



STATE BOARD OF EQUALIZATION

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October 19, 1994

BURTON W. OLIVER
Executive Director

X-----

Re: X-----

Dear X-----,

This is in reply to your August 22, 1994 letter regarding the application of sales tax charges by X----- for editorial and production work you perform for X-----.
You provided the following facts:

"The publisher sends me an author's paper manuscript and word processing disk files. I have the paper manuscript edited and sent to the author for approval. We enter the corrections to the original computer disk files, then import the text files into a digital page layout program. We computer-generate any illustrations that are required and combine them with the text in the page layout program. We print laserprinted proofs of the pages and send photocopies to a proofreader, the publisher, the author, and an indexer. Corrections are returned to us, we change the computer files as necessary, and print new proofs for confirmation. The disk files are sent via modem to a local service bureau for output as lithographic film negatives. The film is returned to X----- for inspection and packaging. The film and the final laserprinted proofs are shipped to an out-of-state printer, as X----- required by the client. The disk files are archived at X----- for possible future editions.

We first note that, under the "Terms and Conditions" section of your form, Price Quote, you have a title passage clause which provides that title to all tangible personal property you purchase as manufacturing aids passes to X----- prior to your use. In such case, sales tax applies to your sale in this state of the tangible personal property to X----- regardless that you may ship the final product to a point outside this state. (Cf. Sales and Use Tax Regulation 1541, Printing and Related Arts, subdivision (e) (2) .) For example, your Price Quote includes a charge for data translation; that is, conversion of text and graphics from IBM to Macintosh-compatible format. If you have subcontracted that work, your charge to the customer for the conversion is a sale of tangible personal property in this state and subject to sales tax.

As to the products you produce in fulfilling your contract, you are the retailer of tangible personal property you are required to deliver to your client or to other persons for the benefit of your client. For example, under the Production Requirements section of Price Quote, you are required to send the four sets of photocopies for positive editing by the proofreader, publisher, author, and indexer. If those photocopies are shipped to those persons in this state, your sale of the photocopies is subject to sales tax.

We note that, under your purchase order, your final product is single page negatives. We assume that those negatives are the lithographic film negatives that you state you purchase from the "local service bureau". We also assume that you purchase the negatives for resale to X----- and make no intervening use of them, that is, you do not purchase them as an agent on behalf of X----- . In such case, the sale to you is a nontaxable sale for resale, and your sale to X----- is exempt from tax when you ship the negatives to X----- to an out-of-state point for X-----'s use outside or this state. That is true regardless that you inspect and package the film for shipment.

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

Cc: Santa Rosa District Office – JH