



STATE BOARD OF EQUALIZATION

January 4, 1965

Gentlemen:

We have reviewed your petition for Redetermination of sales and use tax in the light of information obtained at the preliminary hearing held on this matter.

It is our opinion that no adjustment is warranted for the payments to the artist, "M", which were segregated as general office expense and netted from amounts reported.

Viewed from the standpoint of the sales and use tax, we believe that your agreement with the artist called for him to provide unique architectural renderings. Unique in the sense that renderings for the style produced by him could only be obtained from your firm. It can readily be seen that the withholding of the artist's service from competitors had a direct effect on the value of renderings produced. Accordingly, we have concluded that the entire fee is a part of the cost and expense of producing unique architectural renderings.

Section 6011 of the Revenue and Taxation Code defines "Sales Price" to include:

"The cost of materials used, labor or service cost, interest charged, losses, or any other expenses." (Emphasis added)

Therefore, it is our opinion that the entire fee is includible in the sales price under Section 6011 of the Revenue and Taxation Code.

It is noted that a substantial portion of the renderings are consumed by your firm in performing its architectural services. Ordinarily, these purchases would constitute retail sales taxable to the artist. Since you have consistently followed the practice of purchasing all renderings for resale, we do not propose to make a segregation and adjustment in this audit. However, we have directed the district staff to require the artist to obtain a permit for future reporting purposes.

This matter will now be scheduled for further action on the Board's nonappearance calendar. You will receive notice of Board action in due course.

Very truly yours,

W. E. Burkett
Associate Tax Counsel

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