



STATE BOARD OF EQUALIZATION

October 11, 1967

Gentlemen:

Your letter of September 19, 1967 addressed to Mr. T. F. Jordan, has been referred to the undersigned for reply.

It is our understanding that your client, "M", is in the business of providing motion picture advertising for local merchants in theaters in their community. In connection with this service your client maintains a library of stock films in Louisiana. Your client produces most of these films and purchases the rest. Your client either produces or purchases a trailer which refers to the local merchant. The trailer is spliced to the end of stock advertising film. The stock film and trailer are sent to the local theater, with whom your client contracts to show the film, for a specified period.

As indicated in Section 6201 of the Revenue and Taxation Code, tax is imposed on property in this state purchased from a retailer for use in this state.

Section 6202 provides that every person storing, using or otherwise consuming tangible personal property in this state purchased from a retailer is liable for the tax. Thus, although your client produces most of these films itself, and purchases the rest, it is subject to tax with respect to the fabricated cost of the prints which have not been used substantially prior to being used in this state.

It does not appear to us that the ascertainment of prints, which had been used substantially prior to being used in this state would be a problem inasmuch as the keeping of such records would appear to be required in order to maintain such a library.

With regard to your assertion that basing the tax on cost would result in multiple taxation, we advise that under Section 6406, operative July 1, 1967, a credit is allowable against the state and local use taxes for sales or use tax imposed by another state with respect to the film prior to its use in this state, the amount of such credit not to exceed the amount of the state and local use taxes.

Very truly yours,

George A. Trigueros
Tax Counsel

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