



STATE BOARD OF EQUALIZATION

916-324-8208

May 3, 1991

X-----

Re: X-----
Application of Sales Tax to Printing Business

Dear X-----,

Your letter dated March 11, 1991, to the Board has been forwarded to me for a response. According to the information we have, the facts are as follows:

You operate a business which offers to print names, dates, and other printed matters on items such as napkins, ribbons, and wedding favors. When you took over the business, the former owners showed you what to do. It appears that you use a Kinsley machine to perform the printing. With this machine, you insert the type faces into the type holder, allow the type faces to heat, and then stamp the item you are printing.

On your sales and use tax return for the first quarter of 1990, you claimed a deduction in the amount of \$2,837 for "nontaxable labor." The Board's return review unit disallowed this deduction, which represented your printing charges. As a result of this disallowance, the Board determined that as of March 4, 1991, you had a delinquent tax liability of \$861.56.

You state that the two accountants that you had previously hired had never questioned the validity of the services you performed and that you had never received any information from the State Board of Equalization until now. Business has been slow, and you believe that you will have to liquidate if you have to pay the back taxes. Therefore, you request that the disallowance of this item begin January 1, 1991.

Revenue and Taxation Code section 6051 imposes a sales tax upon all retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state. Gross receipts means the total amount of the sale price of the retail sales of retailers without any deduction for certain costs, including service costs. Rev. & Tax. Code § 6012(b)(1).

Under Regulation 1541(a), “Printing and Related Arts,” tax applies to charges for printing, lithography, photolithography, rotogravure, gravure, silk screen printing, imprinting, multilithing, multigraphing, mimeographing, photostating, steel die engraving, and similar operations for consumers, regardless of whether or not the paper and other materials are furnished by the consumer.

Regulation 1541(f)(1) provides that the composition of type (i.e. the setting of type), whether text type or display types, is the performance of a service. Regulation 1541(f)(2) and (3) gives examples of two kinds of composition of type – hot metal composition and cold type composition. Tax does not apply to charges for such service, unless the service is part of the sale of printed matter in which case tax applies to the gross receipts from the sale of the printed matter. In the latter case, printers may not deduct from the gross receipts of their sales of printed matter charges related to their typography work or the cost of typography to them. Regulation 1541(f)(6).

In your case, if you were only performing the services of a typographer by composing type or making reproduction proofs, your charges would be nontaxable. It appears, however, that you were both composing type and printing items such as napkins and ribbons which you sold to your customers. Therefore, you were selling tangible personal property, and all of the costs of the services connected with those sales, including composition of type, must be included in gross receipts and cannot be deducted. Rev. & Tax. Code § 6012(a) and (b) and Regulation 1541(f)(6).

It is unfortunate that your accountants did not give you correct advice concerning the taxability of the sale of printed materials. The law, however, permits the Board to give relief only where the Board itself, under certain circumstances, has given incorrect advice in writing. Rev. & Tax. Code § 6596.

RLD