



STATE BOARD OF EQUALIZATION

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August 30, 1993

BURTON W. OLIVER
Executive Director

Mr. K--- D. C---
--- --- --- Street, Suite XXXX
--- ---, CA XXXXX-XXXX

Dear Mr. C---:

Re: F--- L--- P--- C--- D---, Inc.
SR -- XX-XXXXXX

This is in reply to your July 1, 1993 letter regarding the application of sales tax to charges by your client, F--- L--- P--- C--- D---, Inc. (taxpayer). You described the following facts:

"The taxpayer is a designer of printed circuit boards. It uses computers and computer aided design ("CAD") software to design the layout of electronic components on a printed circuit board ("PCB") from drawings provided by its customers. Neither the taxpayer nor any of its employees is a registered engineer. Using the drawings and other reference materials, the taxpayer enters information on the type, size and electronic characteristics of the circuit components onto the CAD software data base. The software program is used to manipulate the data to generate the optimum design for the PCB. When the design is completed, the design information is transferred to the customer (i) via a computer modem over telephone lines or in the form of computer data on a tape cartridge or floppy disk, and (ii) in the form of fabrication and assembly drawings on vellum. The taxpayer is generally required to also furnish the customer with photoplots" which are given by the customer to a PCB manufacturer for use in the production of the PCB's. Occasionally a customer will provide the taxpayer with the completed PCB design and ask the taxpayer to prepare and deliver corresponding "photoplots."

"The taxpayer invoices its customers for the design service and makes a separate charge for any "photoplots." There is no separate charge for tape cartridges, floppy disks or vellum."

Given this information, you asked the following specific questions:

"1. Is the taxpayer's sale of design services subject to sales or use tax?"

The State Board of Equalization's staff has taken the position that tax does not apply to the design charged under the facts you present. (Bus. Tax. Law Guide Anno. 120.0020.)

"2. Is the taxpayer's transfer of designs on tape cartridges, floppy disks or drawings subject to sales or use tax?"

Tax does not apply to the taxpayer's charge for tangible representations of the design except where the drawings are suitable for use as camera-ready art.

"3. Is the taxpayer's transfer of designs by computer modem subject to sales or use tax?"

No, the Board's staff has taken the position that the transfer of information by modem is not a transfer of tangible personal property.

"4. Is the taxpayer's sale of "photoplots" based on designs developed by the taxpayer subject to sales or use tax?"

Yes, tax applies to the taxpayer's sale of manufacturing aids used in the production of the PCB such as photoplots and drill tapes used on a tape-controlled automatic drill machine.

"5. Is the taxpayer's sale of "photoplots" based on designs provided by the customer subject to sales or use tax?"

Yes, tax applies to the sale of the photoplots whether the taxpayer develops the design or the customer develops the design. Tax would apply even if the customer were to provide the material the taxpayer uses to create the photoplots.

Mr. K--- D. C---

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

Very truly yours,

Ronald L. Dick
Senior Tax Counsel

RLD:plh