



STATE BOARD OF EQUALIZATION

PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001  
TELEPHONE (916) 445-6450

March 9, 1966

Mr. G. J. B---, Accounting Manager  
T--- S--- Company  
M--- D--- – G--- D---  
XXXX --- --- ---  
--- ---, CA XXXXX

SR -- XX XXXXXX  
G--- P---, Inc.

Dear Mr. B---:

This refers to the claim for refund filed on behalf of T--- S--- Company, successor to G--- P---, Inc.

We have researched the question of treating the purchase of over 7000 drawings and sketches, described as scientific documentation, as a purchase of an intangible.

It is our opinion that this was a purchase of tangible personal property. We agree that there may be some intangible value placed on the property as far as T--- S--- Company is concerned, but that does not make it a purchase of an intangible.

The question of adding intangible values to tangible personal property was discussed by the Supreme Court in Michael Todd Co. v. County of Los Angeles, 57 Cal. 2d 684.

The Todd case involved property taxation on the negatives of the picture "Around the World in Eighty Days." As negatives they were worth very little, but they were assessed at over \$1,500,000 because of the intangible value they had.

In Roehm v. Orange County, 32 Cal. 2d 280, the Supreme Court said intangible values, however, that cannot be separately taxed as property may be reflected in the valuation of taxable property.

In this matter we are concerned with the gross receipts from the sale, and more specifically, the value placed on the drawings or the portion of the gross receipts determined to be for the drawings.

In Hawley v. Johnson, 58 Cal. App. 2d 232, the court was confronted with the inflated value placed on a used car traded in on the purchase price of another car. The inflated value was placed on the car in lieu of a cash discount. The court held that if the parties placed an inflated value on the car, that is what the value is as far as gross receipts are concerned. Values in excess of true market value might be compared to intangible values. In light of the Hawley case, we have no alternative but to accept the value placed on the drawings, which we understand is approximately \$234,995.

The fact the drawings are scientific documentations does not, per se, make them intangibles. The purchase of the drawings should not be confused with a contract for research and development.

A person contracting for research and development is primarily contracting for the service of developing the information, and not for the purchase of tangible personal property. Since the information cannot ordinarily be conveyed orally, the recording of the information on paper is incidental to the purchase of the services of developing it. Thus, research and development contracts entered into for the purpose of getting information do not necessarily involve the sale of tangible personal property.

A contract to purchase data, drawings, knowledge or information already developed and on paper is not a contract for research and development, but a contract to purchase a specific physical item of tangible personal property. This is, in our opinion, what T--- S--- Company purchased when they bought the drawings.

In light of the foregoing, we are recommending that there be no refund on tax paid on the purchase of the drawings.

If, after considering our explanation of the recommendation, you desire to present the matter to the Board for hearing, please let us know in writing within three weeks.

Sincerely yours,

Robert H. Anderson  
Associate Tax Counsel

RHA:dse

cc: --- --- --- -- Subdistrict Administrator