxable storage or use made prior to placing the vessel in the island's service.