



**CDTFA**  
CALIFORNIA DEPARTMENT OF  
TAX AND FEE ADMINISTRATION

# Graphic Design, Printing, and Publishing

## Preface

This publication is designed to help you understand how sales and use tax applies in your business operations. If you cannot find the information you are looking for in this publication, please go to our website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov) or call our Customer Service Center at 1-800-400-7115 (CRS:711). Customer service representatives are available to answer your questions Monday through Friday between 7:30 a.m. and 5:00 p.m. (Pacific time), except state holidays.

This publication complements [publication 73](#), *Your California Seller's Permit*, which includes general information about obtaining a permit; using a resale certificate; collecting and reporting sales and use taxes; buying, selling, and discontinuing a business; and keeping records. Please also refer to [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov) or the [For More Information](#) section of this publication for California Department of Tax and Fee Administration (CDTFA) information and all regulations and publications referenced in this publication.

We welcome your suggestions for improving this or any other publication. If you would like to comment, please provide your comments or suggestions directly to:

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*Please note: This publication summarizes the law and applicable regulations in effect when the publication was written, as noted on the back cover. However, changes in the law or regulations may have occurred since that time. If there is a conflict between the text in this publication and the law, decisions will be based on the law and not on this publication.*

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# Introduction—Sales Tax Basics for Graphic Designers, Printers, and Publishers

*As a seller operating in the graphic arts industry, you are generally involved in one or more of the following activities: the creation and production of artwork for visual communication, web or software design, the separation of artwork into individual colors for printing, typography, bookbinding, sign making, publishing, advertising and product packaging, digital prepress instruction, production of printed matter, and other related activities. The artwork may be produced manually, digitally, or by computer through the generation of two or three-dimensional images. Whether you offer your customer a full range of services from the initial design of the artwork to the production of the printed media, or the services offered are specialized and limited, tax generally applies to your charges unless your sale is exempt or otherwise nontaxable. This chapter explains, in general, when sales or purchases made within the graphic arts industry are considered taxable and when they are not.*

Please note: For the purposes of this publication, a graphic designer includes any person involved in the creation and production of artwork for commercial purposes, including advertising agencies, commercial artists, printers, publishers, and others who provide these types of services.

## Sales That Are Generally Taxable

### **Sales of artwork**

Artwork, whether in the form of drawings, color images, photographs, hand lettering, illustrations or three-dimensional objects, is a key element in the graphic arts industry. When concept or design services are provided in conjunction with furnishing artwork, the job usually results in the creation of “preliminary art,” as well as “finished art.” Except for preliminary art transferred temporarily solely for review and approval purposes, your charges for artwork are generally taxable when transferred in a tangible form. For more information about how tax applies to your sale or use of artwork, including production aids, see [Graphic Design](#).



### **Sales of printed matter**

When you contract with your customer for the sale of printed matter, in most cases, you are not only the retailer of the printed matter; you may also be the retailer of the intermediate production aids and special printing aids used during the production of the printed matter. If you are a printer, you should read the chapter, Sales of Printed Matter and Related Services, for an explanation of the special rules that apply to a printer’s sale of printed matter and the aids used in the printing process. If you purchase printed matter from a printer or print broker for resale to your customer, you should read the section, [Sales of Printed Matter by Print Brokers](#), for an explanation of the special rules that apply to a print broker’s sale of printed matter and the aids used in the printing process. An explanation regarding the rules that apply to the sale or use of production aids, special printing aids, and artwork in general is provided in [Sale and Use of Artwork](#).

### **Sales of taxable labor, services, and products—in general**

In California, sales or use tax applies to retail sales of tangible products sold and delivered for use in the state. However, when you sell and deliver products outside the state, sales tax generally does not apply. Tax applies to your sale of capital assets used in the course of your business, such as processing or printing equipment, fixtures, computers, and furniture whether the sales are incidental or sold when you sell your business. If a lump-sum sale of your business includes these or similar capital assets, you must report and pay sales tax based on their fair market value.

Your labor and overhead charges may be taxable depending on the product and service you provide to your customer or others on your customer’s behalf. The following sections explain which charges are generally taxable.

## ***Fabrication labor***

Charges for labor to create or produce a new product (such as finished art, illustrations, brochures, printed matter, prints, or printing aids) are generally taxable. Tax applies whether you supply the materials or use materials supplied by your customer to create or produce the product.

Common examples of fabrication labor relating to sales of artwork, printed matter, and related products include:

- Printing brochures
- Creating special printing aids
- Creating finished art or intermediate production aids

For more information on fabrication labor, you may wish to obtain a copy of [Regulation 1526, Producing, Fabricating, and Processing Property Furnished by Consumers—General Rules](#), and [publication 108, Labor Charges](#).

## ***Taxable digital fabrication labor***

Charges for labor to create or produce digital artwork are taxable when the product you sell to your customer is:

- An item in a tangible form, such as an image or page layout with artwork, or
- A digital image delivered on storage media, such as a disk, DVD, CD, external hard drive, flash drive, or flash memory card, whether the media is furnished by you or your customer.

Typical taxable fabrication labor for digital images and such products includes:

- Scanning images or artwork and saving them on digital storage media
- Making prints or slides from digital images provided by customers
- Producing finished art from intermediate production aids
- Editing (cropping, retouching, or otherwise modifying) a digital image when you deliver the image on a storage media such as a CD or DVD

Although you may separately state charges for your computer-related fabrication labor and charges for the storage media itself, all charges are taxable.

*Example:* A customer brings you a photograph of the Capitol taken in 1926 and asks that you edit and modify the image to add a special background and remove any imperfections. The customer plans to use the image in their production of an historical brochure. You scan the image and save a copy on your computer. You edit the scanned image to remove any imperfections and save a copy to a CD. You add the requested background and save a copy of the edited image to another CD. You provide both CDs to your customer. Your charges to your customer for scanning, editing, and retouching the image are taxable. Whether or not you separately state your charges for the editing, scanning, and retouching, your total charge is taxable since you performed fabrication labor in connection with the sale of a tangible product.

## ***Color separation***

“Color separation” is the process by which original artwork is separated into individual color components for printing. Color separators are consumers of items which are not “sold prior to use” or not incorporated into the product sold, such as filters and screens, trial proofing materials, disposable lithographic plates, and developing chemicals. As is the case with a printer, color separator working products are considered special printing aids and may be purchased for resale when title to such property passes to the customer prior to use. For more information about color separations and special printing aids, see [Sales of Printed Matter and Related Services](#).

## **Bookbinding**

“Bookbinding” is the process of physically assembling a book from a number of folded or unfolded sheets of paper or other material. Bookbinders are consumers of materials used in rebinding *used* books for a single or lump-sum charge, and tax applies to the sale of such materials to the bookbinder. However, if a separate charge is made for the materials at the retail selling price, you are the retailer of the materials and tax applies to the separate charge.

Your charges for the initial binding of *new* books furnished to you for binding are taxable, unless your customer will sell the books in the regular course of business. In which case, you must obtain a resale certificate from your customer. Tax also applies to the entire charge for binding done in connection with a finished product such as a bound book produced with either a hard or soft cover by binding together materials such as magazines, newspapers, or business records. When you sell bound books at retail, tax applies to your entire charge without any deduction for the cost of binding.

## **Charges for overhead and project-related expenses**

In general, gross receipts are subject to tax. Your gross receipts include your charges to customers that represent your expenses for creating artwork, printed matter, and other tangible products that you sell when you are making a taxable sale. These expenses may include:

- Setup charges and overtime charges
- Equipment and computer rental
- Travel expenses
- Prop construction or rental
- Technicians, assistants, or graphic artists’ salaries or fees

When you rent equipment from a California vendor, tax will normally apply to the rental fees you pay to that vendor. You may not issue a resale certificate to avoid paying tax on those rental charges.

## **Sales That Are Generally Nontaxable**

### ***Sales for resale***

You are not responsible for sales tax on sales you make to others who will resell the items they purchase in the regular course of their business. You must obtain a valid resale certificate from the purchaser at the time of the sale and retain that certificate in your records. The purchaser must sell the item as is or physically incorporate it into another product they sell. For more information, you may wish to obtain a copy of [Regulation 1668](#), *Sales for Resale*, and [publication 103](#), *Sales for Resale*.

*Example:* Your city has a new concert hall. The hall owners contract with you to develop a promotional campaign introducing the hall and advertising upcoming concerts. As part of the campaign, you design and produce calendars with pictures of the new hall on the front page, orchestra participants and special guests on the calendar pages, and a schedule of the concerts on the back page. Although management will be giving some of the calendars away at promotional events, they plan to sell most of the calendars through the concert hall ticket office. If your customer provides a timely, completed resale certificate, your sale of the calendars is not taxable. The management should pay sales tax on the sale of the calendars sold at the ticket office and report use tax on the cost of the calendars given away.

*Example:* As part of the same campaign, you produce 500 wallet cards with a picture of the orchestra and schedule of events. Management distributes the cards at various promotional events. Your customer cannot issue a resale certificate in good faith for the purchase of these cards since they do not intend to resell them.

## ***Sales to the U.S. government***

Sales tax does not apply to sales made to the U.S. government or its agencies, or to sales made to certain U.S. government-related corporations. Sales tax also does not apply to sales made to certain instrumentalities of the federal government. Examples include sales to:

- Amtrak (National Railroad Passenger Corporation)
- Federal reserve banks, federal credit unions, federal land banks, and federal home loan banks
- The American National Red Cross, including its chapters and branches

For more information, you may wish to obtain a copy of [Regulation 1614](#), *Sales to the United States and Its Instrumentalities*, and [publication 102](#), *Sales to the United States Government*. If you need help determining whether the exemption applies to a specific customer, you may want to call our Customer Service Center for assistance.

## ***Sales in interstate and foreign commerce***

### **Sales tax**

The sale of artwork, development and fabrication services, or other tangible goods or services to customers who live outside California is generally not taxable, provided you ship the items according to the contract of sale:

- Directly to a customer at a destination outside the state, and you
- Use your own business vehicles, the U.S. Postal Service, or a common carrier to deliver the items.

Items delivered to the California office of an out-of-state customer are not eligible for this exemption. Tax will apply even if the products are ultimately delivered into the customer's courier pack for shipment to the customer's out-of-state location by common carrier. For more information, you may obtain a copy of [Regulation 1620](#), *Interstate and Foreign Commerce*, and [publication 101](#), *Sales Delivered Outside California*.

### **Use tax**

If you ship an item to a California resident at an out-of-state or foreign address, you should collect use tax on your sale unless you get a written statement signed by the resident confirming that the item is being purchased for out-of-state use for more than 90 days. The statewide use tax rate is the same as the sales tax rate. For example, you might create artwork for a San Francisco resident who asks you to ship the artwork to Reno, Nevada. Unless that customer gives you a signed, dated, written statement that says she will use the artwork in Nevada or at a point outside this state for more than 90 days after its purchase date, you must collect use tax on the sale.

## ***Sales of intermediate production aids and special printing aids used in this state***

Graphic designers and printers commonly use products within this state to produce finished art or similar items they will ship out of state. A common example is the use of a tangible, intermediate production aid to create finished art or a special printing aid when you sell both the artwork and the aid to an out-of-state customer. Your sale of the artwork is an exempt sale in interstate commerce when the artwork is delivered outside the state. Your sale of the intermediate production aid used to create the artwork is generally a taxable sale because you use the aid in-state before shipping it to your customer. In contrast, your sale of an unused production aid that you ship directly to a customer located outside the state is not taxable. To claim an exemption for interstate and foreign commerce, you must retain records of delivery or shipment, such as shipping invoices, postage receipts, or other shipping documentation showing the location and method of delivery. For more information regarding the sale or use of production aids and special printing aids, see [Sale and Use of Production Aids](#).

## ***Products delivered electronically***

Tax applies to your sale of tangible products, including artwork, photographs, production aids, and other such products. However, if you transfer your product electronically and do not include any tangible product as part of your sale, tax does not apply. This is true whether you transfer the product by the "load and leave" method or remotely (for example, by email or file transfer protocol [FTP]).

*Please note:* Sales tax will apply if you provide your customer with a copy of the electronically transferred product in any sort of tangible form such as a copy of the product on a CD or other storage media, a tangible print, copy, or transparency of the product. Tax will also apply if you provide your customer with a digital image delivered on storage media such as an external hard drive, flash drive, or flash memory card, whether the media is furnished by you or your customer. In addition, your itemized charges to your customer for tangible, intermediate production aids or special printing aids used in California to produce your product are generally taxable even though you may deliver the finished product electronically.

You should document any electronic transfer of a product so that you can show why tax does not apply to that transaction. For instance, if you electronically transmit an image to a customer by email, you should print out a copy of the transmittal email and retain that copy in your records. You may also note on your sales invoice that the product was transferred electronically and the date transferred. If you transfer an image by FTP or download it to your customer's computer directly from your computer, a CD, or another storage media that you keep (the "load and leave" method), you should document the transfer in your records.

One way to do this is to place a document in your project file listing the customer's name and the date, place, and method of the transfer and noting that you did not provide the customer with any tangible products in addition to the electronically transferred image. You should have your customer sign and date the document at the time of the transfer. We suggest you use language such as the following for your documentation:

"This electronic image was loaded into the computer of [customer's name] by [company's name], and [company's name] did not transfer any tangible personal property containing the image, such as electronic media or prints, to [customer's name]."

As you read the rest of this publication, please remember this exclusion for electronic transfers of products.

### ***Inserts for newspapers and periodicals***

Tax does not apply to your charges for printed advertising inserts provided to customers for inclusion in newspapers and periodicals qualifying for exemption under [Regulation 1590, Newspapers and Periodicals](#). This includes handbills, circulars, flyers, order forms, reply envelopes, maps, or the like—when such items are inserted in, or attached to the newspapers or periodicals when distributed. When making an exempt sale of printed advertising inserts, you must obtain an exemption certificate from your customer to document the exempt nature of the sale.

Tax will apply to your charges for any intermediate production aids and special printing aids transferred or used in a tangible form as part of the production of the inserts. For more information about how tax applies to your charges for artwork or printing relating to newspapers and periodicals, see [Newspapers and Periodicals](#).

### ***Printed sales messages***

Sales of printed sales messages are not taxable if they meet all of the following conditions. The material must be:

- Printed to the special order of the purchaser,
- Mailed or delivered by the seller, the seller's agent, or by a mailing house acting as an agent of the purchaser through the U.S. Postal Service or by contract or common carrier, and
- Received by the recipient at no cost where the recipient becomes the owner of the printed material.

*Please note:* Tax will generally apply to your purchase of items used to produce the printed sales messages (for example, items that do not become a component part of the printed matter). Tax will also generally apply to your charges for any tangible intermediate production aids and special printing aids used in California to produce the printed sales messages. Sales of printed sales messages must be supported by complete, timely exemption certificates. For more information about printed sales messages, see [Printed Sales Messages](#).



## ***Delivery and shipping charges***

### **Nontaxable delivery charges**

Tax does not apply to delivery or shipping charges for nontaxable sales. Delivery charges for the shipment of taxable merchandise are generally not taxable if they are stated separately at actual cost on your invoice, and you ship the merchandise directly to the purchaser using the U.S. Postal Service, an independent contract carrier, or a common carrier, rather than your own vehicles. Tax generally applies to your delivery charge when you use your own vehicle to deliver the merchandise.



If you charge your customer more than your actual (not average) cost of delivery, the excess amount is taxable. For example, if you charge \$12.50 for shipping, but the delivery service charges you only \$10, tax would apply to \$2.50 of your delivery charge.

It is important that you use terms such as “delivery,” “shipping,” or “postage” on your invoice to identify delivery charges.

### **Taxable charges related to delivery**

Other charges related to delivery in excess of the actual transportation charge, including charges for “handling,” are generally taxable, even if a postage or shipping amount is listed on the package.

### **Combined charges**

If you combine a nontaxable charge for delivery and a taxable charge for handling in a single amount, for example, “shipping and handling,” you must ensure that you properly apply tax. As noted earlier, the portion of the charge that represents handling is generally taxable. The portion representing delivery is not taxable, provided it does not exceed your actual delivery cost (see previous), and you do both of the following:

- Ship the merchandise directly to the purchaser using the U.S. Postal Service, an independent contract carrier, or a common carrier.
- Keep records and receipts for the actual delivery, postage, or shipping cost.

### **C.O.D. fees**

Generally, tax applies to C.O.D. fees you charge your customer on a taxable C.O.D. sale. However, if the C.O.D. fee is not included on your invoice, and the delivery carrier collects the fee from your customer and retains it, the fee is not taxable.

More information on delivery charges is contained in [Regulation 1628, Transportation Charges](#), [Regulation 1632, C.O.D. Fees](#), and [publication 100, Shipping and Delivery Charges](#).

## ***Repair labor and nontaxable services***

Itemized charges for repairing or reconditioning an item to restore it to its original condition are not taxable. Examples include charges by:

- A color separator for the alteration of film work, as long as the charges do not exceed \$100
- A graphic designer for retouching a customer’s photographic image to restore or repair it
- A graphic designer or printer for restoring a printing plate to its original condition

If you provide services that do not create or produce artwork or other products you sell, your itemized charges for those services are not taxable. This may include charges for:

- Services you provide or expenses incurred when you do not deliver any resulting tangible product to your customer
- Electronically transferring artwork to your customer (see [Products delivered electronically](#))

## Other nontaxable services

Tax generally does not apply to your separately stated charges for:

- Commissions or fees received from suppliers such as premium manufacturers (or distributors) or direct-by-mail suppliers.
- Consultation and concept development related to customer discussions and development of ideas, except when such consultation and development result in tangible preliminary art sold to the customer.
- Research and account planning that entail consumer research and the application of that research to your customer's business or industry.
- Quality control supervision for proofing and review of printing or other products from outside suppliers purchased on behalf of your customer.
- Charges for the formulation and writing of copy.

Charges for these services are generally not taxable, even if you transfer product to the customer that you incidentally produce in connection with the service. For example, you contract with your customer to perform consumer research. Under the contract, you provide a report detailing the findings of your research. There is no tax due on the transfer of the report since it is incidental to the services provided. However, charges for additional copies of the report are taxable.

To ensure charges for these services are not considered part of a taxable sale, you should separately state them on your customer billings. Otherwise, the charges could be considered part of the selling price of products you are providing to your customer.

*Please note:* As explained in Method 1, "75/25": tax based on 25 percent of lump-sum charge, when you make a lump-sum charge for artwork, you may need to calculate the retail-selling price of certain products by marking up the combined cost of the labor, materials, production aids, and overhead. Charges for the nontaxable services described previously should not be included in this calculation.

## Composed type

Tax does not apply to charges by a graphic designer, typesetter, or typographer for the fabrication or transfer of composed type, or reproduction proofs of such composed type, to printers for use in the preparation of printed matter. The composition of type is considered the performance of a service, and tax does not apply to the charges for such service, unless that service is a part of the sale of printed matter. When a charge for composed type is part of a charge for printed matter, the total gross receipts from the sale of the printed matter is subject to tax without any deduction for the composed type. For more information regarding charges for composed type with artwork or clip art, please see [Desktop publishing—"composed type" and "clip art"](#) and [Charges for traditional and digital prepress work](#).

## Website design



Generally, the design, creation, or hosting of a website is not taxable because the product you provide is electronic, not tangible. Similarly, the posting of artwork on a website is not taxable if the posting does not involve the transfer of a tangible product. However, if you deliver a tangible product to your customer, whether on storage media or in printed copy, your charges for creating the website may be taxable. For example, you have a contract to design a webpage for a new product. Your charges include a charge for designing the webpage, HTML production, high-level programming, database management, and the creation and posting of images of the new product. Whether your services are billed on an hourly basis or a flat fee, as long as you do not transfer any tangible product to the customer, such as a backup copy, your charges are not taxable.

### ***Creative art services for a qualified motion picture***

“Creative art services” provide ideas, concepts, looks, or messages in connection with the production, distribution, or exploitation of a “qualified motion picture.” A qualified motion picture is a film or video production created for commercial purposes, including TV commercials and movie trailers. It does not include a production created for private noncommercial use, such as wedding or graduation videos. Your charges for creative art services are not taxable. See [Creative Art Services for the Motion Picture Industry](#).

### ***Digital prepress instruction***

“Digital prepress instruction” is the creation of original information in electronic form by combining more than one computer program into specific, original instructions or information necessary to prepare and link files for the output of an image to film, plate, or direct to press. Since digital prepress instruction is generated from proprietary software for digital output specifically for printing purposes, it has very limited uses. Provided the files are prepared to the special order of the customer, it qualifies as a custom computer program and the charges associated with the creation of the digital prepress files are nontaxable. However, digital prepress instruction is not considered a custom computer program if it is a “canned” or prewritten computer program, which is held or existing for general or repeated sale or lease, even if the digital prepress instruction was initially developed on a custom basis or for in-house use. The sale of canned or prewritten digital prepress instruction in tangible form is taxable.

For information about custom computer programs in general, you should read [Regulation 1502, Computers, Programs, and Data Processing](#). For more information about digital prepress instruction and the sale of printed matter, see Printing Terms.

### ***Transfers at social gatherings***

When you transfer original drawings, sketches, illustrations, or paintings at a social gathering solely for entertainment purposes, you are the consumer, not the retailer, of any property transferred when *all* the following conditions are satisfied:

- Eighty percent (80%) or more of the drawings, sketches, illustrations, or paintings are delivered by you to attendees at the social gathering, not to the person who hired you;
- Eighty percent (80%) or more of the drawings, sketches, illustrations, or paintings are given by you to the attendees at no cost;
- Your charge to the person who hired you for the social gathering is based on a preset fee; and
- The preset fee is contingent upon a minimum number of at least three drawings, sketches, illustrations, or paintings to be produced by you at the social gathering.

If one or more of the conditions noted above are not met, you would be considered the retailer of your original drawings, sketches, illustrations, or paintings and tax would apply to the fee you charge to the person who hired you and any other amounts you may receive from the attendees.

### ***Murals and wallsapes***

A “mural” is any piece of artwork painted directly on a wall, ceiling, or other large permanent surface. A “wallscape” is a large advertisement on, or attached to, the outside wall of a building. When a mural or wallscape is applied to a wall or other part of a building by painting, drawing, or attaching in such a manner that it becomes an integral or inseparable part of the building, you are the consumer of the materials used and tax applies to your cost of the materials used. On the other hand, if the mural or wallscape is attached to a wall or other part of the building by means of bolts or other attachment in such a manner that it does not become an integral or inseparable part of the building, you are generally considered a retailer of finished artwork.

# Graphic Design

*This chapter discusses the design aspect of the graphic arts industry and provides specific information on the sale and purchase of property used in the creation and production of preliminary art, finished art, and special printing aids, including the presumptions that apply. You should read this chapter and the three chapters that follow if you contract with your customer for the production and sale of artwork (for example, illustrations and images), special printing aids, and printed matter. These chapters provide specific information regarding the sale or use of preliminary art and finished art; the sale and use of production aids, reproduction rights, technology transfer agreements, creative art services, and how tax applies to the sale of printed matter produced by you or purchased from a printer or print broker for resale to your customer. The next three chapters discuss the application of tax to sales of printed sales messages, newspapers and periodicals, and sales to, and by, publishers. As you read this chapter and the following chapters, please remember the exclusion for products delivered electronically.*

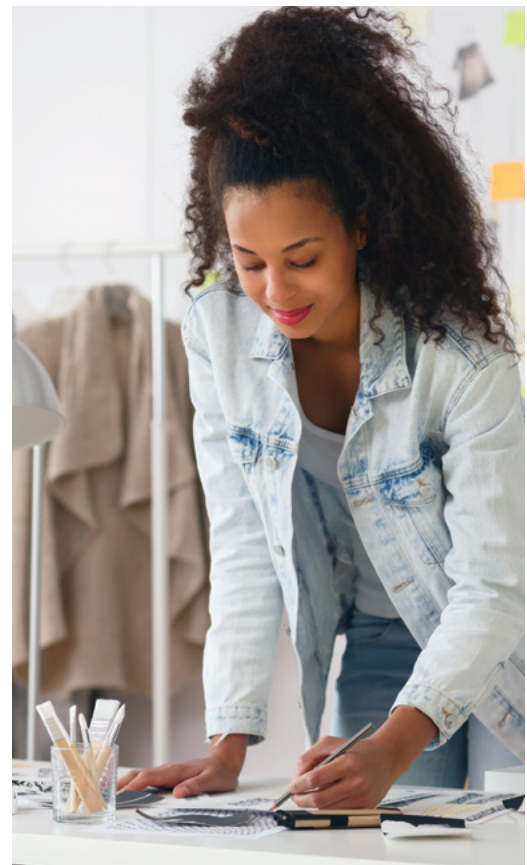
## **“Graphic design” defined**

Graphic design is a creative process that combines art and technology to communicate ideas in print and electronic media. Graphic design often refers to both the process (designing) by which the visual communication is created and the products (designs) which are generated. Common uses of graphic design include identity (logos and branding), websites, publications (magazines, newspapers, and books), advertisements, and product packaging. *For example:* a product package might include a logo or other artwork, organized text, and pure design elements such as shapes and color which unify the piece.

## **“Graphic designer” defined**

A graphic designer is a professional within the graphic arts industry who assembles together images and typography to create graphics primarily for published, printed, or electronic media such as brochures, advertising, illustrations, user interfaces, and website design. Graphic designers work with drawn, painted, photographed, or computer-generated images (pictures), but they also design the letterforms that make up various typefaces found in movie credits and TV ads; in books, magazines, and menus; and even on computer screens. In essence, designers create, choose, and organize three essential elements—typography, images, and the so-called “white space” around them—to communicate a message.

Graphic designers are generally proficient in one or more graphic design software programs and have an understanding of production and rendering technologies such as drawing, offset printing, photography, and time-based and interactive media (film, video, and computer multimedia). For example, a web designer will generally understand how to work with hypertext markup language (HTML) and basic web programming scripts. A print designer will generally understand the processes involved in printing so that they are able to produce press-ready artwork.



## Graphic Design Process

Understanding the graphic arts process is crucial when determining the correct application of tax to transfers of tangible products and related services. The providers of graphic art services generally include advertising agencies; commercial artists; stock shot houses; sketch artists; illustrators; commercial photographers; copy writers; printers; publishers; color separators, and photo labs providing scans and transparencies. The consumers of graphic art services can include advertising agencies acting as agents of their clients, businesses that use forms or business cards, event producers, publishers, and other end users of the designs produced.

The graphic design and printing process generally includes four main stages:

- Creation of preliminary art—conceptual services
- Preparation of finished art
- Prepress work
- Printing, binding, and finishing

The first two stages are discussed in the following sections. The remaining two stages are discussed in [Sales of Printed Matter and Related Services](#).

### Preliminary art vs. finished art

When concept or design services are provided in conjunction with furnishing artwork, the job usually results in the creation of “preliminary art,” as well as “finished art.”

- Preliminary art is the product of your concept or design services. It is artwork used to convey original ideas, concepts, looks, or messages to a customer for review and acceptance before preparation of the final artwork. Typically, preliminary art is not suitable for reproduction purposes. Preliminary art includes sketches, roughs, visualizations, layouts, comprehensives, contact sheets, low-resolution images, direct positive prints, printed copies of rough digital layouts, and proof prints from film or slides. Tax does not apply to charges for creating preliminary art provided certain conditions are met (see next page). Instead, tax applies to the purchase of items used to develop the preliminary art.
- Finished art is the actual product sold or leased to a customer for reproduction or display. Examples include: finished designs, photographs, transparencies, high-quality inkjet prints, and high-resolution digital or printed images. Charges for finished art are generally taxable based on the sales price of the finished art, as explained later in this chapter (but remember the electronic transmission exception), except for technology transfer agreements, charges for reproduction rights sold with the tangible artwork are also taxable.



## Sale and Use of Artwork

### How does tax apply?

The following table provides a basic illustration of how tax applies to your charges for artwork. It is provided as an introduction only. Be sure to read the rest of this section to determine how tax applies to your charges.

| Selling Artwork |   |  |
|-----------------|---|--|
|                 | Service or Product  | How tax applies to charges   |
| Preliminary Art | Development of Ideas, Concepts, Looks, or Messages for a Customer (Conceptual Design) | Charges are not taxable unless you permanently transfer possession or ownership of the sketches, comps, proofs, or other preliminary work products to your customer. |
|                 | ↓   |  |
|                 | Sketches, Comps, Proofs, or Other Preliminary Work for Customer Review and Approval   |  |
| Finished Art    | Final artwork provided to the customer for reproduction or display purposes           | Charges are generally taxable, based on the sales price of the artwork.  |

### Preliminary art

Your itemized charges for concept and design services that create preliminary art are not taxable when all of the following conditions apply:

- You create the preliminary art at the direction of your customer,
- The preliminary art is intended to convey ideas, concepts, looks, or messages,
- You present the preliminary art to your customer for acceptance or approval purposes only,
- You retain ownership and permanent possession of the preliminary art used to convey the idea or concept (however, you may temporarily transfer it for review purposes directly to your customer or to another graphic design firm, another commercial artist, or other party involved in the design process), and
- Nothing in your contract transfers title to the preliminary art or the right to permanent possession to your customer. However, you may transfer to your customer the ownership of the intellectual property embodied in the art (ideas, concepts, designs, etc.), or agree not to use the preliminary art for any other customer.

If you permanently transfer possession or ownership of some of the preliminary art products to your customer, tax applies to your itemized charge for preliminary art in proportion to the amount of art you transfer in a tangible form. In other words, if your customer keeps or owns all of the products of your creative work, your full charge for that work is taxable. If the customer keeps or owns 50 percent of the products, 50 percent of your charge is taxable.

*Please note:* You are the consumer of supplies and materials you use to create nontaxable preliminary art, including film, paper, paint, art supplies, ink, etc. You must pay tax to your supplier at the time of purchase or, when applicable, pay use tax on those items when you file your sales and use tax return.

*Example:* Your customer requests a label design for its new sports drink. You provide color sketches for six different designs, which constitute preliminary art. Your customer selects one for further development and asks if he can keep three of the sketches. The customer likes their festive feel and wants to frame and display them in the reception area of the Headquarters' building. You separately charge \$3,000 for creating the six sketches. Since the customer is keeping three of the sketches, tax applies to \$1,500.

## Charging for preliminary art

As explained previously, itemized charges for preliminary art are not taxable unless you transfer ownership or permanent possession of all or some of the tangible preliminary art to your customer. If you itemize your charges in your invoice or contract, be sure to identify charges for preliminary art as “design charges,” “preliminary art,” “concept development,” or another description that clearly indicates the charges are for the development and creation of preliminary designs, not for finished art. If you prefer not to itemize your charges for preliminary art, you may bill your customer one lump-sum amount. For lump-sum billing options, see next page.

## Finished art

As explained in the previous section, finished art is the final product you provide to a customer for reproduction or display purposes. Typically, finished art is delivered to customers in one of the following forms:

- A tangible drawing, whether done by hand or by computer
- An exposed piece of film (for example, a transparency, slide, film positive, or film negative)
- Camera-ready mechanical assembly
- A digital file on storage media, such as a CD, DVD, external hard drive, flash drive, flash memory card, or removable disk
- A digital file you electronically transfer to your customer by modem or in person from a CD or other electronic storage media that you keep (not taxable, see Products delivered electronically)

Tax generally applies to your charges for the sales price of the tangible finished art you sell, license, or lease. This holds true whether your customer keeps the finished art (a sale), a copy of the finished art (licensed copy), or returns it to you after reproducing it (a lease). The amount of tax due will depend on the sales price of the art, which in turn can vary depending on how you bill your customer.

## Alternative billing methods

Your charges for artwork may cover all of the steps in the creative process, from your initial concept to the final production of the product qualifying as finished art. As explained in the following sections, when this is the case, you can itemize your bills or charge your customer a lump-sum amount.

The following table provides a quick guide to how tax applies to different billing methods. Be sure to read the explanation for each method in the text rather than base your tax decisions on this table alone.

| Type of bill  | How tax applies (see text)   | See explanation  |
|---|--|--|
| Itemized bill: Separate charges for preliminary art/conceptual services and finished art.   | Tax applies to charge for finished art sold in a tangible form.  | Below  |
| Lump-sum bill method 1:<br>Sales price of finished art is 25 percent of lump-sum charge. (Can only be used in certain circumstances.) | Tax applies to 25 percent of lump-sum charge for preliminary art/conceptual services and tangible finished art. Tax will also apply to your charge, if any, for the right to reproduce the art (for example, copyrighted artwork). | Method 1, “75/25”: Tax based on 25 percent of lump-sum charge.             |
| Lump-sum bill method 2:<br>Sales price of finished art based on its retail value.   | Tax applies to the retail sales price of the tangible finished art based on the actual cost of production, markup, and any taxable reproduction rights.  | Method 2, “Actual Basis”: Tax based on retail sales price of finished art. |

As you read the following sections, please keep in mind that charges related to copyrighted artwork generally include an amount for the right to reproduce the artwork. The sale or use of copyrighted artwork typically involves two elements: (1) the actual artwork sold, licensed, or leased and (2) the copyright interest transferred that permits the use of the artwork as specified. When determining the amount of tax due on your sale or lease of tangible finished art, you should include any taxable charges for the right to reproduce the artwork (see [Reproduction rights](#)).

## Itemized bill

When you itemize charges for conceptual services/preliminary art and finished art, your charges for the preliminary art are generally not taxable and your charges for the tangible finished art are generally taxable. The charge for the finished art should reasonably reflect the cost of creating the artwork plus a markup for profit. As noted earlier, be sure to describe charges for preliminary art as “design charges,” “preliminary art,” “concept development,” or another description that clearly indicates the charges are for the development and creation of preliminary designs.

## Lump-sum bill combining charges for preliminary and finished art

There are two options for determining the sales price of artwork when you bill a lump-sum amount that combines only charges for preliminary and finished art. In the first, 25 percent of your charge is for finished art and the remainder is considered a nontaxable charge for preliminary art. In the second, tax is based on the retail value of the finished art. The methods are described on the following pages.

### **Method 1, “75/25”: Tax based on 25 percent of lump-sum charge**

If your lump-sum charge to your customer includes only charges for producing artwork, from concept to finished art, you may use the “75/25” billing method. Charges for producing the artwork include the cost of any intermediate production aids, which may be part of the lump-sum charge unless separately itemized on the billing invoice. Under method 1, sales tax applies to 25 percent of your total charge. The other 75 percent of your charge is considered nontaxable conceptual services and preliminary art.

To use this method, your lump-sum charge should include only charges that are related to the creation of preliminary and finished art. You should *not* use the “75/25” tax method if:

- Your lump-sum charge includes any charges not related to the creation of preliminary and finished art (example: a combined lump-sum charge for research and artwork).
- Your bill lists separate charges for any conceptual services or other nontaxable charges related to the creation of the artwork in addition to a combined charge that represents preliminary art and finished art.
- Your lump-sum charge includes a charge for the reproduction rights associated with the right to reproduce the finished art. The reproduction rights in this case are not a cost associated with the creation of the finished art, unlike the case with an intermediate production aid.
- Your cost for intermediate production aids to produce the finished art, including any taxable reproduction rights associated with the use of the intermediate production aids (for example, license to use or right to reproduce), is more than 25 percent of your lump-sum charge when a charge for these items is included in the lump-sum amount.

*Example:* You charge your customer \$5,000 to design a label for their new product. The charges are for the creation of preliminary and finished art only and include your cost of an intermediate production aid purchased from an outside party for \$550. Since the lump-sum amount includes no charges for other services or products unrelated to the creation of the artwork and the cost of the aid is less than 25 percent of the lump-sum charge, you may use the “75/25” billing method. That is, you would report tax on only \$1,250 of the total charge (\$5,000 x 25 percent). If the charge associated with the intermediate production aid were separately itemized, tax would generally apply to the itemized charge in addition to 25 percent of the lump-sum amount.



*Example:* You are hired to develop tangible artwork your customer will use in its upcoming advertising campaign. Your art department develops various concepts and designs for use in the advertising materials. You present the concepts and preliminary designs to your customer and receive approval to go forward with the creation of the final design. You transfer a copy of the final design to your customer on a CD. You do not sell the artwork (final design) to your customer, but you do grant your customer the right to reproduce the artwork in its advertising materials. You charge your customer a lump-sum amount of \$5,000, which includes your charge for the right to reproduce the artwork in the advertising materials. Your transaction does not qualify as a technology transfer agreement. Because your lump-sum charge includes an amount for the right to reproduce the final design (finished art), you should remove and separately state your charge for the reproduction rights from your lump-sum charge for the artwork prior to using the “75/25” method; or you should use the “actual basis” (see next section) method to calculate the retail sales price of the finished art.

Remember, you may use the “75/25” presumption *only* when your lump-sum charge includes an amount for conceptual services and the creation of the finished art. In this example, the reproduction rights are *not* associated with the creation of the finished art; rather they represent the right to reproduce the artwork after its creation.

### **Method 2, “Actual Basis”: Tax based on retail sales price of finished art**

When you cannot use the “75/25” method of calculating tax on a lump-sum amount or you choose not to, you should use the “actual basis” method. In this method, tax applies to the retail sales price of the tangible finished art. You should calculate the retail sales price of the finished art by adding all of the following:

- Cost of direct labor to create the finished art. This includes expenses such as amounts you pay to third parties or employees, models, or technician fees. The cost of direct labor also includes the value of your labor. It does not include travel expenses such as airfare, car rentals, or meals and lodging.
- Cost of items you purchased, which are physically incorporated into the finished art.
- Cost of any intermediate production aids, such as color separations or scans, used to make the finished art, including any taxable reproduction rights associated with the use of the aids.
- A reasonable markup based on your operations.



The difference between the calculated sales price of the finished art and your total charge is presumed to be the nontaxable charge for your conceptual services and preliminary art. Remember, if you also make a charge for the right to reproduce the *finished art*, you should include your charge for the reproduction rights when billing your customer. Unless your contract with your customer qualifies as a technology transfer agreement, your charge for the right to reproduce the finished art will generally be taxable.

*Example:* You are hired to produce a campaign to advertise your customer's theme parks. You decide to produce brochures that will illustrate families sharing time and adventures at the theme parks. Instead of using stock photographs, you plan to have your staff photographer travel to the theme parks and take photographs of the comical adventures shared by different families. Given the customer approves your concept; selected images will be reproduced in brochures the customer will use for its advertisements. The photographer takes 100 photographs of families visiting the theme parks and the adventures they share. The film for the shoot was purchased in California before the trip and was processed in California upon the photographer's return.

Your customer reviews all the photographs and selects ten separate photographs for further enhancement and reproduction in the brochures. The remaining photographs are retained by you. The customer purchases all rights to the ten photographs. You bill your customer a combined charge of \$8,200 for your concept development and finished photographs, which includes the photographer's time, preliminary and finished art charges, production aids, and a reasonable markup. You provide no separate selling price for the ten photographs. To determine the taxable selling price of the final images you compile the following costs:

|  |            |
|--|------------|
| Cost of the staff photographer (5 days at \$1,500/day) | \$7,500.00 |
| Film and processing costs                              | 200.00     |
| Enhancement of selected images/aid                     | 500.00     |
| Total combined charge                                  | \$8,200.00 |
| <br>   |            |
| Taxable finished art <sup>1</sup>                      | \$1,270.00 |
| 15% markup (\$1,270.00 x 0.15 <sup>2</sup> )           | 190.50     |
| Value of finished art (taxable, plus markup)           | \$1,460.50 |

<sup>1</sup> Taxable amount includes photographer and film/development costs at 10%, plus enhancement (10 of the 100 photographs purchased by customer, resulting in 10% of the total costs for the photographer and film/processing being taxable.  $(\$7,500 + \$200 = \$7,700 (\$7,700 \times 10\%) + \$500 = \$1,270)$ ).

<sup>2</sup> Markup of 15 percent is shown for example purposes only.

### ***Sales for resale***

Occasionally you may create artwork and sell it to a customer who wants to buy it for resale. You may make a nontaxable sale for resale if you transfer title to the artwork to your customer and the customer:

- Gives you a timely, complete resale certificate, and
- Intends to sell the artwork as is or physically incorporate it into another product that will be sold. (See the example in [Sale for resale.](#))

### ***Reproduction rights***

Graphic artists, commercial photographers, advertising agencies, and other graphic designers may sell, license, or lease artwork such as illustrations, photographic images, paintings, etc., and make a charge for the right to reproduce but not sell the artwork. The charge may be identified as a charge for reproduction rights or as a "copyright interest," "license to use (limited time or limited purpose)," "license," "advance royalty," or "royalty contract." Generally, charges for reproduction rights in connection with the transfer of tangible finished art such as an illustration or photographic image are taxable when your customer intends to reproduce the artwork, but not sell the product on which it is reproduced.

*Example:* You hire a commercial photographer to photograph historical sites for your customer’s annual report. You ask the photographer to produce some conceptual images for your customer’s review. The photographer provides images of various historical sites for your customer’s review. There is no transfer of title or possession of the preliminary photographs. Once your customer provides approval to proceed with the photographs of the historical sites chosen, the photographer produces the final images. A copy of the final images is transferred to you on a CD. The photographer makes a charge for the right to reproduce but not sell the final images. The commercial photographer’s billing includes the following charges:

|   |                   |
|---|-------------------|
| Concept development and preliminary changes | \$2,200.00        |
| Final images                                | 500.00            |
| Reproduction rights                         | 1,500.00          |
| Tax (\$2,000.00 x 0.0775*)                  | 155.00            |
| Total                                       | <u>\$4,355.00</u> |

\*The 0.0775 tax rate is used for illustration purposes only.

Since your customer will reproduce the images in its annual report, the transaction does not qualify as a technology transfer agreement. Accordingly, the charges for reproduction rights and the tangible copies of the final images are taxable. Because the photographer retained title and permanent possession of the preliminary images, the charge for the concept development is not taxable. For information regarding when reproduction rights are not taxable, see [Technology Transfer Agreements](#).

## Desktop Publishing

“Desktop publishing” is the process of using a computer and specific types of software to combine text and graphics to produce documents for desktop or commercial printing, such as newsletters, brochures, books, etc. The term is commonly used to describe the technical assembly of digital files in the proper format for printing or electronic publishing, including PDF documents, web pages, and online presentations. Desktop publishing enhances visual communication and makes it possible to quickly and efficiently produce printed and electronic documents. Through the use of desktop publishing software, the user can rearrange text and graphics on screen, change typefaces, and resize graphics before committing a final design to paper.

### **Tasks involved in desktop publishing**

Depending on who is doing the work and how it will be used, the following is a basic outline of the tasks involved in desktop publishing:

- Design—research/brainstorming/planning
- Create—document setup/text acquisition/image acquisition/page composition
- Digital prep—proofs/prepress and preflight/file preparation
- Publish—printing and on-screen display/electronic distribution

### **Graphic design vs. desktop publishing**

Although graphic design and desktop publishing may share many similarities, graphic design jobs generally involve the “creative” process of coming up with concepts and ideas for visually communicating a specific message. Desktop publishing, on the other hand, is the “mechanical” process a designer and non-designer may use to turn their concepts and ideas into digital files for desktop or commercial printing. In essence, desktop publishing is more production-oriented than design-oriented. Thus, desktop publishing generally results in the production of a finished product (finished art) or page layout, which consists of electronic or virtual paper pages to be printed on tangible media, not the creation of conceptual/preliminary art. As such, charges for tangible finished products produced through desktop publishing are subject to tax in the same manner as other printed matter.

## **Desktop publishing—“composed type” and “clip art”**

As explained in Sales that are generally nontaxable, charges for composed type only or reproduction proofs of composed type only, are not taxable. Charges for the composition of type are considered charges for a service, unless the charges are part of the sale of printed matter. “Composed type” includes type together with lined borders and plain, straight, fancy, or curved lines. Composed type also includes charts, tables, graphs, and similar methods of providing information. Composed type, however, does not include artwork other than “clip art” combined with composed type on the same page. “Clip art” is prepackaged, electronic art, including stock photographic images, which is not produced to the special order of the customer and which is commercially available on electronic media or computer program for use in digital page layouts. Camera-ready copy of text produced through the use of desktop publishing software is nontaxable composed type provided the copy does not contain artwork. See [Charges for traditional and digital prepress work](#) for more information about how tax applies to contracts solely for the production of composed type and text with artwork.

*Example:* You operate a small graphic design firm. Your customer contracts with you for the creation of a newsletter. The newsletter will be printed by another person. You have produced newsletters for this customer before and decide to use a format you used several months ago, which consists mainly of composed type and clip art (symbols of the sun and moon). You provide your customer with a mechanical containing several pages with text only and some with text and clip art. Your charges for the mechanical are not taxable, since the mechanical contains nothing more than text and clip art, which is composed type.

*Example:* Using the same example, however, instead of the symbols, you download commercially available photographic images from a popular “stock house.” You provide your customer with a camera-ready copy of the newsletter for review and approval. Your charges for the camera-ready copy (composed type and stock images) are nontaxable. Since the copy contains text pages and pages with text and clip art only, the camera-ready copy qualifies as nontaxable composed type. However, if the photographic images were shot by a photographer specifically for the customer, tax would apply as it does to other sales of artwork.

Also, if your customer were to have you print the newsletters instead of the other person, your contract would be for the production and printing of the newsletters and your charges to your customer would be taxable. This is true even though the newsletter may consist solely of composed type (text and clip art).

## **Sale and Use of Production Aids**

### **“Preliminary production aid,” defined**

A preliminary production aid is property used in the process of creating preliminary art and generally includes such items as scans, layouts, visualizations, artwork, illustrations, proofs, images, etc. Unlike intermediate production aids and special printing aids, preliminary production aids are not presumed sold to the customer prior to use. As such, you should pay tax on your purchase of tangible items developed and used to produce your preliminary designs. As explained in Preliminary art vs. finished art, preliminary art is produced solely for demonstrating an idea, concept, look, or message for the customer’s review and acceptance prior to the customer’s approval for you to produce finished art.

Although not generally the case, there may be times in which you contract with your customer for the sale of the preliminary production aids prior to their use. Assuming you hold title to the aids or are contractually permitted to sublease the aids to your customer, you may generally sell or sublease the aids to your customer prior to use. However, to do so, your contract or sales agreement must include a specific title clause transferring title to the aids to your customer prior to use. Or, you must have an explicit sublease agreement with your customer subleasing the

aids to the customer prior to the use of the aids. If your contract or agreement contains such a clause or sublease agreement, you should separately state the taxable selling price of the aids from your nontaxable charge for your conceptual services and preliminary designs.

When selling the preliminary production aids to your customer prior to use, you may generally issue a resale certificate for your purchase or lease of the preliminary production aids or for the components or ingredients incorporated into the aids when produced in-house. If you paid an amount for tax on your purchase of the aids or their components, you may generally take a tax-paid purchases resold deduction on your return.

*Example:* You are hired to provide ideas and designs for a company logo. You create several designs and present them to your customer for review and approval to go forward with the production of finished art. Your customer chooses one design for further development and returns all designs to you. You retain title and possession of all of the designs. You charge your customer \$1,000 for this stage of the process. Since you did not permanently transfer the preliminary designs to your customer, your charge is for conceptual services only and is not taxable. However, tax applies to your purchase of the production aids, or their components, used to create the preliminary art.

### **“Intermediate production aid,” defined**

An intermediate production aid is property used in the process of creating finished art or special printing aids, and includes such items as artwork, illustrations, photographic images, scans, and photo engravings. Intermediate production aids do not include items used to produce preliminary designs/art. When you use intermediate production aids in the creation of finished art or special printing aids, it is presumed that the intermediate production aids are resold to your customer prior to any use. This is true whether you separately state the charge for the intermediate production aid or not, unless you choose to retain title to the aids rather than sell them to the customer (see [How to rebut the presumption](#)). As is the case with sales of finished art and special printing aids, tax will generally apply to your sale of a tangible intermediate production aid. Even if your customer issues a resale certificate for the purchase of these items, or the sale of these items is otherwise nontaxable, except in certain cases, your sale of the tangible intermediate production aid is taxable.

*Example:* You have a contract for the production of artwork to be reproduced in brochures. You purchase two illustrations from a graphic artist, including all rights to the illustrations, and use the illustrations to create finished art. The illustrations are provided on a CD. The artist charges you \$5,000 and, since you issued the artist a resale certificate, you were not charged tax. In turn, you charge your customer \$7,000, plus tax for the finished art. Assuming you sell the illustrations to your customer prior to use, their selling price is included in the \$7,000 charge. The illustrations are intermediate production aids sold with the finished art.

### **“Special printing aid,” defined**

A special printing aid is reusable property used in the printing process solely for a specific customer. Examples include silk screens, dies for cutting or embossing, lithographic plates, film, color separations, some intermediate production aids, etc. As with intermediate production aids, the person selling the printed matter is regarded as selling the special printing aids used to produce the printed matter along with the printed matter, prior to any use, unless title to the special printing aids is explicitly retained by the person.

Whether you perform the printing in-house or purchase printed matter from a printer for resale to your customer, the special rules applicable to the sale of printed matter also apply to you. For more information about how tax applies to your sales of printed matter, see [Sales of Printed Matter and Related Services](#).

*Example:* Your customer asks that you produce brochures to promote sales of their new product. The production of the brochures requires a new printing plate (tangible product) costing \$1,300. You mail all the brochures to your customer in Arizona. The sale of the brochures qualifies as a nontaxable interstate sale. However, since the special printing aid is sold to the customer prior to use and is used in California, sales tax applies to the sale of the printing aid. You charge your customer \$25,000 for the printing of the brochures, which includes the sale of the printing plate. Assuming you paid no tax when you purchased the printing plate, you must report tax on your cost of \$1,300. If you paid tax at the time of purchase, no further tax is due on the sale of the special printing aid.

### ***Sold to the customer prior to use***



Since intermediate production aids and special printing aids are presumed sold to your customer prior to use unless you explicitly retain title to the aids (see [How to rebut the presumption](#), below), the sales price of the aid is considered included in the selling price of the final product. As such, you may generally purchase intermediate production aids or special printing aids for resale to your customer by issuing a timely resale certificate to your supplier for these items or for items that will become an ingredient or component part of the aids (see, [Temporary transfers of production aids and special printing aids](#), for an exception to this rule).

In some instances, you may use a tangible aid to create an item whose sale is nontaxable. For example, you may use a special printing aid to produce printed matter that you will ship to a customer outside the state. Although the sale of the tangible special printing aid may be included in the selling price of the printed matter, the aid is used in California. Accordingly, you must generally report tax on the sale of the aid to your customer. (You can also choose not to issue a resale certificate for your purchase of the aids and, instead, pay tax at the time of purchase.) When the printing is done in-house, the taxable selling price is the amount you paid for the aid or for the production of the aid. This is true whether you separately state the selling price of the aids on your invoice or not.

*Please note:* When you purchase printed matter from a printer rather than produce the printing in-house, the rules that apply to your sale of special printing aids may differ from the rules that apply to a printer. Using the previous example, if you had a printer print the brochures *and* your invoice to your customer separately stated the selling price of the aids, tax would generally be due on the stated selling price as long as it is not less than your cost. In this case, you would be considered a print broker, not a printer, and tax would be measured differently in relation to the aids. For more information about the sale of printed matter by a print broker, see [Sales of Printed Matter by Print Brokers](#).

### ***How to rebut the presumption***

When you hold title to an intermediate production aid or special printing aid, if you do not wish to sell the aid to your customer, you must include specific language in your contract or invoice stating that fact. That is, your contract must include a statement that the aid is not being sold to the customer as part of the sale of the finished art or printed matter and you do not intend to pass title to the aid to your customer. For example, you may include the following or a similar statement in your invoice or contract:

“The intermediate production aids [special printing aids] are not being sold to my customer as part of the sale of the finished art [printed matter], and the selling price of the finished art [printed matter] does not include the transfer of title to the intermediate production aids [special printing aids].”

If you retain title to the aids, you should not purchase the intermediate production aids or special printing aids for resale. If you are producing the aids in-house, you should pay tax on your purchase of the ingredients or components incorporated into the aids.

### ***Customer is reselling the aids to their customer***

At times, your customer will purchase products from you for resale to their customer. When your customer is purchasing finished art or printed matter from you and intends to resell the items, generally the customer may also purchase the intermediate production aids or special printing aids for resale. However, to do so, the customer must have an existing obligation to resell the aids to their customer prior to the time the aids are used. Unless your customer is a printer or print broker, it would be unusual for them to purchase special printing aids for resale to their customer.

*Please note:* You will not be regarded as selling the aids for resale to your customer, and would, therefore, owe tax on your sale of the aids, unless you separately state the selling price of the aids or their components on your invoice and you accept a timely and valid resale certificate from your customer stating that the aids are purchased for resale. Additionally, as discussed in the following section, you must have the right to sell or sublease the aids to your customer.

For more information regarding your sale or use of intermediate production aids and special printing aids as part of your production of printed matter, please see [Sales of Printed Matter by Printers](#).

### ***Temporary transfers of production aids and special printing aids***

The rule that intermediate production aids and special printing aids are resold to your customer prior to use does not apply if you purchased the aids from a third party and do not have a right to resell or sublease the aids to your customer. This is frequently the case when you acquire artwork that is copyrighted from artists and photographers. They may transfer a tangible copy of the image, whether in hard copy or on digital media, and certain rights for copying and reproducing the image; however, artists and photographers generally do not transfer the right for you to either resell or sublease the image to your customer. Accordingly, you cannot sell or lease the image to your customer, and should pay any tax due to the artist or photographer or, if appropriate, report use tax on your purchase.

*Example:* You contract with a photographer to provide a river landscape to be used in an annual report you are creating for your customer. The photographer temporarily transfers a slide with the river landscape image to you, along with rights to copy the image subject to the copyright. You do *not* receive the right to sell or sublease the slide to your customer, either temporarily or permanently. In this case, you cannot issue a resale certificate to the photographer and should pay any tax due on the transaction to the photographer or, if subject to use tax, self-report the tax. Tax would also apply to your charges for the production of the annual report shipped to your customer in California without any deduction for the amount paid to the photographer or upon which use tax applied.

For more information about sales and leases of artwork and reproduction rights, see [Sale and Use of Artwork](#). For an explanation of when charges for the right to use and reproduce artwork are not taxable, see the [following chapter](#).

# Technology Transfer Agreements

You should read this chapter if you transfer or license rights to products for reproduction on items that will be sold. If your sale or lease of artwork does not include the transfer of reproduction rights or any assignment or licensing of copyright for reproducing artwork on “items that will be sold,” the information in this chapter does not apply to you. For information about how tax applies to your sale or lease of artwork in general, see previous chapter.

## **“Technology transfer agreements,” defined**

When you sell, license, lease, or otherwise assign a copyright interest in artwork or other like property, the arrangement with the customer may qualify as a “technology transfer agreement” (TTA). A TTA, as it relates to artwork you sell or lease to customers, must meet all the following conditions. It must:

- Be in writing.
- Assign or license a copyright interest in the product (for example, finished art) being sold or leased (often indicated by language such as “copyright,” “reproduction right,” “use for limited time or purpose,” “license,” “license fee,” “advance royalty,” or “royalty contract”).
- Show the customer’s clear intent to reproduce and sell merchandise subject to the copyright interest.

If one or more of these conditions is not met, the agreement is not a TTA.

## **Examples of transactions that qualify as technology transfer agreements**

*Example:* You provide copyrighted finished art illustrating a landscape to a calendar publisher under a written contract. The contract permits the publisher to reproduce the image in wall calendars the publisher will sell to retail stores.

*Example:* You acquire copyrighted artwork under a written contract that allows you to reproduce the images in promotional materials you will sell to your customer for distribution at a seminar.

Both of the above examples qualify as a TTA: they are in writing, they assign a copyright interest, and the buyer intends to reproduce the images on, or incorporate into, products that are for sale and subject to the copyright interest.

## **Examples of transactions that do not qualify as technology transfer agreements**

*Example:* A customer purchases a copyright interest in some of your illustrations to reproduce in a series of roadside billboard advertisements promoting its products.

*Example:* A corporation hires you to photograph historical sites for its annual report. Your contract transfers a copyright interest in the photographs, which authorizes your customer to reproduce the photographs in the annual report distributed free to shareholders.

These agreements/contracts do not qualify as technology transfer agreements because the buyer will not reproduce the images on or incorporate them into products that are for sale and subject to the copyright interest. These contracts are covered by the rules that apply to sales of artwork in general.



## Applying tax to a technology transfer agreement

As is the case for copyrighted artwork in general, when you sell, license, or lease artwork as part of a technology transfer agreement, the transaction generally involves two elements. Each element has value. The elements are:

- The actual artwork or image you sell, license, or lease.
- The copyright interest you transfer to your customer that permits the customer to use the artwork as specified in the agreement.

Unlike copyrighted artwork in general, under a technology transfer agreement tax applies to the sales price of the tangible artwork itself but not to the value of the intangible copyright interest. If you transfer artwork in a tangible form to your customer, such as an art print, lithograph, etching, drawing, or an image on a CD, you must determine its taxable sales price in one of the ways explained in the following table. However, if you transfer a digital image in any of the ways listed below, and you do not transfer any tangible products to your customer, tax will not apply to your charges for the artwork.

- Remote, electronic transfer to your customer (see [Products delivered electronically](#)).
- “Load and leave” electronic transfer (see [Products delivered electronically](#)).
- Temporary transfers of the finished art on a digital storage media provided your customer returns the media to you within a 30-day billing cycle (or within a longer period if necessary to allow the customer sufficient time to copy the digital file).

The following table shows how to determine the tax due on your charges for finished art (artwork) you sell, license, or lease under a technology transfer agreement.

### Applying tax: technology transfer agreements

| Written contract terms  | The taxable fair market sales price is  |
|---|---|
| Includes a charge for the sale, license, or lease of the artwork and a separate charge for the reproduction rights. | The separately stated sale, license, or lease price for the artwork.  |
| Charges are lump sum.   | <p>1) The price at which you have sold, licensed, or leased, or offered for sale, license, or lease, that artwork or similar artwork to an unrelated third party, when either of the following is true:</p> <ul style="list-style-type: none"> <li>• You did not transfer reproduction rights.</li> <li>• You transferred reproduction rights and separately stated the selling price of the artwork.</li> </ul> <p>2) If you cannot determine a separate price based on prior sale, license, or lease price, 200 percent of the combined cost of materials and labor used to produce or acquire the artwork. See <a href="#">Establishing the cost of labor and materials</a>.</p> |

## Establishing the cost of labor and materials

### Materials

The cost of materials includes your cost for items used in producing the artwork or incorporated into it. Cost of materials also includes the cost of any tangible product transferred as part of the TTA. Examples include:

- For an image provided on digital media: (1) your cost for the blank diskette, flash memory, removable disk, DVD, or CD; and (2) your cost for leasing any equipment or props for the development or creation of the specific image (for example, photo shoot).
- For finished art in a tangible form, for example, a transparency: (1) your cost for paper, ink, and chemicals incorporated into the final print or transparency; and (2) your costs for any production aids used, including any taxable reproduction rights associated with the production aids.

## Labor

The cost of labor includes any costs to you for the labor used to create the artwork, such as labor you purchased from a third party or work performed by your own employees. This includes costs for work performed by people who create the artwork as well as those who participate in its creation (such as a supervisor).

The cost of labor does not include any of the following:

- The value of your own labor, if you are a sole proprietor
- Travel expenses such as airfare and car rental
- Meals and lodging expenses

*Example:* You contract with a manufacturer to develop a product logo that will be reproduced on the manufacturer's product and packaging. Your written contract is lump sum and you have no similar sale or lease price to an unrelated third party upon which to determine the fair retail value of the artwork. The contract price is \$40,000. The transaction is a TTA because there is a transfer of reproduction rights and the manufacturer will reproduce the image on property subject to the copyright interest that will be sold. You will permanently transfer the logo to the manufacturer.

Your records indicate that your in-house art department spent 50 employee hours creating the finished art/logo. The average labor cost for the in-house art department is \$35 an hour per employee. The records also indicate that the materials used to transfer both a hard copy and digital copy of the finished art cost approximately \$10. The measure of tax for the sale of the finished art transferred is computed as follows:

|                                       |                    |
|---------------------------------------|--------------------|
| Labor: \$35/hour x 50                 | \$ 1,750.00        |
| Materials                             | 10.00              |
| Total for materials and labor         | <u>\$1,760.00</u>  |
| <br>                                  |                    |
| Taxable total (\$1,760 x 200 percent) | \$3,520.00         |
| Tax (\$3,520 x 0.0775*)               | <u>272.80</u>      |
| <br>                                  |                    |
| Contract price                        | \$40,000.00        |
| Tax due                               | 272.80             |
| Total                                 | <u>\$40,272.80</u> |

\*The 0.0775 tax rate is used for illustration purposes only.

### ***Licensing arrangement may be a lease***

If your licensing agreement requires your customer to return the tangible property on which you transferred the artwork, the transaction is considered a lease. Tax applies as for any other TTA (see special exception for transfers on digital media). A customer may want to give you a resale certificate for a lease transaction (see below). However, the temporary transfer of artwork under a lease does not qualify as a nontaxable sale for resale unless you are authorizing the customer to sublease the artwork to a third party in the same form you are providing it. If you are not authorizing that kind of subleasing, you should not accept a resale certificate.

## Sales for resale

Artwork sold under a TTA will normally not qualify as a sale for resale, because if the transaction is a TTA, your customer will use the artwork to create or produce other products to sell. In addition, your customer cannot pass the copyright interest in your artwork to another person unless you specifically allow the customer that right.

If you accept a resale certificate from your customer under a technology transfer agreement transaction, be sure the TTA states that the specific artwork is being purchased for resale in the regular course of business before any use, and that you have given your customer the right to transfer a copyright interest in the artwork to a third party.

*Example:* You acquire artwork from a commercial artist that you will reproduce in materials you will sell to your customer. The artist indicates in the written contract that reproduction rights are being sold. The rights being sold allow you to reproduce the artwork in materials you will sell to your customer. You are not allowed to resell or sublease the artwork. The artist transfers some of the artwork to you in digital files on CDs. Other artwork is transferred on paper or art board. You must return all of the artwork to the artist after downloading or scanning the images into your computer within 30 days.

All transfers of artwork in this example are being made according to a technology transfer agreement. With respect to the leases of artwork on the CDs, no tax is due because the CDs were transferred only temporarily, and were returned. Tax is due, however, on the artist's charge for the temporary transfers made on paper or art board. The charges for the right to reproduce the artwork would not be taxable.

*Please note:* If the artwork transferred to you on CD was not returned by you as required by your agreement, the artist's charges to you for the artwork would be taxable in the same manner as the artwork transferred on paper or art board.

For more information regarding a sale for resale, see [publication 103](#), *Sales for Resale*, and [Regulation 1668](#), *Sales for Resale*. For more information regarding technology transfer agreements, see [Regulation 1507](#), *Technology Transfer Agreements*.



## Creative Art Services for the Motion Picture Industry

This chapter addresses the special rules that apply to graphic designers that work in the motion picture industry. For more information, you may want to download a copy of [Regulation 1529](#), Motion Pictures.

### “Creative art services” and “qualified motion pictures,” defined

Creative art services are services performed only to convey ideas, concepts, looks, or messages, as opposed to services that create artwork your client will reproduce or display. Sales tax does not apply to your charges for “creative art services” provided in connection with the production, distribution, or exploitation of a “qualified motion picture.”

Qualified motion pictures may be for any purpose including entertainment, commercial, advertising, promotional, industrial, or educational. They include:

- Motion pictures produced for display at theaters, amusement parks, or on commercial carriers; television shows including closed circuit and broadcast; commercials; trailers; television spots; specials; “promos;” “sneaks;” corporate training and sales presentations; video press kits; music videos; and special effects, titles, and credits on film, tape, or other motion picture media, including digital media.
- Original and adapted versions including productions adapted to another language or medium.
- Motion pictures produced for the federal government or its instrumentalities, foreign governments, and state and local governments and their political subdivisions.

Films and videos created for family use, such as a wedding video; do not qualify as motion pictures.

Your creation of visualizations, drawings, sketches, renderings, illustrations, layouts, comprehensives, photographs, negatives, transparencies, prints, scans, laser graphics, visual prototypes, electronic imagery, and other preliminary designs can qualify as creative art services as long as the client will not reproduce or display your work. However, qualifying creative art services do not include services for the preparation of finished art. The fact that your client is a motion picture studio does not necessarily mean all of your charges qualify as creative art services.



## Applying tax

Unlike conceptual services in which you may create and transfer permanent possession of your preliminary designs to your clients, resulting in a taxable sale, when you provide qualifying creative art services, you are performing nontaxable services rather than selling tangible products. This is true even if you transfer the product of the creative art services to your client. Because you perform nontaxable services, you are considered the consumer of the tangible items used in providing the creative art services, such as CDs, transparencies, paper, etc. Your purchases of those items do not qualify as nontaxable purchases for resale. If your client later reproduces or displays the products of your services, the client owes use tax based on the amount paid to you for the creative art services.



*Example:* You contract with a movie studio to create renderings of a horse during the filming of a feature film. The renderings are intended to convey your ideas about possible ways to advertise the film. As part of your contract, you provide the client your preliminary designs. Although the movie studio may not return the designs, your activities qualify as creative art services since you are transferring the designs only to convey ideas and concepts and the movie studio will not reproduce or display them. The transfer of the designs is not a taxable sale and you are the consumer of the paper, production aids, and related items used in producing the designs.

*Example:* You contract with a movie studio to create preliminary color schemes for molds that may be used in the production of animal figurines. The studio is considering using various figurines to advertise and promote a movie soon to be released at theaters. The studio asks you to create renderings and molds in various color schemes, with a deer sitting, standing, running, etc. You do not have a contract for the production of molds the studio may actually reproduce and use in their advertising. The rendering and molds are solely to convey your ideas for varying color schemes.

You produce renderings and preliminary molds in varying colors and send all the renderings and molds to the studio for their consideration. Under your agreement, the studio retains your renderings and molds, but does not enter into a contract with you for any further development of your ideas. Your services qualify as creative art services and tax does not apply to your charges to the studio for your work. However, you must pay tax on your cost of any items used to produce your preliminary designs, including items that are incorporated into your preliminary designs.

*Example:* The studio executive you worked with on your last job liked your work so much he asks you to attend his daughter's wedding reception and produce drawings and renderings of the wedding party. If he likes the drawings, he may have you produce items that will be displayed in his office. You prepare the drawings and send them to the executive for approval. He decides to keep all the drawings, but does not ask you to produce a final version of any of the drawings. Your charges to the studio executive are subject to tax. Although he may work for the studio, you did not perform creative art services. Since he kept all your drawings, you have made a taxable sale of the preliminary designs.

For information on the sale of preliminary art in general, you should read the [Graphic Design](#) chapter.

# Sales of Printed Matter and Related Services

*This chapter discusses the rules that apply to the sale of printed matter produced by printers in-house and that purchased from a printer or print broker for resale to customers. It also discusses the prepress work performed prior to printing. You should read this chapter if you contract with your customers for the production of printed matter, or any of the related services which are part of the production of printed matter.*

As explained previously, the design and printing process generally includes four main stages. The first two stages (conceptual design and the production of finished art) were discussed in [Graphic Design](#). This chapter discusses the remaining two stages:

- Prepress work
- Printing, binding, and finishing

## Printing Terms

### “Prepress”

“**Prepress**” is a term used in the printing industry to describe the process a document must go through before it can be printed. It is essentially the processes and procedures that occur between the creation of a print layout and the final printing. It can represent the preparation of digital files for printing and comes after the design and page layout stage. It can also represent those steps needed to transform the original copy (mechanical or digital file) into the printing plates or other forms needed for reproduction. These processes and procedures include camera-ready work, color separating, stripping, plate-making, scanning, film production, digital prepress instruction, and other prepress functions performed by the printer, separator, or a service bureau prior to printing.

### “Electronic artwork”

“**Electronic artwork**” is artwork created through the use of a computer and which results in artwork in a digital format that can be transmitted to others through remote telecommunications, such as by modem, over the Internet, or on electronic storage media (for example, CD, DVD, and flash drive).

### “Camera-ready”

“**Camera-ready**” is a common term used in the commercial printing industry meaning that a document is, from a technical standpoint, ready to “go to press,” or be printed. The term camera-ready was first used in the photo offset printing process, where the final layout of a document was attached to a “mechanical” or “paste up.” Then, a stat camera was used to photograph the mechanical, and the final offset printing plates were created from the camera’s negative. In recent years, the use of paste ups has been steadily replaced by desktop publishing software, which allows users to create entire document layouts on the computer. These digital files can then be used by the printer to create printing plates or go direct to press, all without the use of a camera and negative.

### “Color separation”

“**Color separation**” is the process by which artwork (finished art) is separated into individual color components for printing (separations). The components are cyan, magenta, yellow and black, known as CMYK. By combining these colors, a wide spectrum of colors can be produced on a printed page. In this four-color printing process, each color is applied to a printing plate. Each printing plate is made up only of components of the page that have that one color. When the colors are combined on paper (they are actually printed as small dots), the human eye combines the colors to see the final image. The use of plates for printing is part of the process known as lithography.

### “Stripping”

“**Stripping**” is the process of assembling photographic negatives or positives to make printing plates. The film is arranged in a pattern, which creates a series of pages, with colors arranged to fit with other colors to be printed. Generally, there is an individual negative for each color to be printed. However, this process may also be done

through the use of digital prepress, in which software is used to “digitally strip” the pages together. The digital product of this software can be outputted to an image setter that creates a larger piece of film, or directly to a plate setter which generates a plate that can go directly to press.

### “Printing plate”

Printing processes such as offset lithography use “**printing plates**” to transfer an image to paper or other substance. The image is put on the printing plates using photomechanical, photochemical, or laser engraving processes. The image may be positive or negative.

Typically, printing plates are attached to a cylinder in the press. Ink is applied to the plate’s image area and transferred directly to the paper or to an intermediary cylinder and then to the paper. In screen printing, the screen is the equivalent of the printing plate. It can be created manually or photo chemically and is usually a porous fabric or stainless steel mesh stretched over a frame.

The printing plate used depends on the type of press, the printing method, and quantity of the print run. A plate is prepared for each color used, or four plates in the case of four-color (CMYK) process printing. In general, metal plates are more expensive but last longer and have greater accuracy. Paper plates are usually more suitable for shorter runs without close or touching colors.

### “Digital printing”

“**Digital printing**” is generally defined as any type of a print reproduction method that uses electronic files to produce printed matter from spots and dots of ink, toner, or dye. Digital, unlike traditional print processes, is a direct to output device process; an image is created on the computer and transmitted directly to the output device.

### “Computer-to-print”

“**Computer-to-print**” is a totally digital workflow, including the design process, prepress functions, and print output. Computer-to-print systems, such as digital presses, utilize a digital print engine that allows the image carrier to be reimaged for each printed impression. Common to all computer-to-print systems is the ability to produce print applications in which every page that is printed is different.

### “Computer-to-film”

“**Computer-to-film**” is a print workflow involving printing from a computer, straight to film. This film is then burned onto a lithographic plate, using a plate burner. The plate is then put on an offset printing press to make a product (usually thousands of copies).

### “Computer-to-plate” or “digital plate-making”

“**Computer-to-plate**” is a direct imaging process which images a printing plate directly from digital files. The conventional process of using film to create the negative images required for burning plates is eliminated. Information that has been stored digitally is imaged directly onto the plate with the use of laser beams. The plating process is performed off the press or it can be accomplished on presses that are specially equipped to allow direct imaging of plates on the press.

### “Proofs”

A “**proof**” is a general term for a variety of options for seeing what your file will look like when printed. Proofs are used for checking that all text and graphics and colors come out as expected before going to press. Proofing your work comes at various stages, but there are specific types of proofs created during prepress and printing that allow you to see if the document will come out as intended. For example, a “**press proof**” is used to preview the output of a commercial print job using the actual printing plates and inks specified for the job on the intended paper stock. It is the most accurate and also the most costly way to preview the output of a commercial print job. It is, in fact, the final job, except that only a small number of units are printed.

A “**prepress proof**,” on the other hand, is an analog or digital proof (hardcopy) that uses inkjet, toner, dyes, overlays, photographic, film, or other techniques to give a *close approximation* of what the final document will look like when printed. Unlike a press proof, the prepress proof does not use the actual printing inks therefore color proofs may not be quite as accurate as a press proof.

A “**soft proof**” is where a copy of the output is proofed directly on the monitor. It is generally the first stage of proofing. At this stage, further editing and corrections can be made and when the design is suitable, the file is sent through a digital proofing system. A copy of the soft proof is output to be checked for correctness and once approved, the job is sent to the digital equipment for output.

A “**digital proofing system**” involves printing each of the primary color components of an image through a proofing device to create a full color digital proof. The different types of digital color proofing systems are sublimation, thermal wax, ink-jet, color laser, and laser thermal.

A “**digital proof**” is a type of hardcopy sample output directly from digital files rather than from analog methods (such as film), which is used by the client to verify the accuracy of their print application prior to the actual production of the project.

### “**Raster image processor (RIP),” “rasterizing,” and “PostScript”**

A “**raster image processor**” is a component (powerful computer) used in a printing system which “rasterizes” digital information (text and images), such as that contained in a “PostScript” file, into a high-resolution *raster image* also known as a bitmap (a type of graphic composed of pixels/dots). Each pixel or dot (pattern of spots) contains color information for the image. In essence, the raster image processor is the device that converts the elements for the digital print application into a format that can be understood by the printing press.

The term “**rasterizing**” means converting a raster image into dots, instead of lines. Unless the text and images are printed on a vector graphics plotter, which literally draws the illustration with pens, all text and images must be *rasterized* into a bitmap for display or printing. The rasterizing essentially interprets the digital information (for example, PostScript code) into device specific language and then the information is converted to a single file (prepress instruction) using the parameters of the destination printing press. How these dots (raster images) are arranged on the page determines what you see and how the page looks.

“**PostScript**” is a programming or page description language, which describes what a page should look like when printing. Many of the documents created by graphic designers and desktop publishers contain an intricate combination of fonts and graphics that are best described using PostScript. A raw PostScript file looks like a text file with all kinds of semi-understandable computer codes in it. The codes represent instructions to the printing device about how to draw the graphics and how to format the text, what fonts to use, for example.

### “**Digital prepress instruction**”

“**Digital prepress instruction**” converts electronic files produced by different computer programs into specific, original instructions or information necessary to prepare and link files for the output of an image to film, plate, or press. Generally, digital or electronic prepress instruction is accomplished using a Raster Image Processor (see above) that combines and translates computer programs, including page layout files and linked graphics, into specific instructions for the printer’s proprietary direct-to-film, direct-to-plate, or direct-to-press equipment. Digital prepress instruction qualifies as a custom computer program and the charges associated with the creation of the digital prepress files are not taxable provided the files are prepared to the special order of the customer. As explained on the next page, digital prepress instruction does not include using a computer to create original artwork or to scan, manipulate, or insert artwork.

*Please note:* Persons who provide digital prepress instruction or raster image processing are consumers of any items used in the creation of the prepress instruction. Accordingly, the purchases of items used in creating the digital prepress instruction, or the use of production aids that are not sold by the provider of digital prepress instruction prior to use (for example, intermediate production aids and separations) are generally subject to tax.



### ***Related charges that are not for digital prepress instruction***

**Fabrication labor**—Charges for scanning artwork, creating original artwork by computer, or manipulating scanned images are considered charges for fabrication labor and are generally taxable when the output of the labor is transferred in a tangible form to the customer or another party. In essence, you are producing an intermediate production aid that will be used in the production of a special printing aid such as a printing plate.

**Proof art**—As part of the digital prepress process, you, or the printer on your behalf may provide proofs to your customer for review and acceptance prior to printing the final product. Charges for proof art delivered to your customer or another person on behalf of your customer are taxable.

**Film or printing plates**—Charges for film or plates are charges for special printing aids and tax applies as discussed previously. Such charges are not for digital prepress instruction even though the film or plates may be prepared from the electronic digital prepress file.

*Example:* A page layout file is created, which includes original artwork developed through a desktop publishing program. The file is converted into a form readable by a plate maker for use in printing. The charges for the time and material used for the file conversion that results in the specific instructions or information necessary to prepare and link files for output to film, plate, or direct to press are charges for digital prepress instruction and are not taxable. This holds true even when the digital prepress instruction is transferred in a tangible form such as a CD or tape.

However, the purchases of materials used in the process of creating the digital prepress instruction would be subject to tax. Tax would also apply to the *purchase* of any tangible intermediate production aids, or their ingredients and components if produced in-house, unless the aids are sold prior to use. For example, if a *tangible* intermediate production aid is used in the creation of artwork rather than being created with a desktop publishing program and the aid is sold prior to use, tax would generally apply to the sale of the aid. This is true even though the charges for the conversion of the file into digital prepress instruction may qualify as nontaxable.

*Example:* Using the same example, even though you can perform the processes necessary to create digital prepress instruction, you choose to forward the files to a prepress house to make the files ready for printing. Unless you perform the process of rasterizing or interpreting the digital files (for example, PostScript) into device specific language, which is then converted into specific or customized instructions for the proprietary printing equipment, you have *not* created digital prepress instruction. When you do *not* perform the final processes and merely transfer a page layout file, you have made a sale of a mechanical or finished art that, if transferred in a tangible form, is generally subject to tax.

## **Prepress Work**

During the prepress stage, technicians will prepare the customer's documents for commercial printing. As in the past, the technician may prepare negatives and printing plates for use on a printing press using a large camera to take a picture (negative) of the document pages, create a final document (mechanical or paste-up) that requires no further changes or additions, and send the document to print. Or, instead of a mechanical or paste-up, the prepress technician may use software to electronically "strip" the document pages together, do color correction, fix any compositional errors or problems, and create a "digital file" that will be made into a negative or sent directly to a printing plate.

Whatever the method used, the usual path that a document takes, from creation-to prepress-to printing, generally follows three steps. First, the final document (*text with finished art*) is prepared by an author, graphic designer, or other professional. Next, the document is sent to prepress where it goes through many stages, including:

- Proofreading for spelling and typing errors,
- Making sure all pictures and other graphics are in a suitable format,
- Separating the colors for printing on a color press,
- Checking that all fonts are coming through correctly, and
- Checking general layout guidelines, such as margins and paper size.

Finally, the document is edited and made ready for printing. In the case of a “digital file,” rasterizing or the creation of digital prepress instruction will generally be performed. If the document is not sent straight to press, a printing plate will also be created and a proof, one copy used as an example, made. The proof will usually be checked by the prepress staff, and if it is satisfactory, the document can then be printed. The proof may also be provided to the customer for review and approval prior to printing. Whether the proof provided to the customer is a press proof, prepress proof, digital proof, or another type of a hard-copy sample of the print job, the charge to the customer for the proof is taxable.

*Example:* You have a contract with your customer for the production of a brochure detailing the company’s annual civil war re-enactment. As per your contract, the printed newsletters will be shipped to your customer’s Pennsylvania office for distribution to area residences. You have performed all the initial prepress functions, including the manufacture of a printing plate and color separations, and are now in the proofing stage. You prepare three types of proofs; the print-ready PDF files, the printer’s proof, and the prepress proof. Only the printer’s proof (a high-resolution color proof to check text layout and image colors) is provided to the customer (in California). Your charge to the customer for the high-resolution proof is taxable. Since the print-ready PDF files and the prepress proof are not provided to the customer and the brochures are shipped out of state, the portion of the printer’s charge related to these proofs is part of the nontaxable charge for the printed matter. Tax would, however, apply to the charge for the printing plate and separations produced and used in California, as explained in [Nontaxable sale of printed matter](#).

*Example:* Using the previous example, all the production work is done digitally (on the computer), including the color separations, for transmission directly to the printing press. As part of the process, the digital files are rasterized and a soft proof created. As explained under [Printing Terms](#), a soft proof is displayed on a computer monitor; nothing tangible is provided to the customer. Instead of printing the brochures here, you send the digital file to a printer in Pennsylvania for production there. The printer sends the digital file directly to press and produces the brochures. The brochures are then sent to the customer’s Pennsylvania office for distribution. All charges to your customer for this print job are nontaxable since nothing tangible was provided in California.

## Printed Matter

### Sale of printed matter—in general

Sales of printed matter by a printer or print broker are taxable unless the sale of the printed matter is for resale or is otherwise exempt by law. Unless nontaxable or exempt, tax applies to your charges for printing, lithography, photolithography, rotogravure, silk screen printing, imprinting, steel die engraving, and similar operations for your customers, regardless of whether or not the paper and other materials are furnished by the customer.

#### *“Printer” and “print broker,” defined*

A printer is a person engaged in the printing process. A print broker is a person who contracts to sell printed matter, but who does not actually engage in the printing process to produce the printed matter that will be sold. Instead, a print broker purchases printed matter from a printer or another print broker to resell to its customers.

#### *“Special printing aids” defined*

As discussed previously, special printing aids are reusable manufacturing aids, which are used by a printer during the printing process and are of unique utility to a particular customer. Special printing aids include electrotypes, stereotypes, photo engravings, silk screens, steel dies, cutting dies, lithographic plates, film, single or multicolor separation negatives, and flats. Special printing aids may also include items such as artwork, illustrations, and photographic images used to create other special printing aids or finished art (intermediate production aids).

*Example:* You contract with your customer for the production of brochures for a new product. To ensure correct color and text placement, you print a short run of the brochures. Since you only intend to print a short run and for economical purposes, you use a “paper” plate rather than a metal plate; the plate cannot be reused. Your purchase of the plate or the materials to produce the plate is generally taxable. Unlike a reusable metal plate, the paper plate does not meet the definition of a “special printing aid,” as defined above. This is true even though the paper plate may be of unique utility to a particular customer. Since the plate is not a special printing aid, it is not presumed sold to your customer *prior to use*. (See Printer’s purchase of special printing aids.)



## Purchase by printers—in general

Printers are consumers of tangible personal property which is not sold to the customer prior to use or physically incorporated into the article to be sold. Tax applies to the sale to, or the use of such property by, the printer, as well as any subsequent sale of property used by the printer. Items ordinarily consumed by a printer include printing presses, cameras, digital prepress equipment, plate makers, office equipment, and printing aids. Printers may, however, purchase *special printing aids* for resale, as explained in the next section.

### ***Printer's purchase of special printing aids***

When you use special printing aids to produce printed matter, it is presumed that you resell the aids to your customers prior to your use along with the printed matter, unless you retain title to the special printing aids, as explained in below (see *How to rebut the presumption*.) As such, you may issue a resale certificate to your vendor for your purchase of the special printing aids. If you produce the aids yourself, you may issue a resale certificate for your purchase of the components incorporated into the special printing aid.

### ***Issuance of a resale certificate***

When you issue a resale certificate for the purchase of special printing aids, you are generally liable for tax on your sale of the special printing aids to your customer, even if the sale of the printed matter produced with the special printing aids is not taxable (for example, a sale in interstate commerce). This is true unless your sale is to a print broker who issues you a timely resale certificate for their purchase of the printed matter and aids or to the U.S. government. For more information regarding how tax applies to your sale or use of special printing aids, please see [Sales of Printed Matter by Printers](#) and [Sales of Printed Matter by Print Brokers](#).

### ***How to rebut the presumption***

When you hold title to a special printing aid, if you do not wish to sell the aid to your customer, you must include specific language in your contract or invoice stating that fact. That is, your contract must include a statement that the special printing aid is not being sold to the customer as part of the sale of the printed matter *and* you do not intend to pass title to the aid to your customer.

For example, you may include the following or a similar statement in your invoice or contract:

“The special printing aids are not being sold to my customer as part of the sale of the printed matter, and the selling price of the printed matter does not include the transfer of title to the special printing aids.”

If you retain title to the aids, you should not purchase the special printing aids for resale. If you are producing the aids in-house, you should pay tax on your purchase of the components incorporated into the aids.

*Please note:* If you do choose to retain title to the special printing aids, remember, tax applies to the cost of the aids *and* tax generally applies to the sale of the printed matter without any deduction for the cost of the aids.

### **Printer's charge for preliminary art and conceptual services**

A print job may include not only the sale of printed matter, but also the sale of artwork and the production of preliminary art. When you make a lump-sum charge for a taxable sale of printed matter, the total lump-sum charge is taxable with no deduction for any portion of your charge that represents a charge for conceptual services performed as part of your sale of the printed matter. When you *itemize* your charges for a taxable sale of printed matter, tax applies to your entire charge, except as explained below.

- If, as part of your contract to produce and sell printed matter, you also agree to acquire finished art for use in producing the printed matter; and (1) the acquisition of the finished art involves the providing of conceptual services, *and* (2) you make a separate charge for such services clearly itemized as “design services” or another designation that clearly indicates your charge is for such services and not finished art, your itemized charge for the conceptual services is not taxable unless you transfer title or permanent possession of the preliminary art in a tangible form. If you do transfer permanent possession of the preliminary art in a tangible form, your charges to your customer for the design will normally be taxable.

- If you separately itemize a charge for finished art, which also includes a charge for conceptual services, it is rebuttably presumed that 75 percent of the combined charge is for nontaxable conceptual services. The remaining 25 percent is considered your charge for the finished art. However, if you acquire the finished art and conceptual services from a graphic designer and the designer itemizes a separate charge for conceptual services that is less than 75 percent of the graphic designer's charge for both the finished art and conceptual services, that lesser percentage shall apply to your combined charge to your customer. The remaining portion of the combined charge for the finished art and conceptual services is subject to tax.

*Example:* You contract for the production of advertising materials to be mailed to residences in Los Angeles. Your customer wants the advertising to be specific to the area and unique to the product advertised. You contract with a graphic artist for the creation of artwork that meets your customer's requirements. The artist creates preliminary designs for your customer's approval and, once approved, provides a final design. The artist's charges are itemized and include a charge for the preliminary designs of \$700 and a separate charge for the final design of \$300. In turn, you charge your customer an itemized charge of \$800 for the design phase and \$400 for the finished artwork. Since you itemized your charge for the conceptual design and designated it as such, your itemized charge will generally be nontaxable.

*Please note:* A separately itemized charge for special printing aids is not a separately itemized charge for finished art and conceptual services, and no portion of a charge for special printing aids is excluded from tax as a charge for nontaxable conceptual services.

Also, if your contract with your customer includes the creation of finished art and, instead of purchasing the art from an outside source you create the artwork in-house, you should refer to the section on [Graphic Design](#) for guidance regarding how tax applies to your charges for the artwork. If your sale of the finished art is part of a technology transfer agreement, you should read the [Technology Transfer Agreements](#) chapter for guidance on how to calculate the tax due on your sale.

## Sales of Printed Matter by Printers

### ***Sale to the U.S. government***

When you make a retail sale of printed matter to the U.S. government, your sale is exempt from tax. Since any special printing aids you use during the printing process are presumed sold to your customer prior to your use, your sale of the special printing aids is also exempt from tax. For more information concerning sales to the U.S. government, you may wish to obtain a copy of [Regulation 1614, Sales to the United States and Its Instrumentalities](#).

### ***Nontaxable sale of printed matter***

When your sale of printed matter is not taxable, your sale of the special printing aids is generally taxable. This is true even though your sale of printed matter may qualify as a nontaxable sale in interstate commerce, an exempt sale of qualifying newspapers, periodicals, or printed sales messages, or a nontaxable sale for resale. (See next page for information about when printing aids may be sold for resale.)

Tax is due on the amount you paid for the aids or their component parts, not the amount you charge your customer for the aids. This is the case whether or not the charge for the aids is separately stated on your invoice or included in your charge for the printed matter.

### ***Taxable sale of printed matter***

When your sale of printed matter is taxable, tax applies to your entire charge, including your charge for any special printing aids used in the production of the printed matter. Your charge for the aids and the printed matter is taxable regardless of whether your charge for the special printing aids is separate from your charge for the printed matter. That is, when you do *not* make a separate charge for the sale of the special printing aids, your lump-sum charge for the printed matter is deemed to include your taxable charge for the special printing aids.

### ***Sale of the printed matter is partially taxable***

Occasionally, you may sell printed matter, a portion of which is taxable and a portion of which is not. For example, you may contract with your customer for the production of printed sales messages. You deliver some of the printed matter as required for the sale to be exempt from tax. You also deliver a small quantity directly to your customer. When you make a sale of printed matter that is split between taxable and nontaxable, your sale of the special printing aids is fully taxable. Similar to your sales of printed matter that are fully taxable, if you separately state the taxable selling price of the special printing aids on your sales invoice and the price is not less than the separately stated amount you paid for the aids or their component parts, tax will be due on your charge. If you do not make a separate charge, the taxable portion of the sale of the printed matter is regarded as including your sale of the special printing aids, as long as the sale price of the taxable portion of the printed matter is at least equal to the amount you paid for the aids or their component parts. If so, no further tax is due on your sale of the aids. If the taxable portion of your sale of the printed matter is less than the separately stated amount you paid for the special printing aids or their component parts, you owe tax on the difference.

*Example:* Your customer purchases 1,100,000 advertising flyers—1 million to be inserted in and sold with a local newspaper, and 100,000 to be delivered to individual store locations to give free of charge to walk-in customers. You charge your customer \$6,000 for the production of the flyers. Your cost of the special printing aids used to produce the flyers is \$600.

Your sale of the 1 million flyers for insertion into, and distribution with, the local newspaper is a sale for resale and no tax applies to that portion of your sale. However, tax applies to your sale of the 100,000 flyers delivered to the local stores for use at the stores. As such, \$540 of your \$6,000 charge would be taxable ( $[100,000/1,100,000=9\%]$  [9% of \$6,000=\$540]). As stated previously, if you separately state a charge for the special printing aids that is at least as much as you paid for the aids or their components, tax will apply to your separate charge. If you do not make a separate charge, the taxable portion of the sale of the flyers (100,000 flyers) will be regarded as including the sale of the special printing aids as long as the tax due on the sale of the flyers is at least equal to your cost of the special printing aids or their components.

However, in this example, you paid \$600 for the special printing aids, which is more than the taxable portion of your sale. Accordingly, you will owe tax on your taxable sale of the flyers of \$540, as well as the difference between the cost of the aids and the taxable portion of the sale ( $\$600-\$540=\$60$ ). Accordingly, tax would be due on \$600.

### ***Printer's sale of printed matter and special printing aids for resale***

Occasionally, your customer may ask to purchase both the printed matter and the special printing aids for resale to their customer. Unless your customer is another printer or a print broker and, in fact, will resell the special printing aids to their customer prior to your use of the aids, you should not accept a resale certificate in good faith from your customer for the purchase of the aids. Even though your customer may purchase the printed matter for resale to their customer, tax will generally apply to your sale of the special printing aids when the aids are used in California.

Your customer cannot purchase special printing aids from you for resale unless it has an existing obligation to resell those particular aids to their customer prior to your use along with the printed matter purchased from you. If your customer does not have an existing obligation to resell the aids, you will use the aids on your customer's behalf before your customer can resell the aids to their customer. The fact that your customer has an existing obligation to resell the aids prior to your use may be demonstrated by a purchase order, invoice, or other agreement between your customer and its customer; as long as the agreement is in place before the special printing aids are used by you in the printing process.

*Example:* Your customer, a manufacturer, purchases printed boxes from you as packaging for a new product. Your customer may purchase the printed boxes for resale because the boxes will be resold with the customer's new product line. The customer may not, however, purchase the special printing aids used in the production of the boxes for resale because the purchasers of the new product line are not also purchasing the special printing aids.

You will not be regarded as selling the special printing aids to your customer for resale unless:

- You separately state the charge for the special printing aids on your sales invoice,
- Your charge for the aids is at least the amount you paid for the aids or their components, and
- You accept a timely and valid resale certificate from your customer stating that the special printing aids are being purchased for resale.

### ***Sale of printed matter for resale that also qualifies for exemption***

There are times when you may sell special printing aids for resale along with printed matter in which your sale of the printed matter is for resale and also qualifies for exemption *and* your customer will resell the printed matter to their customer prior to use. However, since your customer would not be regarded as purchasing the aids for resale unless the aids are sold along with the printed matter produced by the aids, you should obtain a resale certificate from your customer for both the sale of the printed matter and the special printing aids even though your sale of the printed matter may qualify for exemption.

For example, you contract with your customer (a print broker) for the production of printed matter that you will ship outside the state per your contract of sale. Your customer, in turn, will resell the printed matter to their customer prior to shipment. As part of their sale of the printed matter, your customer also has an existing obligation to resell the special printing aids used to produce the printed matter to their customer prior to your use. Although your sale of the printed matter may qualify for exemption from tax as a sale in interstate commerce, you should obtain a resale certificate from your customer for the purchase of the printed matter, as well as the special printing aids. Otherwise your customer will not be regarded as purchasing the special printing aids for resale to their customer as part of their sale of printed matter.

It is also important to remember that a person never purchases special printing aids for resale when the printed matter produced with the aids is sold to several purchasers. For example, a person purchasing newspapers for individual sale cannot purchase special printing aids for resale because the individual purchasers of the newspaper are not also purchasing the special printing aids. A person purchasing newspapers for resale to the general public is not purchasing special printing aids for resale to the general public.

## **Sales of Printed Matter by Print Brokers**

### ***Sales to the U.S. government***

When you issue a resale certificate for your purchase of special printing aids and the printed matter produced with the aids for resale to the U.S. government, your sale of the special printing aids and the printed matter is exempt from tax. Please see [Sales to the U.S. government](#). You may also find additional information in [Regulation 1614, Sales to the United States and Its Instrumentalities](#).

### ***Nontaxable sales of printed matter***

When your sale of printed matter is not taxable, your sale of the special printing aids is generally taxable. This is true even though you may issue a resale certificate for your purchase of the special printing aids and your sale of printed matter may qualify as a nontaxable or exempt sale.

If you separately state your charge for the aids, assuming your separately stated price for the special printing aids is not less than the amount the printer charged you for the aids; tax will be due on your separately stated charge. If

your charge is less than the amount the printer charged you, or you do not make a separate charge for the aids, tax will be due on the amount you paid the printer for the aids.

### ***Taxable sales of printed matter***

When your sale of printed matter is taxable, your sale of the special printing aids purchased for resale to your customer is also taxable. Tax applies to your entire charge for the printed matter and the aids whether or not the charge for the special printing aids is separately stated on your sales invoice. If you make a separate charge for the aids, the separate charge is subject to tax along with the charge for the printed matter. If you do not make a separate charge for the special printing aids, your taxable charge for the printed matter includes the sale of the aids, and no further tax is due on your sale of the aids.

### ***Sale of the printed matter is partially taxable***

Occasionally, you may sell printed matter, a portion of which is taxable and a portion of which is not. For example, you may contract with your customer for the production of printed sales messages. You deliver some of the printed matter as required for the sale to be exempt from tax. You also deliver a small quantity directly to your customer. When you make a sale of printed matter that is split between taxable and nontaxable, your sale of the special printing aids is fully taxable.

Similar to your sales of printed matter that are fully taxable, if you separately state the taxable selling price of the special printing aids on your sales invoice and the price is not less than the separately stated amount the printer charged you for the aids, tax will be due on your charge. If you do not make a separate charge, the taxable portion of the sale of the printed matter is regarded as including the taxable sale of the special printing aids, as long as the sale price of the taxable portion of the printed matter is at least equal to the separately stated amount the printer charged you for the aids. If so, no further tax is due on the sale of the aids. If the taxable portion of your sale of the printed matter is less than the separately stated amount the printer charged you for the special printing aids, tax is due on the difference.

### ***Printed matter purchased for resale***

When you purchase printed matter from a printer, the printer is presumed to have made a taxable retail sale of the printed matter, unless you issue a timely and valid resale certificate. The printer is also generally presumed to be selling any special printing aids used during the printing process, as part of the sale of the printed matter. Normally, the printer's sales of the special printing aids are taxable.

The fact that the printer may sell the printed matter to you for resale to your customer does not necessarily mean that the aids are also sold to you for resale. For you to purchase the aids for resale to your customer, you must intend to resell the aids prior to the time the printer uses the aids. That is, along with your contract with your customer for the sale of the printed matter, you must also have a contract with your customer for the sale of the special printing aids. The contract must be entered into before the printer begins production of the printed matter. If this is not the case, you should not purchase the special printing aids for resale. The fact that you have an existing obligation to resell the aids prior to use may be demonstrated by a purchase order, invoice, or other agreement as long as the agreement was in place before the special printing aids were used in the printing process. The same is true when your customer is a print broker purchasing the aids from you for resale to their customer.

Occasionally, your customer may ask to purchase both the printed matter and the special printing aids for resale to their customer. Unless your customer is a print broker and, in fact, will resell the special printing aids to their customer prior to the printer's use of the aids, you should not accept a resale certificate from your customer for their purchase of the aids. Even though your customer may purchase the printed matter for resale to their customer, tax will generally apply to your sale of the special printing aids used in California.

*Remember:* A person never purchases special printing aids for resale when the printed matter produced with the aids is sold to several purchasers.



## ***Your sale of printed matter and special printing aids***

A print broker that purchases printing and special printing aids for resale from a printer who uses the aids to produce the printed matter is presumed to have resold the aids to its customer prior to any use, along with the printed matter, when the following conditions are met:

- You acquire title to the aids,
- You have an existing obligation for the sale of the aids at the time the aids are purchased, and
- You do not include a statement in your contract/sales invoice that title to the aids is being retained.

However, even though you may issue the printer a resale certificate for both the purchase of the special printing aids and the printed matter, the sale of the aids to you will generally be taxable unless:

- The printer separately states the charge for the special printing aids on its sales invoice and
- The printer's charge for the aids is at least the amount the printer paid for the aids or their components.

*Example:* You contract with a printer for the production of a publication you will resell to a nonprofit organization. The nonprofit organization's distribution of the publication qualifies for exemption. You provide the printer with a resale certificate for the printed matter and the special printing aids. The printer charges you a lump-sum amount for the publications and the aids. Although the printer may sell the publications to you for resale to your customer, the same is not true for the aids. Since the printer did not separately state the charge for the aids, tax will apply to the printer's sale of the aids to you.

## **Binding—Finishing—Mailing**

### **Terms related to the sales of printed matter**

**“Binding”** is the final trimming, stitching/stapling, order-form insertion, and any necessary off-press folding of the printed matter.

**“Finishing”** generally includes operations such as coating, cutting, folding, and binding.

**“Addressing/mailing”** means the actual writing, typing, printing, imprinting or affixing of names and addresses or addresses only on materials to be mailed. The mailing may be done by the person doing the addressing or by another person. The process may include the preparation of labels that will be affixed to, or enclosed in, the material and not used for any other purpose such as reproduction or reference.



### **Printer or print broker's charges for binding, finishing, and mailing**

Generally, your charges for binding and folding printed matter are taxable. Tax does not apply to your charges for postage or for addressing for the purpose of mailing, folding for the purpose of mailing, enclosing, sealing, preparing for mailing, or mailing letters or other printed matter, provided your charges are stated separately on your invoice and in your accounting records. However, your charges for envelopes into which the printed matter is enclosed and mailed are generally taxable (see—[Envelopes as containers of the printed sales message](#) for exception).

### **Mailing house**

Tax does not apply to charges for services rendered in preparing materials for mailing, such as addressing, enclosing, sealing, collating, affixing labels, blocking out, tucking or clasping envelope flaps, metering, affixing stamps, addressing permit indicia, and sorting, tying and sacking in compliance with postal rules and regulations, nor to charges for the handling or wrapping of material left over after preparation of the material for mailing, which is to be returned to the customer. Persons engaged in the business of providing mailing services are consumers of materials used in performing these services.

# Printed Sales Messages

*This chapter explains the special rules that apply to sales of printed sales messages, the requirements that must be met for the sale to qualify for exemption, delivery requirements, and agency agreements related to the bulk purchases of envelopes by a purchaser of printed sales messages as an agent of the seller. More information regarding the sales of printed sales messages, exemption certificates, supporting documentation, etc., is available in [Regulation 1541.5](#), Printed Sales Messages.*

## Definitions

### “Printed sales message”

“**Printed sales message**” means catalogs, letters, circulars, brochures, and pamphlets printed for the principal purpose of advertising or promoting goods or services. The term includes such items as department store catalogs, brochures advertising various products or vacation destinations, circulars advertising professional services, invitations to art exhibits promoting the art and coupon books. The term does not include campaign literature and other fund-raising materials, stationary, reply envelopes (except as discussed in the next section), order forms, sales invoices, containers for sample products, newspapers or periodicals, calendars, notepads, cash register tapes, or directories except when they meet the principal purpose of advertising or promoting goods or services.

### “Principal purpose”

“**Principal purpose of advertising of promoting goods or services**” means that the advertising in the printed sales message is over 50 percent of the printed material. For example, a printed brochure, which consists of fifty-one percent (51%) of promotional/advertising in the total printed document.

### “Special order”

“**Printed to the special order**” means designed and prepared according to the specific request of the purchaser. The term also applies to additional orders, when the original order was printed to the special order of the purchaser.

### “Common carrier”

“**Common carrier**” means any person engaged in the business of transporting property for hire or compensation and who offers such services indiscriminately to the public or to some portion of the public.

### “Mailing house”

“**Mailing house**” means any person engaged in the business of stamping, addressing, sealing, or otherwise preparing property for mailing for compensation.

### “Cost”

“**Cost**” means any consideration given for the acquisition of the printed matter, whether directly or indirectly. For example, franchise fees, subscription fees, or general overhead billings are indirect costs.

### “Other person”

“**Any other person**” means any person, other than the purchaser or the purchaser’s agent, who takes physical delivery of the printed sales messages and exercises dominion and control over the property.

## Sales of Printed Sales Messages

Your sale of printed sales messages is not taxable when the sale meets *all* of the following conditions. The printed matter must be:

- Printed to the special order of your customer,
- Mailed or delivered by you, your representative, or by a mailing house acting as an agent of your customer through the U.S. Postal Service or by contract or common carrier, and
- Received by any other person at no cost where the recipient becomes the owner of the printed matter.

If these conditions are *not* met, tax applies to your sale in the same manner as other sales of printed matter. To satisfy the common carrier requirement, it is only necessary that a common carrier be involved in some stage of the delivery. You should always obtain and retain a timely exemption certificate, taken in good faith, from the purchaser. Sample certificates can be found in [Regulation 1541.5, Printed Sales Messages](#).

*Please note:* Although your sale of printed sales messages may qualify for exemption, tax will apply to your purchase of items used to produce the printed sales messages that are not for incorporation into the printed sales message. Tax will also apply to your charges for any tangible intermediate production aids and special printing aids used in California to produce the printed sales messages.

*Example:* A local museum engages you to design brochures announcing each new exhibit. You are responsible for having the brochures printed and shipped to a mailing house for distribution to the museum membership, at no charge to the members. This transaction qualifies as a sale of printed sales messages, since the material is printed to the special order of the museum and the museum does not take possession of the brochures. Instead, the mailing house delivers the brochures by U.S. Postal Service to the membership at no charge to the members. Tax does not apply to your charge to the museum for printing and mailing the brochures. Tax would apply to your charge for any tangible special printing aids used during the production of the brochures.

*Example:* The manufacturer of a new type of running shoe contracts with you to produce a brochure describing the unique features of the shoe. You deliver the brochures to a mailing house for redelivery to shoe stores at no charge to the stores. The stores display the brochures on the premises and offer them free of charge to the public. Although the stores sell the shoes, there is no direct or indirect cost to the store for displaying the brochures. Tax does not apply to your charge to the manufacturer for printing and mailing the brochures. Tax would, however, apply to your charge for any tangible special printing aids used during the production of the brochures.

*Example:* Using the example above, except in this case the manufacturer of the new running shoe makes a minimal charge to the stores when the brochures are delivered. Since the manufacturer makes a charge to the stores for the brochures, your sale no longer qualifies for exemption. As such, tax applies to your charge to the manufacturer for producing the brochures. Tax also applies to your charge for any tangible special printing aids used during the production of the brochures.

### ***Envelopes as containers of the printed sales message***

Tax does not apply to charges for containers such as envelopes, when sold with the printed sales messages for shipment or delivery, or when sold to persons who place the printed sales message in the container and sell both together. For example, you purchase specialty envelopes as containers for invitations to an art show you previously printed for your customer. You will place the invitations in the specialty envelopes and sell both to your customer. The printed sales messages will be delivered as required by Regulation 1541.5. Your charge to your customer for the printed invitations and the envelopes (containers) are not subject to tax.

### ***Reply envelopes, order forms, and other printed matter***

Tax generally applies to the sale or purchase of reply envelopes and order forms even though your customer or his or her representative may subsequently deliver the items to you for insertion into the printed sales messages being sold. Also, when reply envelopes are attached to printed sales messages and the reply envelopes are provided for the primary purpose of securing a return payment on a billing or for business reasons other than the promotion of goods or services, tax applies to the charges for the envelopes.

However, reply envelopes are considered part of the printed sales message when the envelopes are inserted in, stapled, glued, or otherwise affixed to the printed sales message in such a manner that they become a component or integral part of the printed sales message *and* are sold together with the printed sales message. This means that you (printer or print broker) *must* sell the reply envelopes to your customer along with the printed sales messages. If this is not the case, the printed sales message exemption will not apply to the envelopes.

*Example:* In order to make an economical purchase of envelopes, an advertiser will make a bulk purchase of envelopes and have the envelope supplier store the envelopes until needed by the advertiser. When the envelopes are needed, the supplier sends the necessary number to the printer who, in turn, includes an envelope with each printed sales message before distribution. In this case, it is the advertiser who purchases the envelopes, not the printer. As such, the envelopes are not purchased or sold by the same person who also sells the printed sales messages. Since the envelopes are not purchased *and* sold by the same person who sells the printed sales messages, they do not qualify as a component or integral part of the printed sales messages when sold.

*Example:* Using the previous example, the advertiser makes a bulk purchase of envelopes and has them stored until needed, except in this case, the advertiser purchases the envelopes on behalf of you, the printer. In doing so, the advertiser and you enter into an agency agreement which authorizes the advertiser to make bulk purchases of envelopes on your behalf. In turn, you insert the envelopes into each printed sales message and sell the envelopes along with the printed sales messages. In this case, one of the requirements for the sale of the printed sales messages to qualify for exemption is met.

### ***Agent of the seller of printed sales messages***

Generally, an agency agreement between the purchaser and seller of printed sales messages is intended for the specific purpose of making bulk purchases of envelopes on behalf of the seller of the printed sales messages who will resell the envelopes together with the printed sales messages. When such persons enter into a qualified agency agreement, the requirement that carrier envelopes be sold to persons who place the printed sales messages in the envelopes and sell the printed sales messages together with the envelopes is met. The same holds true for reply envelopes becoming a component part of a printed sales message *and*, which are sold together with the respective printed sales message.

A purchaser of printed sales messages may act as the agent of the seller of the printed sales messages when purchasing envelopes or other printed matter from a third-party supplier, as long as the envelopes or other printed matter (1) become incorporated by the seller into the printed sales messages *and* (2) are sold together with the printed sales messages. When the purchaser of printed sales messages intends to act as an agent in an acquisition of envelopes or other printed matter, the purchaser *must* comply with the following conditions:

- The purchaser must have written evidence of agency status with the seller of the printed sales messages prior to acquisition of the printed matter.
- The purchaser must disclose to the third-party supplier the name of the seller of the printed sales messages for whom the purchaser is acting as an agent.
- The price billed to the seller of the printed sales messages, exclusive of any agency fee, must be the same amount paid to the third-party supplier.
- The purchaser may not use the printed matter, nor may the purchase be billed to more than one client.
- The charge made by the supplier must be billed to the seller of the printed sales messages on a separate invoice or shown separately on an invoice encompassing more than one item.

Unless *all* of these conditions are met for each purchase of envelopes or other printed matter purchased on behalf of the seller, the purchaser will be considered a retailer of the envelopes or other printed matter and tax will generally apply to the purchaser's sale of the envelopes or other printed matter.

*Example:* Your customer asks you to prepare and mail sales catalogs and order forms to a list of recipients. The catalogs will be received free of charge. Your customer also purchases reply envelopes from an envelope company for incorporation into the catalogs. The reply envelopes are delivered to you and you staple an envelope and an order form into the center of each catalog. You mail the catalogs through the U.S. Postal Service to your customer's list of recipients. Tax does not apply to your charges for the catalogs and order forms; however, your customer's purchase of the envelopes is taxable. Unlike the order forms, the envelopes are not sold by you along with the catalogs.

This would not be the case, however, if you and your customer had entered into an agency agreement, which authorized your customer to purchase envelopes on your behalf *and* this was disclosed to the envelope company at the time of purchase. Like the order forms, the envelopes would be considered sold by you along with the catalogs. Under these conditions, your sale of the envelopes, order forms, and catalogs would qualify for exemption. Your customer would be permitted to purchase the envelopes for resale on your behalf.

### ***Issuance of a resale certificate—agency agreement***

When the purchaser and seller of printed sales messages enter into an agency agreement, the agent/purchaser cannot issue a resale certificate to the third-party supplier on its own behalf. When purchasing on its own behalf, the purchaser of the printed sales messages should pay tax on the purchase price of the envelopes or other printed matter.

However, when an agency agreement is entered into specifically for the bulk purchase of envelopes, the purchaser/agent can provide a resale card to the envelope supplier, in the printer/seller's name, stating that the purchase of envelopes is on behalf of the printer/seller and will be resold together with printed sales messages.

*Please note:* A resale certificate or other such document must also contain a statement that the property is purchased "for resale" and be signed and dated.

### ***Presumption of agency status—advertising agencies***

Although [Regulation 1540, Advertising Agencies and Commercial Artists](#), provides a presumption that an advertising agency is acting as an agent of its client unless it elects a nonagent status, this presumption does *not* apply to the agency agreements discussed previously. If an advertising agency is the purchaser of printed sales messages and enters into an agency agreement with the seller of printed sales messages for the purchase of envelopes or other printed matter that will be sold by the seller along with the printed sales messages, the advertising agency and seller must adhere to the requirements discussed on the prior page in the same manner as any other seller of printed sales messages.

### ***Delivery of printed sales messages***

When you claim an exemption for the sale of printed sales messages, you must obtain and retain supporting evidence of the delivery of the property by either yourself using a common carrier or U.S. Postal Service, or through the use of a mailing house. If you mail printed sales messages through the U.S. Postal Service or by common carrier, you should obtain and retain U.S. postal receipts or bills of lading. If the printed sales messages are delivered to a mailing house who is acting as an agent for the purchaser, your contract of sale should specify to whom the printed matter was delivered and where. You should always maintain documentation to support the type of delivery and the destination of the printed sales messages.

*Please note:* The purchaser of printed sales messages cannot act as an agent of the seller with respect to the delivery of the printed sales messages. Also, if the printed sales messages are delivered to the purchaser for any purpose, the exemption does not apply to the portion delivered to the purchaser.

### **Exemption certificates**

In addition to the two sample statements shown below, [Regulation 1541.5, Printed Sales Messages](#), provides examples of the type of statements required to support the sale of printed matter as an exempt sale of printed sales messages. The regulation also provides examples of statements that document the delivery of the printed sales messages as required by the regulation.

### **Disclosure of agency agreement**

In order to clearly disclose the agency agreement between the purchaser and seller of printed sales messages, the purchaser may include on all purchase orders provided to the third-party supplier of envelopes a statement containing the elements shown in the following example:

"This order is placed for and on behalf of \_\_\_\_\_  
(Printer/principal's name)  
seller's permit number \_\_\_\_\_  
(Printer/principal's permit number)  
located at \_\_\_\_\_  
(Address of printer/principal)  
for whom \_\_\_\_\_  
(Purchaser/agent's name)  
is acting as agent.  
  
The order is for \_\_\_\_\_ envelopes to be used as containers for printed sales messages.  
(Number of envelopes)  
The envelopes are to be delivered to \_\_\_\_\_ for inclusion of the printed sales message.  
(Mailing house name)  
DATE: \_\_\_\_\_  
(Signature of purchaser or authorized agent)"

### **Sample agency agreement**

Prior to the acquisition of the envelopes, the purchaser and seller of the printed sales messages must agree that the purchaser is acting as an agent of the seller with respect to the bulk purchase of envelopes (or other printed matter), which become incorporated by the seller into the printed sales messages sold. This condition will be met by including a statement in a letter of agreement or other such document similar to the example below.

"You are hereby authorized to act as our agent in the procurement on our behalf of \_\_\_\_\_  
(Number of envelopes)  
envelopes purchased for resale under seller's permit number \_\_\_\_\_  
(Printer/seller's permit number)  
from \_\_\_\_\_ located at \_\_\_\_\_  
(Third party supplier's name) (Address of third party supplier)  
for inclusion or incorporation into printed sales messages to be sold and delivered as required by Regulation 1541.5.  
  
DATE: \_\_\_\_\_  
(Signature of printer/seller)"

# Newspapers and Periodicals

*This chapter discusses the special rules that apply to sales of newspapers and periodicals. The chapter also explains the tax requirements for printers and graphic designers providing services and products to the sellers of such publications and whether their sales of printed matter or artwork will qualify for an exemption from tax under the requirements of Regulation 1590, Newspapers and Periodicals.*

## Definitions and Terms

### “Newspaper”

The term “**newspaper**” means a publication which is commonly understood to be a newspaper *and* which is printed and distributed periodically at daily, weekly, or other short intervals for the dissemination of news of a general character and of a general interest. The term does *not* include handbills, circulars, flyers, or the like, unless distributed as a part of a newspaper. Nor does the term include any publication which is issued to supply information on certain subjects of interest to particular groups, unless such publication otherwise qualifies as a newspaper. Advertising is not considered to be news of a general character and of a general interest.



### “Periodical”

The term “**periodical**” means a publication which appears at stated intervals, with each issue containing news or information of general interest to the public, or to some particular organization or group. Each issue must bear a relationship to prior or subsequent issues with respect to continuity of literary character or similarity of subject matter, and there must be some connection between the different issues in the series that relates to the nature of the articles appearing in them. The term does not include catalogs, programs, score cards, handbills, price lists, order forms, or maps. Nor does it include shopping guides or other publications of which the advertising portion exceeds ninety percent of the printed area of the entire issue in more than one-half of the issues during any 12-month period.

### “Ingredient or component part”

The terms “**ingredient or component part**” mean and include only those items that become physically incorporated into the publication and not those that are merely consumed or used in the production of the publication. For example, newsprint and ink are components of a newspaper; however, a photograph does not become an ingredient or component part of a newspaper merely because the image is reproduced in the publication. Handbills, circulars, flyers, order forms, reply envelopes, and maps are considered a component part of a newspaper or periodical when attached to, or inserted in the publication and distributed along with the publication.

### “Without charge”

“**Without charge**” means to distribute a newspaper or periodical to people or businesses without asking for anything of value in exchange.

### “Publisher”

“**Publisher**” means any person who owns the rights to produce, market, and distribute printed literature and information.

### “Distributor”

“**Distributor**” means any person who acquires newspapers or periodicals for subsequent distribution to retailers or newspaper carriers.

### **“Newspaper carrier”**

“Newspaper carrier” means any person who acquires newspapers from a publisher or distributor to deliver to consumers. The term also includes an independent contractor who delivers the newspapers by vehicle. A newspaper carrier does not include persons selling newspapers or periodicals from a fixed place of business.

### **“Third party retailer”**

“Third party retailer” means any person who makes retail sales of subscriptions for newspapers and periodicals who is not the publisher of the newspapers or periodicals. Typically, third party retailers solicit subscriptions in a single offering for a large number of different publications, require that payment be made on the third party retailer’s account, and undertake to resolve subscription problems. The term includes persons commonly known as direct mail, school, cash, catalog, and telephone agents. It does *not* include persons who solicit renewals of subscriptions on behalf of individual publishers.

## **Sales of Newspapers and Periodicals**

### **Sales of newspapers and periodicals—in general**

The sales of newspapers and periodicals, including sales by third party retailers, are taxable unless the sale qualifies for an exemption or is otherwise nontaxable. The distribution of a newspaper by a newspaper carrier, is not a sale on the part of the carrier. Instead, the publisher or distributor for whom the carrier delivers newspapers is the retailer.

Generally, tax applies to sales of newspapers and periodicals by membership organizations. When the price is separately stated, tax applies to that amount. If the price is not separately stated, the measure of tax is the fair retail selling price of the publication.

### **Purchase of ingredients and component parts**

Tax does not apply to the sale or use of materials that are physically incorporated into the newspaper or periodical that will be sold even when the purchaser of the property is not the seller of the newspaper or periodical. For example, paper and ink are ingredients of a newspaper. Fliers, circulars, handbills, order forms, reply envelopes, and similar items are considered component parts when inserted in or attached to a newspaper or periodical. Printers may sell these items for resale even if the purchaser of the printed matter is not the seller of the newspaper or periodical.

### **Distributions of newspapers and periodicals exempt from tax**

Tax does not apply to the sale or use of these publications under the specific conditions explained in this chapter. The exemptions apply to:

- Publications distributed at no charge.
- Certain periodicals sold by subscription.
- Periodicals published by 501(c)(3) nonprofit organizations only for their members or without commercial advertising.
- Periodicals published by other nonprofit organizations for their members.

### ***Distribution without charge***

Tax does not apply to newspapers or periodicals distributed without charge. In addition, purchases of component parts for publications distributed without charge are not taxable, provided the publications:

- Are regularly published, and
- Average at least four issues a year (no more than three months apart).

Distributing a publication to people or businesses without asking for anything of value in exchange is clearly a distribution without charge. If the publication is distributed to recipients in consideration of their membership dues or fees, this would *not* be without charge.



## ***Sales by subscription***

The sale of a newspaper or periodical is nontaxable if all of the following requirements are met:

- The sale is by subscription;
- The publication appears at least four, but not more than 60 times a year; and
- The publication is delivered by mail or common carrier.

As explained in Exemption certificates, if your customer's newspaper or periodical qualifies for an exemption, the customer may buy component parts for the periodical without tax; however you should secure an exemption certificate from your customer for the purchase of the printed matter.

## ***Sales by membership organizations***

**Internal Revenue Code section 501(c)(3)**—generally, tax applies to sales of newspapers and periodicals by membership organizations, unless the sale is an exempt sale of a subscription as noted above. When an organization qualifies for tax-exempt status under Internal Revenue Code section 501(c)(3), tax does not apply to the sale or use of a newspaper or other periodical sold or distributed by the organization or to the purchase of the component parts of the newspaper or periodical *if* either of the following conditions apply:

- The organization distributes issues of the publication to organization members in consideration, in whole or part, of their membership dues.
- The publication does not generate revenue from or accept commercial advertising.

To qualify for the tax exemption, the organization must regularly publish the newspaper or periodical at average intervals of three months or less. Newspapers and periodicals distributed by government entities established and administered for the purposes provided in Internal Revenue Code section 501(c)(3) may also qualify for this tax exemption.

When the periodical qualifies for exemption, tax does not apply to the portion of any dues received that goes toward the newsletter or income from the sale of publications that do not contain advertising.

**Other nonprofit organizations**—Tax does not apply to the use or distribution of a publication if both of the following conditions are met:

- The publication is distributed to organization members in whole or in part, in consideration of their membership dues.
- The cost for printing the publication is less than ten percent of the membership fee for the period in which the publication is distributed. The cost of printing shall be determined as explained below.

## ***Calculating the printing costs***

To determine the printing costs, you must include the cost of materials that become physical components of the publication—ink and paper, for example—and the cost of printing labor. Printing labor includes printing, collating, folding, binding, and other finishing work. It does not include prepress work such as camera work, plate preparation, film or plate output, typography, layout, and electronic file preparation. If you claim this exemption, you must obtain and keep documentation from your printer that shows the cost for the allowable charges separate from other charges.

For more information on how to determine whether the cost for printing the publication is less than ten percent, or other questions you may have regarding nonprofit organizations, you may wish to obtain a copy of [publication 18, \*Nonprofit Organizations\*](#).

## Graphic designers and printers

### Exemption certificates

If the publication qualifies for one of the exemptions described in this chapter, you should obtain an exemption certificate from your customer when they purchase component materials for inclusion in the publication or have you print the publication. The certificate should certify that your customer's publication is not subject to sales or use tax. This allows you to charge for materials or printing without charging tax. Sample certificates can be found in [Regulation 1590, Newspapers and Periodicals](#), as explained below.

- Purchase of property for incorporation into a newspaper or periodical, including those sold by subscription—the preferred form of the exemption certificate is **Certificate A**.
- Purchase of property for incorporation into a newspaper or periodical that is distributed without charge—the preferred form of the exemption certificate is **Certificate B**.
- Purchase of property for incorporation into a newspaper or periodical that is distributed by a 501(c)(3) organization—the preferred form of the exemption certificate is **Certificate C**.
- Purchase of property for incorporation into a newspaper or periodical that is distributed by nonprofit organizations in general—the preferred form of the exemption certificate is **Certificate D**.



## Sold prior to use presumption

Printers and graphic designers providing tangible property to sellers of newspapers and periodicals should be aware of the rules that apply to their sales and whether the presumptions regarding intermediate production aids and special printing aids apply. As explained in [Graphic Design](#) and [Sales of Printed Matter and Related Services](#), intermediate production aids and special printing aids are generally presumed sold to the customer prior to use. This being the case, the sale of a tangible aid is generally taxable unless the customer purchases the aid for resale to their customer or the sale otherwise qualifies as nontaxable. As explained below, a newspaper or periodical publisher should never purchase intermediate production aids or special printing aids for resale from the graphic artist or printer.

**Graphic designers**—a photographer, illustrator, or other graphic designer may contract with a printer or a publisher (who produces the printed newspapers or periodicals in-house) to provide camera-ready art (for example, an image) for reproduction in a newspaper or periodical. As explained above, intermediate production aids are presumed sold to the customer prior to use by the graphic designer and tax applies to the designer's sale of the aid, unless the aid is purchased for resale by the designer's customer or the sale of the aid is otherwise nontaxable. This would generally be the case with a printer who produces the newspapers or periodicals for resale to a publisher.

However, when the designer's customer is the publisher of the newspapers or periodicals who prints the publications in-house and sells such publications to multiple customers, the intermediate production aids should never be sold to the publisher for resale. This is not a case in which the publisher will resell the newspapers or periodicals to an individual customer that will resell the aids to their customer prior to the graphic designer's use.

**Printers/print brokers**—Printers and print brokers may enter into a contract with a publisher to print newspapers or periodicals. Although the publisher may purchase the printed newspapers or periodicals for resale, it is important to remember that the publisher does not also purchase the special printing aids for resale to their customers prior to use. A person may not purchase special printing aids for resale when the printed matter produced with those special printing aids is sold to several purchasers. Consequently, a person purchasing newspapers or periodicals for individual sale cannot purchase special printing aids for resale because the individual purchasers of the newspapers and periodicals are not also purchasing the special printing aids.

With respect to special printing aids, if you are a printer, you should report tax based on the rules described in sales that are generally nontaxable. If you are a print broker, you should report tax based on the rules described in [Sales of Printed Matter by Print Brokers](#).

## Reproduction rights

Generally, charges for the right to reproduce copyrighted illustrations, images, or other such artwork are taxable. However, when a fee, advance, or royalty is charged in connection with the transfer of tangible, finished art such as an illustration or photographic image, in which the person purchasing or leasing the artwork intends to reproduce the artwork in products they intend to sell, subject to the copyright, the amounts charged for the right to reproduce are not taxable. In this case, the reproduction rights are charged as part of a technology transfer agreement. For more information regarding technology transfer agreements, you should read the [Technology Transfer Agreements](#) chapter.

# Publishers

This chapter covers the tax rules that apply to a publisher's sale of printed literature, services provided by publishing suppliers (for example, graphic designers, typesetters, prepress houses), an author's transfer of an original manuscript, fees charged by a designer or art director, charges for the production of camera-ready copy or art, and other charges related to the prepress production of printed literature (processes prior to printing). Information regarding the printing process, sales of printed matter, and the sales of special printing aids is covered in the chapter, [Sales of Printed Matter and Related Services](#). For more information regarding publishers, you may wish to view [Regulation 1543](#), Publishers. For information regarding the sales of newspapers and periodicals, you should read the prior section.

## Publishing Terms

**"Publisher"**—any person who owns, outright or by license, the rights to reproduce, market, and distribute printed literature.

**"Syndicator"**—a person who receives from author original manuscripts or reproduction proofs, including columns, cartoons, and comic strip drawings, and distributes those manuscripts to publishers for publication.

**"Royalty"**—a percentage of the sales price earned by an author on book copies sold by the publisher or other such person.

**"Author"**—a person who creates an original manuscript for the purpose of publication. The term also includes developmental or copy editors, manuscript reviewers, photo researchers, and translators.

**"Production function"**—a segment of the process of producing camera-ready copy or camera-ready art, and includes the following: manuscript markup, formatting, typesetting, proofreading, alterations, dummy work (mock-up or page layout used for approval purposes only).

**"Designer"**—a person who plans and prepares a general layout of typographical and illustrative elements for printed literature.

**"Art director"**—a person who prepares general specifications (in the form of verbal instruction or rough sketches) for an illustrator or photographer.

**"Illustrator"**—a person who creates an illustration, which is original artwork (including cartoons and comic strips) licensed for the purpose of publication.

**"Photographer"**—a person who creates an original photographic image and then licenses or sells it for publication or reproduction.

**"Desktop publishing" (DTP)**—in the publishing field, DTP is commonly used to describe page layout skills. DTP combines a personal computer and page layout software to create documents for both large and small scale publishing and distribution.

**"Reproduction proof"**—a proof used exclusively for reproduction. The proof consists of a direct impression of composed type forms containing type matter only or type matter with clip art, or a copy of that direct impression.

**"Mechanical or paste-up"**—copy produced with all type and design elements to make it camera-ready. Completed or camera-ready pages are known as mechanicals. Paste-up refers to a method of creating publication pages, which was predominately used before the advent of desktop publishing.

**"Camera-ready copy"**—copy prepared to make it camera-ready with all type and design elements for reproduction or plate-making purposes.

**"Camera-ready copy with clip art"**—copy containing text with "clip art" prepared to make it camera-ready for reproduction purposes. "Clip art" is prepackaged art, including photographic images, commercially available on CD, other electronic media, or computer program for use in digital page layouts.

**“Composed type”**—type together with lined borders and plain, straight, fancy, or curved lines. “Composed type” also includes charts, tables, graphs, and similar methods of providing information. Composed type, however, does not include artwork other than clip art combined with composed type on the same page.

**“Photostat”**—a copy produced by photographic means, often used in layout, dummy work, or “for position only” on camera-ready art.

**“Phototypesetting”**—a method of setting type that uses a photographic process to generate columns of type on a scroll of photographic paper. The method is almost obsolete due to DTP.

**“Final draft”**—the final proof after all proofing and editing is completed.

**“eBook”**—a book published in electronic form that can be downloaded to computers or handheld devices.

## Publishing—Sales and Production

### Sales of books and other literature

Sales of printed literature are subject to tax unless the sale is for resale or otherwise qualifies for exemption (that is, a sale in interstate commerce). Sales of eBooks published in electronic form are not taxable when they are downloaded to a computer or another handheld device and you do not provide a tangible copy as part of the sale.

### Publishing suppliers

The following persons provide services and tangible products to publishers for the purpose of publication. Some provide services only, some provide services with the incidental transfer of property, and others provide transfers of tangible products the sales of which are generally taxable.

### Authors

When an author transfers an original manuscript, or an edited copy of the manuscript, to a publisher or syndicator for the purpose of publication, this is considered a service on the part of the author and tax does not apply to any advances received by the author or fees charged by the author for editing, reviewing, translating, or other such services. This is true even if the manuscript is provided to the publisher or syndicator in a tangible form. Tax does, however, apply to the author’s purchase of items used in the production of the original manuscript or in providing the editing, reviewing, or other services. Tax would also apply to amounts received by the author for providing copies of the manuscript. For the purposes of sales and use tax, an author includes a copy editor, developmental editor, manuscript reviewer, photo researcher, and translator.



*Example:* You have rights to a manuscript, which you plan to publish in the future. You contract with an editorial design firm, who in turn, consults with the original author. The firm reviews the manuscript and makes recommendations for developing it into an acceptable format, which includes ensuring that the work matches the style and grammatical requirements of the chosen market. After you accept the firm's recommendations, the firm hires a designer to prepare sample illustrations and dummies to express the firm's ideas for layout and design. After you approve and return the illustrations and dummies, the firm begins the next stage of the preproduction stage.

The firm's charges for the editing services are not taxable since they are author's services. As long as the firm separately states the charge to you for creating the dummies and illustrations *and* retains possession and title of all preliminary work, these charges are also nontaxable.

### ***Fees charged by designers and art directors—in general***

Fees paid by a publisher or syndicator to designers and art directors for the ability to design, conceive, or dictate ideas and concepts are not taxable as long as the designer or art director does not transfer title or possession of any tangible personal property used to convey the ideas or concepts. As with preliminary art in general, tax applies to the property used by the designer or art director to produce the ideas or concepts.

*Example:* You prepare a comprehensive to show the publisher an idea for the cover of a book which includes artwork on the front and back cover. The fee you charge the publisher is not taxable as long as you keep the comprehensive; you only transfer it to the publisher for review and approval purposes and the publisher returns the comprehensive after the review is done. If after reviewing the comprehensive, the publisher asks that you proceed with the preparation of the final mechanical, the fee you charged for the comprehensive will remain nontaxable as long as the fee is separately listed on your invoice. Your charge for the final mechanical transferred in a tangible form will generally be taxable.

*Example:* Using the previous example, you send the publisher a copy of the comprehensive on a CD. Instead of returning the CD to you after reviewing and providing approval to move forward with the final mechanical, the publisher retains the CD. In this case, the fee you charged the publisher is taxable. Since the publisher retained the CD, you made a retail sale of a comprehensive, which contained artwork.

### ***Preliminary/finished art—Designers, photographers, illustrators***

As explained in [Graphic Design](#), tax does not apply to separately stated charges for preliminary art, except where the preliminary art becomes physically incorporated in the finished art or the approved layout is used for reproduction. In the publication field, preliminary art generally includes sketches or roughs of interior book and cover designs for review and approval purposes. It may also include a mock-up or layout of a page showing position and overall form, used solely for review purposes before approval is given to proceed with the production of a mechanical or paste-up. Finished art generally includes camera-ready copy with artwork, mechanicals, photographs, computer-generated artwork, and illustrations. Camera-ready copy includes electronic storage media containing electronic files of text and illustrations/artwork prepared for final film output. For more information about preliminary and finished art and the billing options available to persons who provide preliminary concepts and/or finished art to publishers, see [Sale and Use of Artwork](#).

*Example:* You provide a preliminary design to a publisher for review and approval before you proceed with the production of the finished design. After giving you approval to proceed, the publisher scans the preliminary design into the company computer and generates a copy. Although the design qualifies as preliminary art, the scanning of the design is a taxable use; that is, the preliminary design was used for reproduction and your charge to the publisher for the creation of the design is fully taxable. There would be no nontaxable preliminary art in this scenario even if you separately itemized your charges.

Tax applies to charges for tangible items such as drawings, designs, or sketches transferred to customers, whether or not the item is suitable for display or is useful for actual reproduction.

*Example:* You contract with a production house for the electronic format (composition) of a manuscript into pages. When done, the production house provides you a copy of the layout on a CD, along with a laser proof. None of the pages contain illustrations or other such artwork; however, some of the pages do contain text with clip art. Tax does not apply to the production house's charges to you for the formatting since composition of text, including text with clip art, is a service that is not taxable. However, if the files did include artwork other than clip art, all or a portion of the entire charge would generally be taxable.

### ***Production functions—in general***

Except in the case of camera-ready copy of composed type *only* or camera-ready copy containing type composed of text and clip art *only*, transferred solely for reproduction purposes (see next section), tax applies to your charges for camera-ready copy or camera-ready art when such items are transferred in a tangible form. The taxable charges generally include charges for the performance of any and all production functions whether or not the charges are separately stated.

However, when a contract with a publisher is *solely* for manuscript markup, formatting, including codes and style sheets used in desktop composition, typesetting, proofreading, coordinating, or production editing, your charges for such services are not taxable as long as they are completed before you enter into a contract for the production of taxable camera-ready copy or camera-ready art. When this is the case, the production related charges will remain nontaxable.

*Example:* You are asked to edit and proofread a manuscript. After you have completed the editing and proofreading, you are asked to produce a camera-ready copy of the manuscript. Since you did not enter into a contract for the camera-ready copy until after you had finished the requested production functions, your charges for the production functions are not taxable. However, your charges for camera-ready copy containing artwork (in a tangible form) are taxable. If you had entered into a contract which called for both the production functions and camera-ready copy without any review or approval between stages, your total charges would be taxable, even if you separately stated the charges for the production functions. (See the example on contracts in stages.)

*Example:* You are asked to format and compose type for 600 pages of a high school technology book using the disk provided to you. The book contains text only. Since your contract is for formatting and composition, not final files for output, your charges are not taxable. This is true even though you may provide a layout proof to your customer containing the 600 pages of composed type. You do, however, owe tax on your purchase of any items used in providing your service.

## Prepress work—traditional vs. digital

As explained in [Sales of Printed Matter and Related Services](#), prepress work consists of the processes and procedures that occur between the creation of a document and the final printing. It can represent the preparation of digital files with desktop publishing software for printing purposes and comes after the design and page layout stage. It can also represent those steps needed to transform the original copy (mechanical or digital file) into the printing plates or other forms needed for reproduction. The same processes and procedures will generally occur in the publishing field since graphic designers and printers play an important role in the production of printed literature.

Prepress, using traditional methods or digital prepress, encompasses the entire process of taking a document from an idea to a final product. In practice, the graphic design process takes into account the traditional or digital prepress processes and their limitations. To help understand the differences and similarities in the two processes, the following section provides a comparison of the conventional/traditional prepress processes and digital prepress tasks.

### ***Traditional prepress method***

In traditional prepress all copy and artwork is attached to boards (sometimes with transparent acetate overlays), which then become camera-ready mechanicals. Traditional prepress also consists of boards or mats with all elements in place. The following provides an overview of the steps that a document goes through to make it ready for printing using “traditional” prepress procedures:

- A typesetter receives text and type specifications (for example, which font to use) from a designer and then composes the text as instructed.
- The type is then sent to a paste-up person who puts it on a paste-up board (mechanical) along with all the other elements of the document.
- Next, images are photographed, cropped, enlarged, or reduced using traditional photographic processes. Boxes for position only are placed on the paste-up board where the images should appear.
- After the text and position only boxes are in place on the paste-up boards, the pages are shot with a camera and negatives made.
- Finally, the negatives and any other negatives acquired and sized to fit in the position only boxes are assembled/ stripped (see [Printing Terms](#) in the fifth chapter for a definition of “stripping”). These stripped pages are then arranged in the order in which they are to be printed depending on how they will be folded, cut, and assembled. The arranged pages are made into plates from which the document will be printed. Proofs are also produced.

### ***Digital prepress method***

With the use of desktop publishing, laser or inkjet print-outs may serve as camera-ready art. Complete control over the type, changing the type quickly, arranging the type on the page, and setting the type elements is retained by the designer or other such person using desktop publishing software. No typesetter or a paste-up person is involved in any of the processes.

The following provides an overview of the steps a designer performs to make a document ready for printing using “digital” prepress procedures:

- A designer chooses the overall look and form of the publication. The designer may or may not have been involved in the conceptualizing phase.
- Next, the designer comes up with rough representations done on the computer (the designer may do their own thumbnail sketches initially). These rough comprehensives may use dummy text and placeholder graphics. Several versions can be quickly turned out.
- The designer may shoot digital images or scan in the images. The designer then performs the cropping, scaling, photo enhancement (including color correction) in an image editor and places the actual digital images into the document. The designer may also electronically “strip” the negatives (see [Stripping](#)).
- Finally, the designer may print out a camera-ready page or the file may be output directly to film or to a printing plate.



## Charges for traditional and digital prepress work

### *Camera-ready copy of composed type*

Tax does not apply to the fabrication or transfer by a typographer or typesetter of composed type or reproduction proofs of such composed type to printers or publishers for reproduction purposes in the preparation of printed matter. Nor does tax apply to the fabrication or transfer by a person who produces the composed type through the use of desktop publishing software and a personal computer, unless the composed type contains artwork other than clip art (as defined in [Publishing Terms](#)). The composition of type or type with clip art on the same page is the performance of a service and tax does not apply to charges for this service, unless the service is part of the sale of printed matter. As previously explained, when a person provides a service, the person performing the service will owe tax on the purchase of any tangible materials used to provide the nontaxable service.

The transfer of composed type may be in the form of a mechanical, paste-up, or a reproduction proof. Whatever the form chosen, as long as the camera-ready copy is a direct product of the type composition or a direct copy of the product of the type composition, the transfer is nontaxable provided the product or copy is to be used exclusively for reproduction purposes by a printer or publisher in the preparation of printed matter. However, typesetting, typography, or composition does *not* include the fabrication or production of a paste-up, mechanical, or assembly of which a reproduction proof is a component part (see example below).

Transfers of plates and mats for use in the printing process which are produced using composed type are subject to tax. A transfer of type matter combined with artwork, in the form of a paste-up, mechanical, assembly, camera-ready copy, or a photo-reproduction of such material, is also subject to tax without any deduction for the cost or expense of typography. Tax applies to the entire charge made for the composition of type with artwork, including any portion of the charge attributable to the type composition service whether or not that charge is separately stated, except as explained in the next section.

*Example:* You have a contract with a publisher to produce a camera-ready copy of the manuscript provided to you. You use a type composing machine and produce composed metal type. You then produce a reproduction proof of the composed type and provide it to the publisher in lieu of the composed type. After you provide the composed type, the publisher asks that you also provide a photostat (copy) of the reproduction proof.

As long as the reproduction proof is to be used exclusively for reproduction purposes, your transfer of the proof would not be taxable. However, since the photostat is not a “reproduction proof” for the purposes of the exemption, tax would apply to your transfer of the photostat.

*Example:* You contract with a designer for the creation and design of order forms for an upcoming book series. Once the forms are created, you also plan to include an image of the book cover at the top of the forms. The images will be added at a later date. The designer creates the forms and provides you with a layout (camera-ready copy) of the forms, with instructions for the placement of the image. Assuming the designer does not incorporate a copy of the image in the layout and the layout consists of only typography, plain lined boxes, and instructions for placement of the image, tax would not apply to the designer’s charge to you. The charge for the creation of the forms and the transfer of the camera-ready copy solely for reproduction purposes is considered an exempt service.

*Example:* Using the previous example, except in this case you contract with a printer for both the design and printing of the forms. Like the designer, the printer performs typography in order to develop the forms and produces a layout solely for reproduction. Unlike the designer, however, the contract also requires the printer to print the forms. As such, tax would apply to the printer's entire charge, including the portion of the charge attributable to the typography.

### ***Contract solely for composed type or composed type with artwork***

A typographer, typesetter, or a person who produces composed type through desktop publishing software will often contract with a printer or publisher for the typesetting and/or composition of a document containing both text with clip art on some pages and text with artwork on other pages. Instead of charging tax on the total charge for the production of the document, the typographer, typesetter, or other such person will bill the printer or publisher on a "per page" basis. When the printer or publisher is billed on a per page basis, the charge for the pages with artwork is subject to tax, and the charge for any pages with only text or text with clip art is nontaxable, as long as the composed pages, or reproduction proof of the composed pages, are transferred solely for reproduction purposes. If the basis for billing is lump sum, the ratio of pages containing artwork in relation to the total number of pages may be used to determine the portion of the lump-sum charge that is taxable. For example, if the total number of pages is 150 and 30 of the pages contain text with artwork, then twenty percent (20%) of the total charge would be taxable ( $30/150=20$  percent).

In no event, however, will the taxable portion of the total charge be less than what the typographer, typesetter, or other such person paid for the artwork or its components. Also, in cases where the number of pages containing artwork is 10 percent or less than the total number of pages, the true object of the contract will be deemed a sale of typography services with an incidental transfer of artwork and no portion of the charge will be taxable.

### ***Contracts for services and tangible property***

A person may, under a single agreement, contract to perform author, design, or art direction services *and* to provide camera-ready copy containing artwork or camera-ready art. If, under the terms of the agreement, the customer retains the right to approve the manuscript layout or general specifications before providing authorization to proceed, *and* the author, designer, or art director does *not* transfer title or possession of the layouts other than for review and approval only, charges for the performance of the services are not taxable when separately stated. In absence of specific contractual language noting customer approval, a notation of receipt of approval in the records of the author, designer, or art director will be acceptable.

*Example:* You provide publishing services from editing through the production of final files and deliver a CD to your customer; your charges for these services are normally taxable. However, if (1) your contract groups nontaxable and taxable services by "stages;" (2) you can not proceed with the next stage until you receive approval to go forward; and (3) you are able to document your customer's approval at each stage, only your charges for the last stage would be taxable, as illustrated below.

**Stage 1:** Editing and review, preliminary designs, style sheets, and templates, color palettes and art direction—the publisher approves this stage and authorizes the production of preliminary layouts.

**Stage 2:** Production functions, including coordination, manuscript markup, proofs for approval only, layouts and dummies, preliminary art—the publisher approves this stage and authorizes the production of camera-ready copy.

**Stage 3:** Final file preparation, final electronic files, color proofs, and photographs—the publisher is provided the final files on a CD.

## ***Property purchased for resale***

Tax applies to the purchase of property consumed in any of the functions performed as part of the production of camera-ready copy or art. Property is considered consumed when it is used to provide a production service rather than being incorporated into the finished product. Since the property is consumed, it should not be purchased for resale. However, there are instances when consumed property may be purchased for resale. Property may be purchased for resale when it is sold prior to use in the production function.

Except as explained in the following section, an item is considered sold prior to use when the contract of sale explicitly passes title to the consumed property to the customer prior to its use in the production function. Property that is sold prior to use must be separately listed and priced on the sales invoice. When this is the case, tax applies to the charge for such property, not on its use.

*Example:* You contract with a publisher for the production of an illustration for reproduction in a book currently under review. You purchase an illustration from a small design firm, which is transferred to you on photographic paper. You resell the illustration to the publisher without making any use of it. You are allowed to give a resale certificate to the design firm, but tax applies to your sale of the illustration to the publisher.

On the other hand, if you had used the illustration prior to selling it (scanned the illustration), tax would apply to your use of the illustration, as well as your sale to the publisher, unless your contract explicitly passed title to the illustration to the publisher prior to your use. If so, only your sale of the illustration would be taxable.

## ***Presumption that title passes prior to use***

As explained in the prior chapter, printers and graphic designers providing services to publishers need to be aware of the rules that apply to the sales of intermediate production aids and special printing aids and when such items may be purchased for resale. Also, as explained in the prior chapter, intermediate production aids and special printing aids are generally presumed sold to the customer prior to use. This being the case, the sale of a tangible aid to the customer is taxable unless the customer purchases the aid for resale to their customer or the sale otherwise qualifies for exemption or as nontaxable. However, a person may not purchase intermediate production aids or special printing aids for resale when the property produced with those aids is sold to several purchasers. Consequently, a person purchasing printed literature for individual sale cannot purchase intermediate production aids or special printing aids for resale because the individual purchasers of the printed literature are not also purchasing the aids.

## ***Reproduction rights***

As also explained in the prior chapter, charges for the right to reproduce copyrighted images or other such artwork are taxable. However, when a fee, advance, or royalty is charged in connection with the transfer of tangible finished art in which the person purchasing or leasing the artwork intends to reproduce the artwork in products they plan to sell, subject to the copyright, the fees charged are not taxable. The reproduction rights are part of a technology transfer agreement.

*Example:* A graphic designer provides art to a book publisher. The artist indicates on the invoice that reproduction rights are being sold to the publisher. The publisher reproduces the artwork in books printed for resale. The publisher also has a right to use some of the artwork to produce rubber stamps for resale. The artwork is transferred to the publisher in digital files on CDs. The publisher must return all of the artwork to the artist after downloading or scanning the images into its computer. All transfers of artwork in this example are being made according to technology transfer agreements. Therefore, no tax is due on the temporary transfers of artwork made by CD. The fees for the right to reproduce are also not taxable.

## Applying Tax to Your Purchases

*This chapter addresses purchases commonly made by businesses operating in the graphic arts industry. It includes information on purchases of services, production aids, special printing aids, finished art, and other like items.*

### **Purchases for resale**

You may issue a resale certificate to your vendor when you buy items you will resell rather than use. This allows you to make the purchase without paying tax until you sell the product. You may issue a resale certificate to purchase:

- Products you sell to customers as is.
- Products that become a tangible part of products you sell to your customers.
- Intermediate production aids and special printing aids sold to the customer prior to use.
- Digital storage media (DVDs, CDs, flash memory, diskettes, and removable disks) you sell to customers rather than retain in your business.
- Fabrication labor.
- Packaging supplies you use to wrap property you sell.

For general information on purchases for resale, see [publication 103, Sales for Resale](#), or [Regulation 1668, Sales for Resale](#).

### **Taxable purchases**

Some of your purchases are taxable. If you know a purchase is taxable at the time you make it, you should not issue a resale certificate to your vendor. If you buy from an out-of-state vendor who does not collect California tax, or you buy merchandise for resale but use it before you sell it, you must report and pay use tax with your sales and use tax return. To do that, list the cost of your purchase under “Purchases subject to use tax” on the return for the reporting period in which you used the item. The rate for use tax is the same as the rate for sales tax in the location where you used the item.



Tax applies to amounts you pay for:

- Materials and supplies that *do not* become a tangible part of products you sell.
- Materials and supplies that become a tangible part of nontaxable preliminary art.
- Photographs, illustrations, or other artwork received in a tangible form for which you receive the right to reproduce the artwork, but not the right to resell or sublease it to another party.
- Items you use for demonstration and display unless you will also offer them for sale.
- Items you use for donations, gifts, or other personal use (donations to charitable organizations may not be taxable; please call our Customer Service Center for guidance).
- Equipment you use in your business rather than sell, such as office supplies, furniture, computers, order forms, printers, etc.
- Property from out-of-state vendors that would be taxable if you made them in California (see Purchases from out-of-state retailers, next page). This includes purchases made by phone, mail order, or over the Internet.
- You should also pay tax on charges for leasing or renting equipment provided the owner of the equipment charges you an amount for tax.

For more information on use tax, see [publication 110, California Use Tax Basics](#), and [Regulation 1685, Payment of Tax by Purchasers](#).

### ***Tax-paid purchases resold before use***

If you pay an amount for tax when you buy an item then later sell it before using it, you may claim a deduction on your sales and use tax return, under “Cost of tax-paid purchases resold prior to use.”

*Example:* You pay an amount for tax when you buy a stack of CDs you intend to use in your business. You pay \$20.00 plus tax for 50 CDs. Later, you sell ten of those blank, unused CDs to a customer in a taxable transaction. You would report the amount you charged for the CDs in “gross receipts” on your sales and use tax return and take a \$4 tax-paid purchases resold deduction for their purchase price (10 CDs = 20 percent of total 50 CDs purchased; \$20.00 x 20 percent = \$4.00).

### ***Purchases from out-of-state retailers***

Tax applies to out-of-state purchases the same way it does to purchases within California: a purchase that is taxable in California is taxable when you purchase it from an out-of-state vendor. In general, you will owe use tax if you purchase merchandise from an out-of-state retailer without paying California tax and use the merchandise in California for a purpose other than resale. You must report the tax on your sales and use tax return. Some out-of-state retailers are authorized to collect and pay California use tax. If your sales receipt indicates that the retailer collected the correct amount of California use tax on your purchase, you do not need to report that purchase on your return. However, if the retailer did not collect enough tax, you would owe any additional tax that should have been charged.

If you purchase artwork, photographs, intermediate production aids, special printing aids, or other such products from vendors located outside of California for resale to your customer prior to use, no use tax is due on your purchase. Instead, you will owe tax on your sale of the items to your customer. For more information on how tax applies to the purchase of items presumed sold to your customer prior to use, you should read the sections [Graphic Design](#) and [Sales of Printed Matter and Related Services](#).

# General Tax Reporting Requirements

This chapter provides general information on how to report your sales and purchases on your sales and use tax return. It also includes information on invoicing customers, applying tax to credit sales, and claiming deductions and exemptions on your return. For more information, you may wish to refer to [publication 73](#), Your California Seller's Permit.

## ***Including an amount for tax in your charges***

You are responsible for paying sales tax on all your taxable sales. However, you can collect tax from your customers equal to the amount you will owe on each sale. This is called "sales tax reimbursement." You may add the tax amount to your taxable charges, being sure to itemize it on your invoices or receipts. Or, you may include it in your charges. If you choose the latter method, you must either post a visible sign stating, "All prices of taxable items and services include sales tax reimbursement calculated to the nearest mill," or include a similar statement on your sales invoices or receipts.

## ***Tax due with your return***

You must report all of your sales on your sales and use tax return, including nontaxable sales. The tax due with each return is based on your total gross receipts for the period less deductions for allowable nontaxable sales and other adjustments. You may not deduct any expenses related to your sales—such as travel expenses, model fees, phone charges, equipment rentals, etc. Some common exemptions and deductions are noted below.

## ***Common deductions and exemptions***

Common deductions and exemptions include:

- Sales for resale
- Tax-paid purchases resold prior to use
- Repair labor and nontaxable services
- Preliminary art/conceptual services
- Certain sales in interstate and foreign commerce
- Sales to the U.S. government
- Cash discounts on taxable sales

## ***Bad debts***

If you paid tax on a sale and then were not able to collect payment, you may claim a deduction for the bad debt. Bad debts may take the form of:

- Checks returned unpaid by the purchaser's bank that you have determined to be uncollectible, or
- Accounts from charge or credit sales found worthless.

Before you take the deduction, you must charge off the bad debt for income tax purposes. You should claim the deduction on the sales and use tax return you file for the period in which you found the amount worthless and charged it off for income tax purposes. If you are not required to file income tax returns, you must charge off the debt following generally accepted accounting principles. If the tax rate has changed since you made the original sale, you must adjust the amount of the bad debt deduction to conform to the tax rate in effect at the time of the sale. You cannot deduct amounts you paid to collect the funds due.

If you later collect the money due for a bad debt (including worthless checks), you must include in your taxable gross receipts any amount you previously claimed as a bad debt deduction.



*Please note:* There are many rules governing deductions for bad debt losses. For assistance, you may wish to request a copy of [Regulation 1642](#), *Bad Debts*, or contact our Customer Service Center.

### ***Credit sales and installment payments***

Tax is due for the period in which a sale takes place, regardless of when you receive payment. The sale takes place when you transfer ownership or possession of your product to your customer. You should not report deposits you receive from customers for future delivery of products until the sale is complete.

### ***Records***

Be sure to keep complete records of your sales and purchases. You should keep required records for at least four years unless we give you specific, written authorization to destroy them sooner. For nontaxable transactions, your records should clearly indicate the reason the transaction was not taxable. If you are being audited, you should retain all records that cover the audit period until the audit is complete, even if that means you keep them longer than four years. In addition, if you have a dispute with us about how much tax you owe, you should retain the related records until that dispute is resolved.

For more information on record keeping, please see [publication 116](#), *Sales and Use Tax Records*, or [Regulation 1698](#), *Records*.

## For More Information

For additional information or assistance, please take advantage of the resources listed below.

### CUSTOMER SERVICE CENTER 1-800-400-7115 (CRS:711)

Customer service representatives are available Monday through Friday from 7:30 a.m. to 5:00 p.m. (Pacific time), except state holidays. In addition to English, assistance is available in other languages.

### OFFICES

Please visit our website at [www.cdtfa.ca.gov/office-locations.htm](http://www.cdtfa.ca.gov/office-locations.htm) for a complete listing of our office locations. If you cannot access this page, please contact our Customer Service Center at 1-800-400-7115 (CRS:711).

### INTERNET

[www.cdtfa.ca.gov](http://www.cdtfa.ca.gov)

You can visit our website for additional information—such as laws, regulations, forms, publications, industry guides, and policy manuals—that will help you understand how the law applies to your business.

You can also verify seller's permit numbers on our website (see [Verify a Permit, License, or Account](#)).

Multilingual versions of publications are available on our website at [www.cdtfa.ca.gov/formspubs/pubs.htm](http://www.cdtfa.ca.gov/formspubs/pubs.htm).

Another good resource—especially for starting businesses—is the California Tax Service Center at [www.taxes.ca.gov](http://www.taxes.ca.gov).

### TAX INFORMATION BULLETIN

The quarterly *Tax Information Bulletin* (TIB) includes articles on the application of law to specific types of transactions, announcements about new and revised publications, and other articles of interest. You can find current TIBs on our website at [www.cdtfa.ca.gov/taxes-and-fees/tax-bulletins.htm](http://www.cdtfa.ca.gov/taxes-and-fees/tax-bulletins.htm). Sign up for our [CDTFA updates](#) email list and receive notification when the latest issue of the TIB has been posted to our website.

### FREE CLASSES AND SEMINARS

We offer free [online](#) basic sales and use tax classes including a tutorial on how to file your tax returns. Some classes are offered in multiple languages. If you would like further information on specific classes, please call your local office.

### WRITTEN TAX ADVICE

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges that are due on a transaction if we determine that we gave you incorrect written advice regarding the transaction and that you reasonably relied on that advice in failing to pay the proper amount of tax. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction.

For written advice on general tax and fee information, please visit our website at [www.cdtfa.ca.gov/email](http://www.cdtfa.ca.gov/email) to email your request.

You may also send your request in a letter. For general sales and use tax information, including the California Lumber Products Assessment, or Prepaid Mobile Telephony Services (MTS) Surcharge, send your request to: Audit and Information Section, MIC:44, California Department of Tax and Fee Administration, P.O. Box 942879, Sacramento, CA 94279-0044.

For written advice on all other special tax and fee programs, send your request to: Program Administration Branch, MIC:31, California Department of Tax and Fee Administration, P.O. Box 942879, Sacramento, CA 94279-0031.

### TAXPAYERS' RIGHTS ADVOCATE

If you would like to know more about your rights as a taxpayer or if you have not been able to resolve a problem through normal channels (for example, by speaking to a supervisor), please see [publication 70, \*Understanding Your Rights as a California Taxpayer\*](#), or contact the [Taxpayers' Rights Advocate Office](#) for help at 1-888-324-2798. Their fax number is 1-916-323-3319.

If you prefer, you can write to: Taxpayers' Rights Advocate, MIC:70, California Department of Tax and Fee Administration, P.O. Box 942879, Sacramento, CA 94279-0070.



## Regulations, forms, and publications

### ***Lists vary by publication***

Selected [regulations](#), [forms](#), [publications](#), and [industry guides](#) that may interest you are listed below. Spanish versions of certain publications are also available online.

### ***Regulations***

- 1506 *Miscellaneous Service Enterprises*
- 1507 *Technology Transfer Agreements*
- 1528 *Photographers, Photocopiers, Photo Finishers and X-Ray Laboratories*
- 1529 *Motion Pictures*
- 1540 *Advertising Agencies and Commercial Artists*
- 1541 *Printing and Related Arts*
- 1541.5 *Printed Sales Messages*
- 1543 *Publishers*
- 1590 *Newspapers and Periodicals*
- 1614 *Sales to the United States and Its Instrumentalities*
- 1620 *Interstate and Foreign Commerce*
- 1628 *Transportation Charges*
- 1641 *Credit Sales and Repossessions*
- 1642 *Bad Debts*
- 1668 *Sales for Resale*
- 1685 *Payment of Tax by Purchases*
- 1698 *Records*
- 1700 *Reimbursement for Sales Tax*
- 1821 *Foreword*

### ***Publications***

- 17 *Appeals Procedures: Sales and Use Taxes and Special Taxes and Fees*
- 18 *Nonprofit Organizations*
- 44 *District Taxes (Sales and Use Taxes)*
- 46 *Leasing Tangible Personal Property*
- 51 *Resource Guide to Tax Products and Services for Small Businesses*
- 58A *How to Inspect and Correct Your Records*
- 61 *Sales and Use Taxes: Exemptions and Exclusions*
- 70 *Understanding Your Rights as a California Taxpayer*
- 73 *Your California Seller's Permit*
- 74 *Closing Out Your Account*
- 75 *Interest, Penalties, and Collection Cost Recovery Fee*
- 76 *Audits*
- 100 *Shipping and Delivery Charges*
- 101 *Sales Delivered Outside California*
- 102 *Sales to the United States Government*
- 103 *Sales for Resale*
- 105 *District Taxes and Delivered Sales*
- 108 *Labor Charges*
- 109 *Internet Sales*
- 110 *California Use Tax Basics*
- 116 *Sales and Use Tax Records*

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