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\*740.0001\*

January 23, 1985

Mr. Roland E. Giannini  
San Mateo County Assessor  
County Government Center  
Redwood City, CA 94063

Attention: Mr. Richard E. Fisher  
Assistant Chief Appraiser

Dear Mr. Fisher:

General Aircraft Situs

This is in reply to your letter to M (Redacted) of December 21, 1984 in which you request an opinion of the validity of a 1982-83 general aircraft assessment under the following facts.

In 1981-82 Mr. C (Redacted) made several trips from Canada to California in his aircraft C- (Redacted). C (Redacted) states that on at least two occasions he had to leave the aircraft in California due to weather. On one occasion, he left the machine in transient parking at the San Carlos Airport. Subsequently, he rented a tie down at the Half Moon Bay Airport in order to save expense. The period of this rental was from September 25, 1981 until May 31, 1982. Mr. C (Redacted) gave the airport a San Bruno, California mailing address. The San Mateo County Assessor assessed the aircraft for 1982-83. After receiving the tax bill, Mr. C (Redacted) inquired at the San Carlos Airport and was told that since he was a Canadian citizen and since the aircraft was registered in Canada, he should forget about the tax bill. Since that time, Mr. C (Redacted) has married an American and moved to Glenn County, although he conducts his business in the Bay Area.

You have requested an opinion of the validity of the 1982-83 assessment in view of the facts that the aircraft is of Canadian registry and its owner, Mr. C (Redacted), is a Canadian citizen.

The rule applicable to tangible personal property in general was stated in Brock & Co. v. Board of Supervisors (1937) 8 Cal.2d 286 as follows at page 289, 290:

"The doctrine mobilia sequuntur personam is no longer a conclusive guide as to the situs for tax purposes of tangible personality, and such property now, by statute or otherwise, is taxable in the locality where it has an established permanent situs, irrespective of the owner's domicile."

Under the foregoing rule, the assessment for 1982-83 was proper if a permanent situs for the aircraft had been established in California notwithstanding the Canadian registry of the aircraft and Canadian citizenship of its owner.

Property Tax Rule 205 is helpful in determining whether the aircraft had permanent situs in California for 1982-83. That rule provides in pertinent part:

"(a) GENERAL ...

"Movable property has situs where located on the lien date if it has been in the county for more than 6 of the 12 months immediately preceding the lien date and if it is to remain in or be returned to the county for any substantial period during the 12 months immediately succeeding the lien date. Property which has been in the county for less than 6 of the 12 months immediately preceding the lien date, but which is committed to use in the county for an indeterminate period or for more than six months, has situs there whether the use extends through or commences with the lien date.

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"(b) GENERAL AIRCRAFT. Aircraft other than those subject to Revenue and Taxation Code sections 1150 to 1155 have situs for taxation purposes at the airport in which they are habitually situated when not in flight. An aircraft that spends a substantial amount of ground time at each of two or more airports has its tax situs at the airport where it spends the greatest amount of ground time.

\* \* \*

Although Section 205 sets forth a rule for establishing the taxable situs of specific property which moves from place to place within this state (Sea-Land Service, Inc. v. County of Alameda (1974) 12 Cal.3d 772), substantially the same rule governs the taxation of tangible personal property as between different states or countries. (Sayles v. County of Los Angeles (1943) 59 Cal.App.2d 295, 300.)

Rule 205 is interpretative of existing law and is predicated upon the theory that unless the property has been within the taxing jurisdiction for at least six of the twelve months immediately preceding the lien date, the property has failed to acquire sufficient "contacts" within the jurisdiction to create a taxable situs. (Sea-Land Service, Inc. v. County of Alameda, supra.)

Here, the owner of the aircraft rented a tie down at the Half Moon Bay Airport from September 25, 1981 through May 31, 1982, a period of five months and five days prior to the lien date and three months after the lien date. Prior to that, the aircraft was parked at the San Carlos Airport for an unspecified period of time. Although it is not entirely clear from the foregoing facts, it appears that the aircraft may have had a tax situs in San Mateo County under the guidelines of Rule 205. If so, that conclusion would not be altered by the facts of Mr. C (Redacted)'s Canadian citizenship and the Canadian registry of his aircraft. If you have further questions regarding this matter, please let us know.

Very truly yours,

Eric F. Eisenlauer  
Tax Counsel

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