

M e m o r a n d u m**210.0120**

To: Out-of-State – Auditing (JDD)

Date: May 11, 1967

From: Tax Counsel (EHS:AWP)

Following our discussion today, and upon examining the additional material you presented, my determination as to the taxability of examination copies of texts and desk copies has changed from that which I set forth in my memo of May 5, 1967.

I have discussed the case of “S” with Mr. Delaney in light of the results of the hearing held before the Board and these are our conclusions:

1. Prior to the consummation of a sale of textbooks to a school, examination copies are being held for demonstration and display and therefore are not subject to use tax liability.
2. Once a sale has been consummated, the examination copies become desk copies and they, as well as additional desk copies forwarded the customer, are considered as a service which is a part of the sale and therefore tax exempt.

In light of this determination, it appears that unless the transactions of “H” differ from those of “S”, the taxpayer’s contention is correct and the value of examination copies and desk copies are not subject to use tax liability.

AWP:ggw [1b]