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August 9, 1996

Dear Mr. REDACTED TEXT,

This is in response to your letter of June 4, 1996, regarding the application of tax to sales of photocopies by the City of REDACTED TEXT.

Revenue and Taxation Code section 6051 imposes a sales tax on all retailers measured by their gross receipts from retail sales of tangible personal property in this state. Although the sales tax is imposed upon the retailer, the retailer may collect sales tax reimbursement (usually itemized on the invoice as "sales tax") from the purchaser if the contract of sale so provides. (Civ. Code § 1656.1.)

A "sale" includes any transfer of title or possession of tangible personal property for a consideration. (Rev. & Tax. Code § 6006(a).) The measure of sales tax is the total amount of the sale price including charges for service costs and any services that are a part of the sale. (Rev. & Tax. Code § 6012(a)(2) and (b)(1).)

You state that the city sells both photocopies of patents from the City's Patent Library and other photocopied products. For purposes of this discussion, we assume the photocopying of documents is not in response to a request made under the California Public Records Act ("CPRA"). Generally, the city's charges for documents photocopied and transferred pursuant to a request under authority of CPRA would be nontaxable.

The general rule is that sales tax applies to retail sales in this state of photocopies, whether over-the-counter, or through coin-or card-operated copy machines. However, a municipal library or any vendor making sales pursuant to a contract with a municipal library is a consumer of photocopies sold at retail through a coin-or card-operated copy machine located at a library facility. (Rev. & Tax Code § 6359.45 and Reg. 1574(b)(1)(A).)

If the city is selling the photocopies through a coin-or card-operated copy machine located at the library facility, it is not considered a retailer, but a consumer of the photocopies for sales tax purposes. In other words, sales tax would not apply to the city's sales of photocopies through a coin-or card-operated copy machine located at the library facility. Rather, sales or use tax applies to the sale to the city, or to the use by the city, of the equipment, paper, ink, or other tangible personal property the library uses to provide

the photocopying service. Sales tax applies to over-the-counter retail sales of photocopying (not coin-or card-operated).

If you have further questions regarding sales tax, please do not hesitate to write again.

Very truly yours,

Robert E. Thomas  
Tax Counsel

RET/cmm

cc: San Jose District Administrator (GH)