

M e m o r a n d u m**700.0260**

To: San Francisco – Auditing (LC:REP)

Date: May 12, 1966

From: Tax Counsel (EHS) - Headquarters

Subject: [S]
XXX --- ---
San Francisco

S- -- XX-XXXXXX

Answering first your memo of December 27, 1962, the original of which we finally located, unanswered, no excuses, we are of the opinion that local use tax does not apply to items that are first used outside this state and either (1) are thereafter used entirely outside this state, or (2) are thereafter used continuously in interstate or foreign commerce, no intrastate use being made in California. This seems consistent with my letter of March 8, 1961, to Mr. [L.]. See this letter for application of this rule under various circumstances.

Referring to your memo of May 9, 1966, it is my view that if the property is not placed in use until it has been transported to a point outside this state, it cannot be subjected to local use tax because the vessels return to California ports as long as the-vessels are continuously in interstate or foreign commerce. If the parts are installed in California, they are used here and subject to use tax. See the next to the last paragraph of my letter of March 8, to Mr. [L].

I am, however, somewhat puzzled by [S]'s reference to Bulletins 64-11 and 64-2. These relate to the local use tax exemption granted to public utilities, except that 64-11 also explains the application of local sales tax to sales to common carriers. [S]'s certificates relate to purchases for waterborne vessels, which need not be carriers to get the exemption; they must only be operated for "commercial purposes."

EHS:fb