

**STATE BOARD OF EQUALIZATION**

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January 24, 1984

Mr. S--- T. P---
XXX --- Street
--- ---, California XXXXX

Dear Mr. P---:

This is in reply to your October 28, 1983 letter regarding the application of sales tax to sales of artwork by advertising agencies.

You noted your belief that the "producer" of art, for purposes of Sales and Use Tax Regulation 1540, is the person who actually assembles all the pieces together into a "finished" piece of art, mechanical, etc. You further believe that, if such is the case, then it would benefit an agency's clients to use outside vendors for mechanical assembly, etc. where feasible in order to avoid payment of tax on charges for copywriting, production supervision, design, consultation, etc.

We disagree that such charges would be nontaxable merely because the advertising agency obtained an outside vendor to perform the mechanical assembly of the components.

As provided in Sales and Use Tax Regulation 1540 (b)(1):

"With respect to billings issued by advertising agencies to clients, some charges may represent the sale price of tangible personal property sold to the client by the agency and compensation for expenses incurred in and service costs related to, the production of the property. Tax applies to the total amount of the retail sale of the property. Tax applies whether the property was prepared by employees of the agency or acquired from an outside source. Whether the items of property are used for reproduction or display purposes is immaterial." (Emphasis added.)

If an advertising agency contracts to sell printed material to a client, the agency cannot avoid paying sales tax on the sale by merely obtaining the actual assembly of the paste-up or mechanical as an agent for the client.

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

Very truly yours,

R. L. Dick
Tax Counsel

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