



**STATE BOARD OF EQUALIZATION**

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April 22, 1985

DOUGLAS D. BELL  
*Executive Secretary*

Mr. D--- H. S---  
Owner  
P--- P--- - L---  
XXXX --- --- Road  
P.O. Box XX  
--- ---, California XXXXX

Dear Mr. S---:

As I indicated to you in a prior telephone conversation, your letter of February 28, 1985, has been assigned to me for a reply. You ask about the application of the sales and use tax to your business.

You described your business as follows:

“I am an independent technician providing services to geologists engaged in research on rocks. Among the methods used by such scientists is microscopic examination of sections of rock samples, and the service I provide is the preparation of the microscope slides used for that examination.

“In brief, the scientist collects and sends to me a rock sample from which I remove a small portion. I cement that portion to a one-inch by two-inch glass microscope slide, cut it very thin, and return all of the original sample with the prepared slide to the scientist. The prepared slide is of use only to the scientist and then only in the course of his research.”

Under California sales and use tax law, tax applies to the gross receipts from the sale of tangible personal property without any deduction for the cost of labor or services. However, tax does not apply to a service where the transfer of tangible personal property is merely incidental to that service.

Sales and Use Tax Regulation 1501 states:

“The basic distinction in determining whether a particular transaction involves a sale of tangible personal property or the transfer of tangible personal property

incidental to the performance of a service is one of the true object of the contract; that is, is the real object sought by the buyer the service per se or the property produced by the service. If the true object of the contract is the service per se, the transaction is not subject to tax even though some tangible personal property is transferred.”

Your business receives rock samples from the customers. You take a small portion of the rock and place it with a glass slide provided by you. The result is a slide of the rock for microscopic examination. Revenue and Taxation Code Section 6006 states that a “sale” means and includes:

“(b) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing or imprinting.”

We are of the opinion that the true object of the transactions with your customers are the slides with the rocks on them prepared for microscopic examination. Tax applies to the gross receipts from the sale of said slides even though the rocks were provided by the customers.

If you have any further questions, please do not hesitate to contact us again.

Very truly yours,

Vickie B. Owen  
Tax Counsel

VBO;ms

bc: Mr. Donald Hennessy