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February 18, 1994

BURTON W. OLIVER  
*Executive Director*

Mr. W. A. P---  
R--- I---  
XXXX --- Drive  
---, CA XXXX

Re: R--- I---  
SR - XX-XXXXXX

Dear Mr. P---:

This is in response to your letter dated December 10, 1993, in which you ask how the sales tax applies to your sale of scanned documents.

Retail sales of tangible personal property in California are subject to sales tax unless the sale is specifically exempt by statute. (Rev. & Tax. Code §6051.) Under Revenue and Taxation Code section 6016, tangible personal property means property which can be "seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses." When there is a transfer of computer signals by means of remote telecommunication, that is, modem to modem, we do not regard the transaction as involving the transfer of tangible personal property. (See, e.g., Reg. 1502(f)(1)(D).) Thus, when you transfer no tangible personal property whatsoever, and transmit only electronically by remote modem to modem, there is no sale of tangible personal property and no tax applies.

When you do, however, transfer your work in the form of tangible personal property, such as on disk or other storage media, the question is whether you have provided a service or sold tangible personal property. Under Regulation 1502(d)(1), attached, the transfer of tangible personal property which is a conversion from one physical form of customer data to another physical form of recordation is a sale of tangible personal property and is, therefore, subject to

sales tax.

On the other hand, when a person enters into a contract for the processing of customer furnished-information, the transfer of the original information to the customer is considered to be the rendition of a service. (Reg. 1502(d)(5)(C).) "Processing of customer-furnished information" means the developing of original information from customer-furnished data. (Reg. 1502(d)(5)(A).) However, "processing of customer furnished information" does not include reformatting of data or other pre-processing, or the mere conversion of data from one medium to another. (Reg. 1502 (d)(5)(B).) Since original information is not developed in the scanning process, we consider scanning as the conversion of customer furnished data from one physical form of recordation to another. The transaction is, therefore, a sale subject to sales tax. Accordingly, when you have scanned the customer's engineering drawings and you return those drawings on diskette or tape, you are making a sale of tangible personal property subject to sales tax.

If you have further questions, feel free to write again.

Sincerely,

Pat Hildebrand  
Staff Counsel

PH:cl

Enclosure