

**STATE BOARD OF EQUALIZATION**

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October 30, 1989

Ms. J--- G---
R--- S--- L---
U--- L--- L---
XXX --- ---
--- ---, CA XXXXX-XXXX

Dear Ms. G---:

This is in reply to your September 18, 1989 letter regarding the application of sales tax to charges by the U--- L--- L--- for photocopies.

You explained that the library is preparing to start a document delivery service, primarily for local law firms. You will charge a standard fee of \$7.50 for each item requested and \$.25 for each page of the item photocopied. You will charge \$1.00 for postage and handling. If you fax the photocopies, you will charge \$.75 for each page of each item faxed. If you have rush and off-hours requests, you will have a special additional charge.

The sales tax is imposed on retailers for the privilege of selling tangible personal property at retail in California. The tax is measured by the gross receipts of the sale. (Rev. & Tax. Code §6051.) Revenue and Taxation Code section 6012 defines "gross receipts" to mean the total amount of the sale, valued in money, whether received in money or otherwise, without any deduction on account of, inter alia, the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expense.

When you transmit the printed material over telephone lines by fax to your customer, and you do not provide any photocopies or other tangible personal property to your customer, tax does not apply to your charge. In such cases, you do not make a "sale" for purposes of the Sales and Use Tax Law. Rather, you perform a nontaxable service. (Rev. & Tax. Code § 6006; BTLG Annot. 515.0010.)

When you provide photocopies to your customer, sales tax applies to your charge. Sales and Use Tax Regulation 1528 provides the application of sales tax to charges for photocopies at subdivision (a)(1):

“Tax applies to sales of photostat copies, whether or not produced to the special order of the customer, and to charges for the making of photostats or photostat copies out of materials furnished by the customer or others. No deduction is allowable on account of expenses such as travel time, telephone calls, rental of equipment or salaries or wages paid to assistants or models, whether or not such expenses are itemized in billings to customers.”

When you sell photocopies to a customer, tax applies to your standard fee of \$7.50, and tax applies to your \$.25 per page charge for the photocopies. Tax also applies to your special additional charge for rush and off-hours requests.

Tax does not apply to separately stated charges for transportation of property from the retailer” place of business or other point from which shipment is made directly to the purchaser, provided the transportation is by other than facilities of the retailer, such as by United States mail, independent carrier, or common carrier. The amount of transportation charges excluded from the measure of tax cannot exceed the cost of the transportation to the retailer. (Rev. & Tax. Code § 6012, subd. (c)(7).) Transportation charges are regarded as “separately stated” only if they are separately set forth in the contract for sale or in a document reflecting that contract, issued contemporaneously with the sale, such as the retailer’s invoice. The fact that the transportation charges can be computed from the information contained on the face of the invoice or other document will not suffice as a separate statement.

If a separately stated charge is made designated “postage and handling”, only that portion of the charge which represents actually postage may be excluded from the measure of tax. (Sales and Use Tax Reg. 1628, Transportation Charges, subd. (a).) We consider the designation “postage and handling” coupled with the actual amount of postage placed on the package mailed to a customer to constitute a separate statement of transportation charges excludable from the measure of tax. (BTLG Annot. 557.0450.) Therefore, where you designate a charge as “postage and handling” and the amount of the shipping charges paid to the carrier are clearly set forth on the package received by the customer, the amount of those shipping charges paid to the carrier are excludable from taxation. If the amount of shipping charges is not clearly set forth on the package received by the customer, the measure of tax is your total selling price including the \$1.00 postage and handling charge.

We hope this answers your questions; however, if you need further information, feel free to write again.

Very truly yours,

Ronald L. Dick
Tax Counsel

RLD:sr