

M e m o r a n d u m**527.0340**

To: District Administrators

Date: May 17, 1988

From: Glenn A. Bystrom
Principal Tax Auditor

Subject: Section 6362.5 Master Tapes or Master Records

On January 19, 1988, the Board heard the petition case of T--- M--- L---, Inc. (SR AA 11 647507), and subsequently decided in favor of the taxpayer. This taxpayer is in the business of fabricating master lacquers and reference disks from master tapes. At issue was whether the taxpayer's receipts from charges for transferring the sounds from two-track master tapes to master lacquers, reference disks, or equalized tape copies are exempt under Section 6362.5, "Master Tapes or Master Records". The Board concluded that lacquer masters produced by an independent album mastering studio are generally exempt from the sales and use tax, except for those amounts paid by the customer for the tangible elements of the master record or tape.

In the past we have considered master tapes and records to include only the recording media upon which the original recording of voices, music, or other sounds are captured. Therefore, when parties contracted to merely produce a lacquer disk from previously recorded sound, the partial exemption provided under Section 6362.5 was not applicable.

In testimony given at the hearing, evidence was given supporting the contention that the sound mastering industry has evolved to the point where independent mastering is now the last step of the creative recording process.

Accordingly, for purposes of Section 6362.5, the term "master tape" or "master record" will generally include the lacquer master, cassette master or CD master produced by a mastering laboratory for a recording company from a two-track tape. The multitrack and two-track tapes produced by recording and mix studios would therefore be considered intermediate working products included within the exemption for master tapes and records.

The furnishing of “mothers”, “stampers,” and finished records by a processor to a record manufacturer remain sales of tangible personal property subject to tax.

If any claims for refund arise from this issue they should be processed in the normal manner. If you have any further questions on this matter, please let me know.

GAB:gjm
0218W

cc: Ms. Judy Agan
Mr. Robert Nunes
Mr. Gary Jugum

Memorandum

527.0340

To: Mr. Glenn Bystrom

May 29, 1996

From: Gary Jugum

Subject: Non-Attorney Opinions

I have reviewed your memorandum of May 17, 1988 to District Principal Auditors.

We are in agreement with his conclusion, as follows:

Master Tapes and Records. Master tapes and master records under Regulation 1527(b)(1) will generally include the lacquer master, cassette master or CD master produced by a mastering laboratory for a recording company from a two track tape. The multi track and two track tapes produced by recording and mix studios would therefore be considered intermediate working productions included within the exemption for master tapes and records. The furnishing of "mothers," "stampers," and finished records by a processor to a record manufacturer remain sales of tangible personal property subject to tax. 5/17/88.

Gary Jugum
By MB