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**STATE BOARD OF EQUALIZATION**

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January 5, 1961

Gentlemen:

We have received your letter of December 30, 1960, regarding the purchase of unexposed microfilm by your client.

In our letter of December 28, we advised you Sales and Use Tax Ruling 23 applies to microfilming and that your client would, therefore, be required to hold a seller's permit and report the tax on the charges for microfilming. Ruling 23A, which applies in express terms to photographers and photostat producers, provides that sales tax applies to " ... sales to the photographer or producer of materials used in the process of making the photographs and photostat copies and not becoming an ingredient or component part thereof, such as chemicals, trays, films, plates, proof paper, and cameras."

In the normal operation, the film negative is retained by photographers and photostat producers, and a print made from the negative is sold to the client. You informed us that in the case of your client, the film becomes the property of the client when the process of microfilming is completed.

In this situation, i.e., where the film itself is sold to the customer, we are of the opinion that the microfilmer may purchase the film ex tax with a resale certificate. This, of course, applies only where the film so purchased is in turn sold to the microfilmer's customers. The tax would apply to the purchase of film by the microfilmer if the microfilmer retains the property in the film and merely sells copies or prints which are produced from the films. As stated in our letter of September 25, the tax will apply to the sale of the film to the microfilmer's customer.

We hope that the above will sufficiently answer your questions. If you have further inquiries, please advise us.

Very truly yours,

E. H. Stetson  
Tax Counsel

By Roy Gill

RG/o'b [at]