

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA  
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(916) 324-8208

January 28, 1992

Ms. S--- K---  
N--- I---  
XXX --- Drive  
---, California XXXXX

Re: Application of Sales Tax to Sales of Custom Tables  
SR -- XX-XXXXXX

Dear Ms. K---:

This is in response to your letter dated October 29, 1991 in which you write:

“I have a specific taxation question related to a commercial job I am doing as an interior decorator and would appreciate a written response. I had some particle board tables fabricated for this office and have found an artist to paint a faux finish on these tables to customize them for my clients. My clients paid the table fabricator directly as I did not mark up the price for resale (I am accepting an hourly wage only) and no tax has been paid. The faux finish artist has explained to me that when she paints a finish on a wall it is not taxable but on furniture or personal property it is taxable. I am collecting the fee for the artist as the decorator who designed the job from my clients. Do I collect tax on just the tables or on the finished whole product - - faux-painted tables? Is my hourly fee taxable? I am going to collect the tax now and wait for a response.”

Sales tax is measured by the gross receipts from the sale of tangible personal property. Rev. & Tax. Code § 6051. Gross receipts includes the total amount of the sales price without any deduction for service or labor costs. Rev. & Tax. Code § 6012. On the other hand, the charge for a service which is not related to the sale of tangible personal property is not part of taxable gross receipts. Sales and Use Tax Regulation 1501.

The Sales and Use Tax Annotation 295.1510 of the Business Taxes Law Guide provides:

“Fees for bona fide professional services such as consultation, layout, coordination of furniture and fabrics, selection or color schemes, and supervision of painting, installations, etc., are exempt. Billings for such exempt fees should be separately stated from fees related to sales of tangible personal property.

“Fees charged in connection with acquiring and providing furnishings or other tangible personal property are taxable. A fee charged solely for accompanying a client to showrooms, or for otherwise assisting in or recommending the selection of furnishings, is considered part of the taxable selling price of the furnishings sold by the interior decorator, not an exempt decorator fee. However, tax does not apply to charges for such services when no sales of merchandise are made. Normally, the selling price of the furnishings on which the interior decorator computes tax should be the ‘retail’ price, that is, the interior decorator’s cost plus a reasonable markup.

“If furnishings or other kinds of tangible personal property are billed at cost and a separately stated fee charge includes overhead, profit, etc., directly related to the property sold, as well as other charges, the total fee charged will be considered subject to tax, unless it is established that a portion of the fee is for exempt professional services as described above.”

We are assuming that even though your client paid the table fabricator directly, you were the seller of the table to your client since your client contracted to purchase the table from you. Since you made a retail sale of the table, you must pay tax on that sale. If your agreement or billing separately stated your charge for the table and that charge was the ‘retail’ price, i.e., the cost of the table, including the artist’s fees, plus a reasonable markup, that retail price is the measure of tax. (The measure of tax must also include the fabricator’s charges even though your client paid the fabricator directly.)

If you did not separately state the retail price of the table, your measure of tax will be the entire billing unless you can establish what portion of the fee is for exempt professional decorating services.

We are enclosing for your information the Board’s Tax Tip Pamphlet for Designers and Decorators. If you have further questions regarding sales and use tax law, please do not hesitate to write again.

Sincerely,

Elizabeth Abreu  
Tax Counsel

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Enclosure