M e m o r a n d u m

527.0050

To: Mr. Jesse Ducay   Date: June 28, 1991
Audit Evaluation and Planning

From: Ronald L. Dick
Senior Tax Counsel

Subject:

       This is in reply to the April 25, 1991 Mini-Memo from Mr. Vic Anderson regarding the application of sales tax to charges by _____ for audiocassettes.

       From the material attached to Mr. Anderson's memorandum, we understand that _____ produces the audiocassettes for clients to advertise products or services of the clients. The audiocassettes play for approximately two to ten minutes.

       Mr. Anderson asked for our opinion as to whether each of the tapes qualifies as "master tapes and master records embodying sound" as defined in Sales and Use Tax Regulation 1527, Sound Recording.

       Subdivision (b)(1) of Regulation 1527 provides:

> "Master tapes and master records embodying sound" means tapes, records, and other devices, not including mothers, stampers or finished records, utilized by the recording industry in making recordings embodying sound. The term includes, but is not limited to tapes or records which are produced for the immediate purpose of auditioning or demonstrating the particular artistic talents contained therein. The term includes tapes or records which are produced for us as radio commercials or other advertising, syndicated radio programs or for educational purposes. The term does not include recordings for video games or seismic surveys.

       We have previously taken the position that, under the wording of the regulation, each of the tapes produced for use as radio commercials, other advertising, syndicated radio programs, or educational purposes qualifies as a master tape embodying sound rather than only the master from which such tapes are produced. Accordingly, the measure of tax on _____ sales of the tapes it produces for the clients is limited to the sale price of the unprocessed recording medium (blank tape). (Reg. 1527, subd. (b)(2).)

       If you have any further questions on this, feel to contact me directly.