November 15, 1957

Marysville - Compliance

Hdqrs. - Tax Counsel (GAT)

This is in reply to your memo dated October 22, to Unit 3, regarding application of use tax to a 38-foot picket boat purchased by from Navy Surplus Sales. Mr. intends to overhaul the boat and use it in Alaska or in the

It is questioned whether use tax is applicable, in that Mr. claims that the boat is a "documented vessel".

It is our understanding that every vessel of the United States engaged in foreign trade must be "registered" with the U.S. and vessels engaged in domestic commerce must be "enrolled". The purpose of a register is to declare the nationality of a vessel engaged in trade with foreign nations and to enable her to assert that nationality wherever found. The purpose of an enrollment is to evidence the national character of a vessel engaged in the coasting trade or home traffic. Gibbons v. Ogden, 22 U.S. 1, 6 L.Ed. 23.

The term "documented" under the laws of the U.S. means "registered, enrolled, or licensed under the laws of the U.S., 46 U.S.C.A. Sec. 801. The register, enrollment and license, or license of a vessel of the U.S. are referred to, respectively, as the vessel's document. 46 U.S.C.A. Sec. 18.

On the basis of the foregoing, it is our opinion that the fact that a vessel is documented is merely evidence that it may be used for either foreign or domestic traffic.

Storage or use of this vessel is not subject to use tax if such storage or use comes within the terms of the watercraft exemption, provided in Revenue and Taxation Code Section 6368 and Ruling 51.5. If our understanding of the facts is correct, that the vessel was purchased for use in commercial deep sea fishing operations outside the territorial waters of this state, or for use in interstate or foreign commerce for hire, then it seems that its use would be exempt from tax. However, if the boat is to be used for pleasure or some other purpose in this state not within the terms of the watercraft exemption, it will be subject to use tax.

An additional basis for exemption from use tax, which may apply to the facts of the instant case, is that provided in Section 6009.1, Revenue and Taxation Code. Under Section 6009.1, taxable "storage" and "use" do not include the keeping, retaining or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use solely outside the state. If Mr. ; only storage and use of the vessel in this state is for the purpose of overhauling it, such storage or use is not subject to tax.

GAT:ch