

M e m o r a n d u m

To: Ms. Lisa Thompson
Property Tax Manager
Property and Special Taxes Department (MIC:64)

Date: October 30, 2014

From: Amanda Jacobs
Tax Counsel
Tax and Fee Programs Division (MIC:82)

Subject: *Assessability of Permanently Mounted Equipment on Trailers Registered Under the Permanent Trailer Identification Program Assignment No. 14-026*

This is in response to your request for our opinion regarding whether trailers enrolled in the Permanent Trailer Identification Program (PTIP) and permanently mounted equipment on such trailers are subject to local property tax assessment. As explained below, it is our opinion that the trailers are not subject to property tax; however, equipment permanently mounted on the trailers is assessable.

Background – Registration of Vehicles¹

Revenue and Taxation Code² section 10751 imposes a license fee for the "privilege of operating upon the public highways in this state any vehicle of a type which is subject to registration under the Vehicle Code" This fee is commonly known as the Vehicle License Fee or VLF. VLF is part of the total fees due upon initial and annual renewal of the vehicle's registration. (Rev. & Tax. Code, § 10851.) The formula for VLF assessment established by the Legislature is based on the vehicle's market value.³ (Rev. & Tax. Code, § 10752.) Therefore, section 10753, subdivision (c) provides that any modifications or additions in excess of \$2,000 to a vehicle subject to VLF must be reported to the Department of Motor Vehicles (DMV).

PTIP is described in Vehicle Code section 5014.1. Vehicle Code section 4000, subdivision (a)(1) exempts trailers registered under PTIP from the regular registration process that subjects vehicles to VLF. Under PTIP, trailers are issued a permanent identification plate rather than the regular license plate and registration card other vehicles receive under the regular registration process. (See Veh. Code, § 5014.1, subd. (c); Department of Motor Vehicles, Vehicle Industry Registration Procedures Manual (Dec. 2009) (DMV Manual) sec. 14.000, p. 14-2.) A flat

¹ "A 'vehicle' is a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks." (Veh. Code, § 670.) As such, "vehicle" includes trailers, passenger vehicles, commercial vehicles (such as trucks and pickups), and special mobile equipment. (See Veh. Code, §§ 630, 465, 260, 575.)

² All statutory references are to the California Revenue and Taxation Code unless otherwise indicated.

³ The market value of a vehicle is based on the price the purchaser paid for the vehicle, as well as any modifications or additions made to the vehicle. (See Rev. & Tax. Code, § 10753.)

service fee is due upon inducting a trailer into PTIP. (Veh. Code, § 5014.1, subd. (e).) Once a trailer is enrolled in PTIP, a fixed service fee is due every five years. (Veh. Code, § 5014.1, subd. (i).)

Property Taxation of Trailers Registered Under PTIP and Permanently Mounted Equipment

As you know, all property in this state is taxable (or assessable) unless it is otherwise exempt. (Cal. Const., art. XIII, §§ 1 and 2.) Thus, personal property, such as vehicles, is subject to tax unless exempt. It is well-settled that tax exemptions are matters of legislative grace (*Dicon Fiberoptics, Inc. v. Franchise Tax Bd.* (2012) 53 Cal.4th 1227, 1236; *Hotel Del Coronado Corp. v. State Bd. of Equalization* (1971) 15 Cal.App.3d 612, 617), and it is well established that any grant of exemption from taxation cannot be allowed unless it has been expressly provided. (*Cypress Lawn C. Assn v. City and County of San Francisco* (1931) 211 Cal. 387, 390.)

A specific exemption from property taxation applies to vehicles subject to VLF. Section 10758 provides that, "[t]he license fee . . . is in lieu of all taxes according to value levied for state or local purposes *on vehicles of a type subject to registration under the Vehicle Code* whether or not the vehicles are registered under the Vehicle Code." (Emphasis added.) (See also Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures* (Oct. 2004) (AH 504), p. 28; and Property Tax Annotation⁴ (Annot.) 630.0060 (May 31, 2007).) This exemption, however, does not apply to trailers registered under PTIP. Since PTIP-registered trailers are exempt from the regular registration process, they are not subject to VLF. (See Veh. Code, § 4000, subd. (a)(1); and Rev. & Tax. Code, §§ 10751 and 10752). Because they are not subject to VLF, the exemption from personal property taxation under section 10758 afforded to vehicles subject to VLF does not apply to PTIP-registered trailers.

The Legislature has, however, enacted section 225, granting personal property tax exemption to certain vehicles registered under PTIP. Section 225, subdivision (a) states:

A trailer, semitrailer, logging dolly, pole or pipe dolly, or trailer bus, that has a valid identification plate issued to it pursuant to Section 5014.1 of the Vehicle Code, or any auxiliary dolly or tow dolly is exempt from personal property taxation.

Section 225 does not specify, however, whether permanently mounted equipment (PME) attached to a trailer registered under PTIP is exempt from personal property taxation. For the reasons explained below, in our view, for property tax exemption purposes, PME attached to PTIP-registered trailers is not exempt from local property taxation under section 225.

We have previously opined that the property tax exemption for vehicles subject to VLF extends to PME attached to such vehicles. AH 504, page 123, states:

⁴ Property tax annotations are summaries of the conclusions reached in selected legal rulings of State Board of Equalization counsel published in the State Board of Equalization's Property Tax Law Guide. (See Cal. Code Regs., tit. 18, § 5700 for more information regarding annotations.)

Equipment that is permanently attached to a licensed vehicle is not subject to local property taxation because it is considered part of the vehicle. When this equipment is attached to the vehicle the assessee is required to notify DMV so that the value of the vehicle can be adjusted. (However, it is not assessable regardless of whether it is actually registered with DMV.)

This conclusion is correct since the statutory scheme makes clear that VLF is paid on PME attached to a vehicle subject to VLF. This is demonstrated by subdivision (c) of section 10753, which requires vehicle owners report any modifications or additions to motor vehicles in excess of \$2,000 to the DMV. The information provided by the vehicle owner regarding the addition of equipment prompts the DMV to increase the vehicle's market value which increases the VLF. (Rev. & Tax. Code, §§ 10752 and 10753, subd. (c); see Annot. 630.0060, *supra*.) Therefore, since PME on vehicles subject to VLF must be reported to DMV, and DMV adjusts the fee based on the market value of the PME, it follows that the section 10758 exemption applies to PME. In other words, because the statutory scheme makes clear that additional VLF fees are due on the value of the PME, making the PME part of the vehicle that is subject to VLF, the exemption from local property taxation extends to that PME. This is not the case for PME on PTIP-registered trailers.

The plain language of section 225 specifically lists the types of vehicles – trailer, semitrailer, logging dolly, pole or pipe dolly, trailer bus, auxiliary dolly, tow dolly – eligible for exemption. Notably, there is no provision made in section 225 to also exempt PME attached to such vehicles.⁵ And we have not been able to identify any statutes in either the Vehicle Code or the Revenue and Taxation Code or in DMV materials that, unlike PME on vehicles subject to VLF, would suggest that PME on such trailers are also exempt from property tax. In fact, while owners of PME mounted on vehicles subject to VLF are required to report the PME to the DMV, trailers are specifically excluded from that requirement. (Rev. & Tax. Code, § 10753, subd. (g).) Trailer owners are not required to notify DMV of modifications or additions to their trailers because PTIP fees are not dependent on the value of PME attached.

Additionally, equipment attached to other types of vehicles not subject to VLF and not registered under PTIP are subject to property tax. For example, equipment directly mounted on rubber tires and towed by another vehicle is considered "special mobile equipment" (SME). (Veh. Code, § 575; see DMV Manual, *supra*, sec. 16.010, p. 16-4.) Like PTIP-registered trailers, SME receives a special equipment identification plate (Veh. Code, §§ 5011 and 9261) and is exempt from the regular registration requirement. (Veh. Code, § 4010.) Therefore, since SME is exempt from the registration requirement, it is not subject to VLF and remains subject to property taxation. There is no exemption from property taxes for SME. (But see Rev. & Tax. Code, § 994, which clarifies certain equipment as being subject to either property taxation or the VLF.)

⁵ We do recognize that the addition of PME does not preclude certain modified trailers from registration under PTIP. For example, included in the types of trailers subject to PTIP registration are "modular mobile equipment trailers," which are trailers and semi-trailers that have been modified by the addition of permanently attached equipment requiring manual operation by a person. (DMV Manual, *supra*, sec. 14.005, p. 14-4.) However, there is no indication that the PME is also exempt from property tax. Unlike section 10758, which provides exemptions to "vehicles of a type subject to registration under the Vehicle Code," section 225 exempts the trailer, semitrailer, logging dolly, pole or pipe dolly, trailer bus, auxiliary dolly, or tow dolly registered under PTIP and not the entire vehicle.

Since SME does not include trailers modified by PME (DMV Manual, *supra*, sec. 16.010, p. 16-4), if section 225 extended to PME on PTIP-registered trailers, PME (e.g., a cement mixer) could be attached to a trailer and escape property taxation while that same equipment mounted on rubber tires, qualifying as SME, would be subject to property taxation. There is no indication that such a disparate property tax treatment of the same equipment was intended by section 225.

Therefore, in the absence of any indication that the legislature intended to exempt PME in the statutory language or legislative history of the Vehicle Code and the Revenue and Taxation Code, PME on PTIP-registered trailers is subject to local property tax assessment.

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cc: Mr. Dean Kinnee (MIC:64)