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STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-6450

September 24, 1991

REDACTED TEXT

Dear REDACTED TEXT:

This is reply to your August 6, 1991 letter regarding the application of sales tax to sales of photographs to you to use in publishing two yearly catalogs of shoes.

You note that the photographer is simply a man with a camera. He provides only a studio, film, and camera. Out of approximately 100 photographs taken by the photographer, only 15 are ultimately used in the catalog. The remainder are taken for light placement or test shots. The photographer maintains that tax applies to his entire charge to you. You asked for our opinion.

The photographer is correct that tax applies to the total charge for the photographs. Sales tax applies to the total gross receipts of the retail sales of retailers. (Rev. & Tax. Code § 6051.) The term "gross receipts" is defined to mean the total amount of the sale price of the retail sales of retailers without any deduction on account of the cost of the materials used, labor, or service cost, losses, or any other expense. (Rev. & Tax. Code § 6012, subd. (a).)

Although the photographer's charge to you includes a charge for many photographs which are not used, the Sales and Use Tax Law requires the photographer to include in the taxable measure of his sale the entire gross receipts he receives for making the sale.

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

Very truly yours,

Ronald L. Dick
Senior Tax Counsel

RLD:sr