

205.0202 **Property Held for Lease.** While the location of leased property on the owner's real property may be an indication that property is not on lease, the crucial element for deciding whether property is actually out on lease is control of the property by the lessee.
C 11/8/95.



STATE BOARD OF EQUALIZATION

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8, 1995

Attn: Du

Dear

This is in response to your letter of March 8, 1995 concerning the business inventory exemption as discussed in our letter to assessors 80/69 dated April 25, 1980 (copy enclosed). I apologize for the delay in responding; other matters requiring our attention have resulted in an unfortunate backlog of correspondence.

You requested that we clarify in writing our response to question F(1) of letter to assessors 80/69. Question and answer to F(1). "Property Held for Lease" reads:

1. "Are goods held for lease eligible for the business inventory exemption?"

Answer: "Yes, if the property is not actually out on lease on the lien date and is not used by or intended to be used by the lessor for some purpose other than the prospective sale or lease of that property. Also, the property while on lease must be removed from the premises of the lessor and under the control of the lessee."

The answer provides that "the property while on lease must be removed from the premises of the lessor and under the control of the lessee." You are requesting clarification on whether the removal of the property from the premises is a required element for such property to be considered leased equipment, and thus, whether property held for lease under those circumstances is eligible for the business inventory exemption.

Our response to the first part of your question is no. The removal of the leased property from the premises is not a required element for such property to be considered as leased equipment. The crucial element in whether the property is under the control of the lessee.

November 8, 1995

In response to question F(12) of the same letter to assessors, we emphasized that the key element for a property to be considered leased equipment is that the lessee has control over the property during the period of the lease which was also part of our response in F(1). It is clear from F(12) that the issue of control is crucial to the determination of whether a property is leased or not. The removal of the property from the lessor's premises is one of the factors in determining whether equipment is actually leased, but the compelling requirement is the control factor.

Once the determination of control is made, then the issue of whether property held for lease is eligible for the business inventory exemption is addressed by F(1) of letter to assessor 80/69.

The views expressed in this letter are, of course, only advisory in nature. They are not binding upon the assessor of any county. You may wish to consult the appropriate assessor in order to confirm that the described property will be assessed in a manner consistent with the conclusions stated above.

Sincerely,



Charles G. Knudsen
Principal Property Appraiser
Assessment Standards Division

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