



STATE BOARD OF EQUALIZATION

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October 19, 1994

BURTON W. OLIVER
Executive Director

X-----

Re: X-----

Dear X-----,

This is in reply to the August 11, 1994 message you sent by fax regarding the application of sales tax to your charges for special printing aids. You asked the following specific questions:

“1. I purchase printing film (special printing aids) and transfer the title to them to my clients before they allow me to use them in the manufacturing process of creating printed materials for them and they are, therefore, not taxable to me. These printing aids are purchased by me for resale to my clients. Can I also purchase for resale, the rights to use a stock photograph and transfer these rights to my client prior to using the leased photograph in the manufacturing process (which would entail making a duplicate digital image from it?”

When you lease tangible personal property from a lessor, you do not pass title to that property to your client. However, you may contract with your customer that, when you lease a stock photograph from a vendor, you sublease the photograph to your client prior to use and use it on behalf of your client.

You note that your question regards stock photography not related to the "one-time newspaper use rules. For your information, Revenue and Taxation Code section 6362 formerly provided for an exemption from use tax for the transfer of possession of a photograph for the purpose of being reproduced one time only in a newspaper. That section was repealed effective July 15, 1991. The lease of such a photograph is now subject to use tax.

“2. What constitute-s artwork on a computer-generated paper galley of type? Is a table of information artwork? Is a logo that is incorporated into a page layout program artwork? Is a scanned image of a photograph that will only be used by a printer for positioning the real, more carefully scanned image artwork? It is my understanding that if any of these things are artwork, I am the consumer of the paper galleys and should pay tax on them, so I would like this clarified please.”

We consider any photographs or illustrations to be artwork. A table of information that consists only of straight lines with text and numbers is not artwork. We consider a logo as artwork. A scanned image of a photograph is artwork regardless of the quality of the image. In order to give you an opinion as to whether you are the consumer of the galleys or the retailer, we would need more information as to your transaction.

Very truly yours,

Ronald L. Dick
Senior Staff Counsel

RLD:plh

Cc: San Jose District Administrator