



STATE BOARD OF EQUALIZATION

May 10, 1954

Your letter of March 31

You are a sound recording company and record narration and music onto 16mm motion pictures, generally of an educational or travelogue nature. The music is from discs for which you charge a royalty which, in turn, is paid to the copyright owner. The royalty allows the use of the music in the United States for non-theatrical purposes.

Recently a customer has requested a clearance for world-wide use of the music for which an additional royalty is charged. You inquire concerning the application of the sales tax to this additional royalty.

The fabricating or processing of tangible personal property for a consumer is regarded as a sale and the charges for such fabricating or processing are subject to the tax. The mere transfer of bare legal title to tangible personal property without the right to use that property would be a nullity. A sale of tangible personal property with the right to use in the United States is a sale and subject to the tax. A sale of tangible personal property with the right to use throughout the world is also a sale and is subject to the tax. The measure of tax is higher in the latter case because the right transferred is more valuable. The fact that the additional fee for world-wide use is separately stated does not make it any the less an integral part of the sale itself.

Yours very truly,

Bill Holden
Assistant Counsel

BH:ja

cc: Los Angeles -Auditing

*note: the application of tax to charges for sound recordings and charges for sound for motion pictures is amended. (Section 6010.6 & 6362.5)