



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001
TELEPHONE (916) 920 - 7445

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August 11, 1994

Re: X-----

BURTON W. OLIVER
Executive Director

Dear X-----,

This is in reply to your June 1, 1994 letter regarding the application of sales tax to charges to you for tangible personal property in connection with booklets you publish. You provided the following facts:

“X----- is a new medical publishing company. We have manuscripts written by physicians which are then put into our format by a designer. The film house prepares the manuscript and illustrations for printing and then the film is given to a printer for completing the process of booklet production. For those booklets which are given as promotions, we pay sales tax. For those booklets which we sell to physicians and hospitals, we have a re-sellers license and charge sales tax to California customers.”

You later sent a copy of a sample of the work performed by the designer. The sample consists of only typography with straight line borders around areas designated for illustrations. Given this information, you asked whether sales tax applies to the charge to you by the designer.

Sales tax applies to the retail sale of tangible personal property in this state. (Rev. and Tax Code sec. 6051.) The law imposes a complementary use tax on the use in this state of tangible personal property purchased from a retailer for use in this state. (Rev. and Tax Code sec. 6201.) Revenue and Taxation Code section 6010.3 provides that "sale" and "purchase" do not include (a), the transfer by a typographer of composed type or reproduction proofs of the composed type for use in the preparation of printed matter nor (b), the transfer of such reproduction proofs to a printer or publisher for use in printing.

Sales and Use Tax Regulation 1541, subdivision (f) (3), provides:

"Tax does not apply to the composing of type regardless of whether the type is composed by means of such simplified cold type methods as standard typewriter, Varsity or Justewriter, by means of photolettering or headlining machines, or by means of a photocomposition (including computer photocomposition) method. Tax does not apply to the transfer, whether temporary or permanent, of (a) the direct product of the type composition service containing type matter only, whether that product is a paper or film (negative or positive) product or (b) a copy of the product, made by any method including the diffusion transfer method copy, whether the copy is to be used exclusively for reproduction. Transfers of plates made from the properties referred to in the preceding

sentence are subject to tax, and tax applies to the entire charge made to the customer including any portion of the charge attributable to the type composition service, whether the charge is separately stated or not. If the typographer transfers type matter combined with artwork, in the form of a paste-up, mechanical, assembly, or camera-ready copy, or a reproduction of the paste-up, mechanical, assembly, or camera-ready copy, the entire charge made by the typographer to his customer is subject to tax, including any portion of the charge attributable to the type composition service performed by the typographer, whether the charge is separately stated or not. Tax does not apply to the transfer of a photoreproduction of type composed by means of photolettering or headlining machine or other similar device."

Although tax does not apply to the transfer of the product of a type composition service containing type matter only, tax does apply to the transfer of type matter combined with artwork in the form of a paste-up, mechanical, assembly, or camera-ready copy. Tax also applies to the transfer of a flat (including an assemblage of page negatives or positives which contain type matter only), or the transfer of a reproduction of any of those properties. Further, when printers sell printed matter, they may not deduct from the taxable gross receipts of their sale charges for typography. (Sales and Use Tax Reg. 1541, subds. (f) (5) and (6).)

We consider composed type together with line borders of plain or straight lines as "composed type only" for purposes of Regulation 1541. (Bus. Taxes Law Guide Anno. 430.0365.) Therefore, tax does not apply to a designer's charge to you for a product in the form of a layout consisting of only composed type and boxes of plain lines with notations within the boxes to designate positions and sizes of illustrations, similar to the layout you sent for our review.

You note that the designer never sees nor has access to the original illustration which is sent directly to the film house. You asked whether tax would apply to the designer's charge if the designer merely used a copy of an illustration or early beginning sketch for composition placement only. Assuming that the designer would not incorporate an image of that illustration in the designer's layout but would merely transfer to you a layout in the form similar to the one you sent us which consists of only typography and plain lined boxes and instructions for placement of the illustration, tax would not apply to the designer's charge.

You asked whether tax applies to charges for the design of pieces which are entirely composition such as order forms. No, if the transfer to you is of typography only such as an order form, with no illustrations, tax does not apply to the charge for only typography. On the other hand, if you purchase order forms from a printer, and the printer performs typography in order to develop the printed forms, tax applies to the entire charge for the printing including the portion of the charge attributable to typography. (Sales and Use Tax Reg. 1541, subd. (f) (6).)

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

Very truly yours,

Ronald L. Dick
Senior Tax Counsel

RLD:plh