

**M e m o r a n d u m****330.2600**

To: Los Angeles - Dist. Prin. Aud. (JQT)

October 2, 1967

From: Tax Counsel (TPP:AWP)

Subject: Photographic Reproduction Rights

In your memo of September 21, 1967, you ask whether annotations 1669.60 and 1673.70 have been superseded because of Mr. Elliott D. McCarty's memo of September 14, 1967 pertaining to leases of typography.

Annotation 1673.70 is dated prior to August 1, 1965, while annotation 1669.60 was written March 15, 1966. The earlier annotation cannot be regarded as superseded for the period prior to August 1, 1965, the date when the new tax on leases became effective. The later annotation is superseded to the extent that it holds that the temporary transfer of possession of a photographer for a consideration is not taxable.

If the possession and use of a photograph is temporarily transferred for a consideration, the transaction constitutes a lease (i.e., a rental, hire or license within the meaning of Section 6006.3(a)) regardless of whether reproduction rights are granted by the lessor. The transaction, therefore, is taxable.

AWP:smk [1b]