



STATE BOARD OF EQUALIZATION

(916) .45-6493

February 1, 1990

Rentals of desktop publishing equipment

Dear

In your November 1, 1989 letter to the Board, you write:

“--- hereby requests a ruling on whether the sending and receiving of facsimiles is a taxable service. Furthermore, we request a ruling on whether the rental of mail boxes, self-service and full-service desk top publishing and equipment rental (typewriters, word processors, copy machines, etc.) are taxable services subject to the collection of tax. Also, should the paper used in the self-service and full-service copy machines be subject to use tax or should it be purchased as a resale item. If the paper is subject to use tax, is the paper used in the self-service and full-service copy machines treated different. Likewise, should we pay use tax on the typewriters that the customers use themselves.”

Opinion

With respect to both the sending and receiving of facsimiles, our opinion is that these transactions are service transactions not subject to sales or use tax. Under the test employed by the Board in Sales and Use Tax Regulation 1501, we regard the true object of these transactions as the rapid transmission of information, rather than the sale of the paper on which the information is printed by the fax machine. (Business Taxes Law Guide Annotation 515.0010, 10/27/70).

Your rentals of mail boxes are also not subject to tax. The mail boxes themselves are not tangible personal property, but are fixtures incorporated into the building. Your rentals are not leases of the mailboxes themselves, but rather are nontaxable leases of space in your facility.

With respect to your rentals of equipment for self-service desktop publishing, and rentals of items such as typewriters and word processors, the applicable rules are set out in Sales and Use Tax Regulation 1660, Leases of Tangible Personal Property – In General. As

described in subdivision (e) of this regulation, if you leases typewriters, word processors, and other equipment for use by any of your customers at your premises for less than one day and for a charge less than \$20, then your charges are not subject to tax as a lease of this equipment. Rather, your purchases of this equipment are taxable retail sales by the sellers to you, and tax is due on the purchase price of the equipment. If your total charges to some customers for these rentals are \$20 or more, your rental receipts are still not subject to tax because you would be leasing tax-paid property in the same form as you acquired it. (Reg. 1660 (b) (1) (E)).

With respect to your copy machines, I assume that your charges to your customers are based on a per-copy charge, whether for self-service or full-service copying. If this is the case, you are not leasing the copy machines on your premises to your customer rather, you are selling copies, and tax applies to your charge those sales. (Rev. Tax. Code § 6006, 6012). Accordingly, you may purchase the paper used in the self-service and full-service copy machines ex-tax for resale. You may also purchase supplies which become physically incorporated into the copies, such as toner, ex-tax for resale. You are the consumer, not the retailer or lessor, of the copy machines themselves, and tax applies to your purchases of the machines. (Reg. 1660(e)).

We do not have enough facts regarding your full-service desktop publishing services to give you an opinion about how tax applies to your charges for those services. For example, Sales and Use Tax Regulation 1502.1 describes the application of tax to word processing services. Please note, however, that if your full-service desktop publishing services include the incorporation of graphic material into the finished product provided to your customer, then we would regard your charges as not for word processing services only, but rather as taxable charges for finished art. (Regulation 1540(b)(4)(B)).

I enclosed Regulations 1501, 1502.1, 1541, and 1660 for your information. Please feel free to contact me if you have any further questions or comments about this letter.

Sincerely,

John Abbott
Senior Tax Counsel

JA: jb
Enclosures