

**M e m o r a n d u m****210.0510****To** : Mr. Verne Ferreira**Date** : June 30, 1993

Oakland – Auditing (CH)

**From** : Ronald L. Dick  
Senior Tax Counsel**Subject** : Current Legal Digest 480  
Annotation 210.0560

This is in reply to your February 3, 1993 memorandum regarding Current Legal Digest 480 which revised Business Taxes Law Guide Annotation 210.0560.

Specifically, you questioned the third example in the annotation which states:

“3. Equipment used to test an item to determine whether that item will function with other equipment as part of an equipment system.”

The annotation was based on a November 9, 1990 opinion (copy attached) which concluded that, “demonstration and display includes testing of an item with other equipment to determine whether that item will function with other equipment as part of an equipment system.” The annotation, as written, does not accurately state the conclusion reached in the opinion. The testing of the item does not result in a taxable use of the item. However, the annotation incorrectly states that the use of the test equipment is nontaxable.

By a copy of this memorandum, we are requesting that the annotation be corrected to state:

“3. An item tested to determine whether that item will function with other equipment as part of an equipment system.”

You also asked whether tax applies to the sale of printers to a person who will purchase the printers to rigorously test them to determine whether they meet standards of the purchaser. The purchaser tests the printers for approximately two months. At the end of the testing, the purchaser either sells the used printer or destroys it, if it is unsalable. The purchaser will market other printers of the vendors whose printers were successful in the test. We believe that under the facts you described, the testing is a use of the printers other than solely for demonstration or display while holding those printers for sale in the regular course of business.

We hope this answers your questions; however, if you need further information, feel free to write again.

Harry L. Say

-2-

December 20, 1963  
585.0480

RLD:sr