



STATE BOARD OF EQUALIZATION

1538 Additional charge for rights to reproduce photograph.

September 24, 1964

X-----

Dear Mr. X-----,

You will recall that I conducted a preliminary hearing in the matter of your petition for redetermination of sales tax on January 16, 1964, at our Hollywood office. At that time we concluded that an audit would be initiated to straighten out your sales tax records and familiarize you in proper sales tax reporting procedures. The audit resulted in an additional determination of \$130.91 being issued against you on July 10, 1964. This determination is now final under § 6561 because no petition was filed within the 30-day period. In order to avoid the 10 percent penalty provided by § 6565, we are applying the \$150 security deposit to the amount of the determination. We are able to do this because you have closed out your account.

The determination of July 10, 1964, was in addition to the earlier determination of July 9, 1963. The audit gave you full credit for the amount of the prior determination. Applying the remainder of the cash balance to the earlier determination, there remains due and owing \$110.29 (see schedule attached). Please take steps to satisfy this liability prior to October 31, 1964, in order to avoid further accumulation of interest.

We note that while you did not file a petition on the second determination, you did protest one item to our auditor. This concerned reproduction rights on photographs. The photographs were delivered to an agent of the buyer in California. They did not constitute interstate commerce and were subject to tax. Reproduction rights are intangible elements which adhere to tangible personal property, in this case the photographs. The right to use property is an inherent element of the property itself and, thus, we have always taken the position that extra charges for reproduction rights are part of the gross receipts from the sale of photographs and are subject to tax. Accordingly, we believe the auditors acted properly in not allowing you a credit for this.

Very truly yours,

John H. Knowles
Associate Tax Counsel