

325,0010

Reg. 1620

Satellite with passage of
title in orbit exempt.

916/445-6493

December 23, 1983

[REDACTED]

Reg. 1620

Your letter of November 21, 1983 to Mr. Gary Jugum, Assistant Chief Counsel, has been referred to me for reply. You request our opinion as to the correct application of tax to the sale of a satellite.

We understand that your client, a California company, wishes to purchase a satellite from a California manufacturer. The satellite will be launched by the space shuttle sometime next year. Title to the satellite is to pass to your client once the satellite has been placed into orbit. Your client will bear no risk of loss or liability for payment until the satellite has been successfully placed into orbit. The satellite will be in a geosynchronous orbit above the earth, and while in orbit, the satellite may or may not pass over the State of California. There will be ground stations located in California which will utilize the satellite for communication purposes.

As was stated by Mr. Donald Hennessy, Tax Counsel, in his telephone conversation with you on November 21, 1983, we have previously rendered an opinion on another transaction which is factually similar to the transaction described in your letter. In our opinion, your proposed transaction will not be subject to California sales or use tax. While the satellite is in earth orbit, it is outside the state's taxing jurisdiction, regardless of the location of the satellite's geosynchronous or parking orbit. Therefore, the sale of the satellite by its manufacturer to your client will not be

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subject to a sales tax, since the sale will occur while the satellite is outside this state and in earth orbit. Furthermore, your client's use of the satellite through its ground communication stations located in California will not be subject to use tax; such use will occur while the satellite is in orbit and physically outside the state.

If you have any further questions, please write this office.

Very truly yours,

Charles J. Graziano
Tax Counsel

CJG:ba

bc: San Jose - District Administrator
Mr. Donald Hennessy