

M e m o r a n d u m**430.0464**

To: Oakland – Audit Review (CPM)

Date: June 12, 1986

From: Headquarters – Legal (RLD)

Subject: X-----

This is in reply to your April 9, 1985 memorandum regarding the application of sales tax to the transfer of reproduction proofs by a person who did not perform the typography.

We understand that the taxpayer obtained the reproduction proofs from a typographer, marked up the price, and transferred the reproduction proofs to a client. You asked whether the charge is subject to sales tax. We believe that tax does not apply to such charge. Section 6010.3, Revenue and Taxation Code, provides:

" 'Sale' and 'purchase,' for the purposes of this part, do not include (a) the fabrication or transfer by a typographer of composed type or reproduction proofs thereof for use in the preparation of printed matter, or (b) the fabrication or transfer of such reproduction proofs or impressed mats when the fabrication is for, and the transfer is to, a printer or publisher for use in printing.

The foregoing provisions shall not apply to the fabrication or transfer of a 'pasteup,' 'mechanical' or 'assembly' of which a reproduction proof is a component part."

Although clause (a) of the section specifically refers to transfers of composed type or reproduction proofs by a typographer, clause (b) does not so specify. We believe that, under clause (b), the transfer of only reproduction proofs or impressed mats is non-taxable when such transfer is to a printer or publisher for use in printing regardless of whether or not the transferor is a typographer.

You also asked whether the transfer is non-taxable if the person to whom the transfer is made is a person who is not a printer or publisher but is a person who will use the reproduction proofs in printing. We believe that such transfer is non-taxable, because the person who uses the reproduction proof in printing would necessarily be a printer as to such reproduction proof. Sales and Use Tax Regulation 1541, Printing and Related Arts, formerly provided that, "If printers or publishers sell impressed mats or reproduction proofs of composed type to persons other than

printers or publishers for use in printing, tax applies to the printers' or publishers' charges for such properties." (Sales and Use Tax Regulation 1541, as amended by re-numbering, effective December 3, 1971) The provision was deleted from later revisions of the regulation.

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

RLD:hb

Bc: Mr. Don Hennessy