



STATE BOARD OF EQUALIZATION

December 21, 1965

Gentlemen:

This is to advise you of our recommendation concerning your petition for redetermination of sales tax. We regret we must recommend the tax be redetermined without adjustment.

The issue involved in this case centered around typography charges billed to your clients. The audit determined that other items of tangible personal property which were incorporated into finished art work were purchased tax paid. No markups were charged to your clients and, accordingly, no further tax was due on these other items. Typography charges, however, are not taxable to the typographer and, accordingly, no tax was paid at the time you acquired the reproduction proofs.

The reproduction proofs, however, are incorporated into finished art work which, under Ruling 2 (copy enclosed) were subject to tax to the advertising agency.

We realize that you are not a member of "W", but rather a member of the "A". Nevertheless, the analysis made up by the first mentioned organization is the best statement of the application of sales tax to advertising agencies available. We enclose a copy for your perusal. You will note that question 4 involves typography. The answer states:

"When acting as a true agent, if the agency separates the charges clearly as typography on the invoice, it is not taxable unless typography is used by the agency to produce a 'paste-up' in which case the entire charges including cost of typography are subject to tax."

It was determined at the hearing that typography was not always incorporated into the paste-up. Where it is not it constitutes preliminary art under paragraph (d) of Ruling 2. Paragraph (d) provides, however, that the "charge for preliminary art must be billed separately to the client, either on a separate billing or separately charged for on the billing as preliminary art. It must be clearly identified on the billing as preliminary art, of one or more of the types mentioned in the preceding paragraph." Since the reproduction proofs used as preliminary art were not separately billed to the client, we can allow no adjustment on that basis. In the future, however, you may wish to make a separate billing and thus avoid sales tax for reproduction proofs not used in paste-ups.

Our recommendations will be presented to the Board for their consideration. You will be advised of their action in due course.

John H. Knowles
Associate Tax Counsel

JHK:ls [1b]