

Intermodal Cargo Containers May Be Exempt from Use Tax

Regulation 1620, *Interstate and Foreign Commerce*, provides an exemption from the use tax for the use of tangible personal property that is first functionally used outside this state and is thereafter used continuously in interstate or foreign commerce both within and outside California.

Regulation 1620 was recently amended to specify when an intermodal cargo container will be regarded as first used in interstate and foreign commerce prior to its entry into California. Intermodal cargo containers are containers that are used to transport freight during its continuous movement from the shipper to the destination by the use of two or more of the following modes of transportation: railroad, vehicle, or vessel. The recent amendment provides that intermodal cargo containers will be regarded as first functionally used outside this state if *all* of the following conditions are met:

- The contract for the sale or lease of the intermodal cargo container requires that the container be used in interstate or foreign commerce and such sales contract or lease contract is entered into prior to the entry of the container into California; and
- The purchaser or lessee transports the intermodal cargo container into California with the specific intent that the container will then be loaded with freight for transport in a continuous movement to a destination outside California, whether or not the purchaser knows which particular freight will be loaded into the container at the time the container first enters California; and
- The intermodal cargo container is, in fact, first loaded with freight for transport in a continuous movement to a destination outside California, and the container is thereafter used continuously in interstate or foreign commerce both within and outside California and not exclusively in California.

Prior to this amendment, an intermodal cargo container was generally regarded as being first functionally used outside California if the container was first loaded with freight outside California.

For more information see Regulation 1620, *Interstate and Foreign Commerce* or call our Information Center at 800-400-7115.

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