600.0503

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 324-8208

WILLIAM M. BENNETT
First District, Kentfield

BRAD SHERMAN
Second District, Los Angeles

ERNEST J. DRONENBURG, JR.
Third District, San Diego

MATTHEW K. FONG
Fourth District, Los Angeles

GRAY DAVIS
Controller, Sacramento

BURTON W. OLIVER
Executive Director

August 14, 1992

Re: [redacted]

Dear [redacted]

This is in response to your letter dated May 22, 1992, in which you state:

> "This fleet of vessels has traditionally operated off the coast of California, catching live bait for my fleet of commercial passenger fishing vessels, as well as providing this service to the general public. When sportfishing is slow this fleet, which number 10-15 vessels, will augment their income by catching and landing various fish species for human consumption. They are commercial deep-sea fishing vessels in every sense of the word, as they lay out their nets, encircle the various bait species so critical to the continued operation of my sportfishing fleet, and then provide that catch to us in return for financial consideration. The phrase, 'bait-hauler', is a common way to describe the vessel, but it is in no way accurate in that they are limited to only transporting bait from one location to another."

Revenue and Taxation Code section 6368(a)(2) and (b) reads:

"(a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of watercraft and any sales of tangible personal property becoming a component part of that watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, and charges made for labor and

services rendered in respect to that constructing, repairing, cleaning, altering, or improving, if any of the following conditions are met:

"(2) The watercraft is for use in commercial deep sea fishing operations outside the territorial waters of this state by persons who are regularly engaged in commercial deep sea fishing.

"(b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing if the person has gross receipts from commercial fishing operations of less than twenty thousand dollars ($20,000) a year."

One of the requirements for the exemption is that the watercraft be used for fishing operations. Fishing operations include catching live bait which is used for commercial passenger fishing vessels. The fishing operations must be "commercial" which means that the operator is engaged in the fishing operations for a profit.

Whether the sales of the watercraft you name in your letter are exempt under section 6368 depends upon whether all of the requirements of this statute and Regulation 1594 are met. We are enclosing a copy of that regulation for your information. If you have questions with regard to any particular requirement in this regulation, please do not hesitate to write to us again.

Sincerely,

Elizabeth Abreu
Tax Counsel

EA:cl

Enclosure

bc: San Diego District Administrator