

442.0000 PUBLISHERS—Regulation 1543

442.0016 **Artwork and/or Negatives Sold to Lessor.** When artwork and/or negatives are sold to a lessor without payment of sales tax, the lease by the lessor to a lessee would be subject to the tax.

If the lessor desires to pay tax on its acquisition and thus avoid tax on the lease transaction, the measure of tax with respect to the acquisition would include all amounts required to be paid by the lessor, including the amount paid for any reproduction rights. 12/12/90.

[442.0041](#) **Charges to Publishers.** Charges for consultation, preliminary design supervision, preliminary design, copy editing, coding and preliminary layout are all charges for author or design services which are regarded as services related to the sale of tangible personal property. Tax applies to these charges unless the charges are separately stated and neither title nor possession of layouts is transferred to the customer other than briefly for purposes of review and approval.

Charges for converting text files to make them compatible with a word processing program are charges for work that is part of typography which is a “production function” as that term is defined in Regulation 1543(a)(4). The charges for typography are part of the gross receipts from the finished product unless the work is completed before authorization is given for completion of the final product. (See Regulation 1543(b)(3)(B).

Charges for production management, final composition, corrections, film positives or negatives, photography and other materials are taxable. 8/10/94.

442.0050 **Concept Development.** A charge for writing copy, (e.g. an outline of the points to cover in final copy, etc.) which will be incorporated as part of tangible personal property, may be excluded from the taxable measure as nontaxable author services if the advertising agency or designer follows the criteria of Regulation 1543(b)(4) which sets out the necessary terms of the contract and the standard of proof which are necessary for the exclusion to apply. 3/31/93.

442.0250 **Licensing Rights to Reprint Articles.** A publisher of publications licenses to others the right to reprint information contained in its publications. Tax does not apply to the publisher’s charges to a person solely to provide that person with the right to reprint information contained in the publisher’s publications. 3/27/97.

442.0500 **Photographs Reproduced in Quarterly Report.** A photographer is commissioned to take product photographs to be printed in a corporate quarterly report. By agreement, the corporation receives only the right to reproduce the photograph but not the title to the photograph.

The photograph does not become an ingredient or component part of the quarterly reports. Only the image of the photograph is reproduced as a part of the quarterly reports. The reproduction of the photograph is a use of that photograph.

Since only possession and not title to the photograph is transferred, the applicable tax is the use tax. The photographer, as the lessor, is required to collect the tax from the corporation and report and pay the tax to the Board. 8/5/93.

442.0810 **Services to Publishers.** A taxpayer receives an author’s paper manuscript and word processing disk files from a publisher. The paper manuscript is edited and sent to the author for approval. The corrections are entered onto the original computer disk files. Page layouts are prepared, including any computer generated illustrations that are required. Proofs are then printed by computer and copies are sent to a proofreader, the publisher, the author, and an indexer. Corrections are returned, the computer files are changed, and new proofs are printed for confirmation. The file is then sent to local firm for production of lithographic film negatives. The film is returned for inspection and packaging. The film and the proofs are then sent to an out-of-state printer. The contract provides that title to all tangible personal property purchased as manufacturing aids passes to the publisher prior to use by the taxpayer.

When the tangible personal property is sold to the publisher in this state, tax applies to this sale regardless of the fact that the final product is shipped to a point outside this state. This includes conversion of data from IBM to Macintosh compatible when subcontracted to a third party and sets of photocopies sent to the proofreader, publisher, author and indexer which are shipped to persons in this state. It does not include the lithograph film if no use is made prior to shipment outside the state. Inspection and packaging of the film would not be a "use." 10/19/94.

442.0870 **Transfer of Text and Artwork.** A taxpayer was a writer of educational periodicals. The taxpayer entered into an agreement with a producer to compile and coordinate research, information, original artwork, photographs and mechanical art necessary for production of a series of related illustrated books. The agreement specifically provided that the taxpayer was not responsible for color separations, stripping or printing. The taxpayer was authorized to hire artists and to make purchases as necessary. The agreement provided that the publisher would own all original artwork and photography commissioned by the taxpayer, and that the petitioner would act as agent of the publisher in making purchases of art.

Since the taxpayer was an agent of the publisher in obtaining artwork, he is not regarded as selling artwork to the publisher. Also, under Regulation 1543, the transfer of manuscripts is not taxable. Accordingly, tax did not apply to any charges made by the taxpayer to the publisher. 7/12/94.

442.1000 **Writing Words Only.** A taxpayer is in the business of writing print ads and brochures for clients. The taxpayer submits work to clients in typed form or on a computer disc. The clients then turn the taxpayer's work over to a graphic designer who incorporates the written words into the final artwork. In summary, the taxpayer simply writes the words that are made part of the finished product by someone else.

Since the taxpayer provides words (text only) to its clients, the taxpayer is considered an author performing nontaxable services. 1/27/94.