



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-0387

January 30, 1989

Mr. --- ---
--- --- ---
XXX --- ---
--- ---, CA XXXXX

Dear Mr. ---:

In your December 6, 1988 letter, you requested a ruling concerning your interpretation of Section 6010.6 of the Sales and Use Tax Law. Based upon the issues addressed in your letter, it appears --- --- is a post production facility performing audio and video recording, editing, duplicating and transferring on both film and tape.

As a preliminary matter, only the Board itself can issue rulings. I can, however, provide you with my opinion concerning the issues addressed in your letter.

Under Section 6010.6 charges for "qualified production services" are nontaxable beginning September 22, 1988. "Qualified production services" are defined in Section 6010.6 as any fabrication performed by any person on film, tape or other audiovisual embodiment in connection with the production of all or any part of any "qualified motion picture." Qualified production services do not include services or other work to manufacture release prints or to duplicate tapes for exhibition or broadcast.

Further, "qualified motion picture" is defined in Section 6010.6 as any motion picture, whether or not completed, which is produced, adapted, or altered for exploitation in movie theaters, through television, in amusement parks, on commercial carriers, etc. for entertainment, commercial, advertising, promotional, industrial or educational purposes. As such, qualified motion pictures include episodic and special television programs, cable television programs, non-theatrical/TV programs, trailers and promos. Qualified motion pictures do not include private non-commercial motion pictures such as weddings, graduations, etc.

Accordingly, the entire charge made to your clients for qualified production services is nontaxable including charges related to materials, supplies, equipment, overhead, etc. This also includes charges for list cleaning, viewing, computer use, etc. that are part of the charge for your qualified production service. Qualified production services are nontaxable regardless of the billing method used and whether or not the various components (i.e. raw stock, labor, overhead, etc.) of the total charge are separately stated.

The following transactions listed in your letter are nontaxable qualified production services if performed on a qualified motion picture:

- Color corrections
- Online editing
- Offline editing
- Audio laydowns and laybacks
- Sound mixing and sweetening
- Foley and ADR recording
- Sound effects editing
- Sound duplications
- Videotape duplication
(except duplicate tapes for exhibition or broadcast)
- Film to tape transfers and related services
(unless for the manufacture of release prints or duplicate tapes for exhibition or broadcast)

When providing qualified production services, you are the consumer of all raw stock (film, tape or other audiovisual embodiment) used. As a consumer of raw stock, you should pay tax reimbursement to your vendor when purchasing this raw stock. If the raw stock consumed has been purchased without tax (i.e. for resale or from an out-of-state vendor) you must report the cost of the raw stock on line 2 of your Sales and Use Tax Return.

However, charges for the manufacture of release prints or duplicate tapes for exhibition or broadcast are subject to tax unless otherwise exempt (i.e. resale, interstate commerce, etc.). This includes charges for raw stock, (film, tape or other audiovisual embodiment), equipment, rent, overhead, etc. Accordingly, raw stock used in the production of release prints or duplicate tapes for exhibition or broadcast may be purchased for resale. If you pay tax reimbursement to your vendor when purchasing raw stock, you may claim a "Tax Paid Purchases Resold Credit" on line 10 of your Sales and Use Tax Return for the cost of raw stock used to manufacture release prints or duplicate tapes for exhibition or broadcast.

With respect to other purchases, you are liable for tax on the cost of all equipment and supplies used in the operation of your business and should pay tax reimbursement to your vendors at the time of purchase. However, if you purchase equipment or supplies without tax (i.e. from out-of-state vendors), you must report the cost of these items on line 2 of your return.

Mr. --- ---

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375.0903

In summary, charges for qualified production services are nontaxable and you are liable for tax on the cost of raw stock (film, tape or other audiovisual embodiment) used in providing these services. Charges for manufacturing release prints or duplicate tapes for exhibition or broadcast are generally taxable and you may purchase this raw stock without tax (i.e. for resale). You are liable for tax on the cost of all equipment and supplies used in your business operations.

I hope this information is helpful. If you any additional questions, please let me know.

Sincerely,

Glenn A. Bystrom
Principal Tax Auditor

GAB:gjm
0439S

Memorandum

375.0903

To: Mr. Glenn Bystrom

Date: May 29, 1996

and
1/30/89

From: Gary Jugum

Subject: Non-Attorney Opinions

I have reviewed your memorandum of January 30, 1989 to --- ---.

We are in agreement with his conclusion, as follows:

Qualified Production Services. The following are regarded as non-taxable qualified production service if performed on a qualified motion picture

- color corrections
- off-line and on-line editing
- audio laydowns and laybacks
- sound mixing and sweetening
- foley and adr recording
- sound effects editing
- sound duplications
- videotape duplication (except for exhibition or broadcast)
- film to tape transfers and related services (unless for the manufacture of release prints or duplicates tapes for exhibition or broadcast). 1/30/89

Gary Jugum