

**STATE BOARD OF EQUALIZATION**

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March 23, 1992

BURTON W. OLIVER
Executive Director

Mr. B--- A---
XXXX Xth Street
---, CA XXXXX

Dear Mr. A---:

This is in reply to your January 9, 1992 letter regarding the application of sales tax to your charges for Computer Aided Drafting (CAD) support activities.

You note that you believe that the true object of your contracts is the services rendered in producing the output and not the output itself. Under the Sales and Use Tax Law, the transfer of title or possession of tangible personal property for a consideration is a sale. Although a great deal of the value of the tangible personal property you provide is the result of your labor, nonetheless, the object of your client's contract is the output.

Revenue and Taxation code section 6006 defines sale to include a transfer for a consideration of the title or possession of tangible personal property which has been produced or fabricated to the special order of the customer. The California Court of Appeals held in Albers v. State Board of Equalization, 237 Cal.App2d 494, that, when a draftsman makes detailed drawings based upon specifications furnished by his or her customer, the true object of the transaction is the drawings and not the designs or specifications pictured therein. Such transactions are sales under subdivision (f) of section 6006.

You note also that you are concerned that all California companies conducting activities such as your are treated the same under the law. You asked how you can ascertain whether such companies are charging sales tax reimbursement or use tax on their sales. This Board is prohibited, pursuant to Revenue and Taxation Code section 7056, from making known in any manner any information pertaining to any person required to report to the Board. We suggest then that you contact the businesses to determine whether they consider their charges as subject to tax. You may then provide any information you deem necessary to this Board's Compliance

Planning Unit at this address. You earlier sent a list of similar businesses. I am sending that list to the Compliance Planning Unit with a copy of this letter.

Finally, you note the following facts regarding a recent request from a customer to modify existing electronic files of information:

“These files had originally been created by my company. The customer then decided certain changes (additions and deletions) would be required. The service of modifying the data was manually completed using keyboard strokes and the files were returned to the customer on the same medium. No new materials inputs were required, nor were the existing files’ data electronically processed. The customer was billed an additional charge for the service of making the requested changes to the drawing data. (Information removed from layer X and placed on layer Y of the existing drawing file.)”

The charges you described are subject to tax. As provided at subdivision (c)(2) of Regulation 1502:

“Charges for producing, fabricating, processing, printing, imprinting or otherwise physically altering, modifying or treating consumer-furnished tangible personal property (cards, tapes, disks, etc.), including charges for recording or otherwise incorporating information on or into such tangible personal property are generally subject to tax.”

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:sr

Enc.

cc: Compliance Planning Unit