



STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-6450

MEMBER
First District

BRAD SHERMAN
Second District, Los Angeles

ERNEST J. DRONENBURG, JR.
Third District, San Diego

MATTHEW K. FONG
Fourth District, Los Angeles

GRAY DAVIS
Controller, Sacramento

August 5, 1993

BURTON W. OLIVER
Executive Director

REDACTED TEXT

Dear REDACTED TEXT:

Re: REDACTED TEXT

This is in reply to your June 17, 1993 letter regarding the application of sales and use tax to charges for the use of a photograph in corporate quarterly and annual reports.

You explained that you recently commissioned a photographer to take product photographs which will be printed in a corporate quarterly report. Under the agreement with the photographer, you merely received the right to reproduce the photograph but not title to the photographs. We understand that you will sell the quarterly reports which contain the photographic images. You asked whether tax applies to the photographer's charges or whether the transaction is a sale for resale to you.

If the photographer transfers title to a photograph to you, sales tax applies to the transaction. If the photographer merely transfers possession of the photograph to you, the transaction is a lease. In the latter case, the applicable tax is the use tax, and the photographer, as the lessor, is required to collect the tax from you and report and pay it to the Board of Equalization.

You may only purchase for resale tangible personal property which, prior to any use, you sell or physically incorporate as an ingredient or component part of tangible personal property you sell. The term "ingredient or component part" includes only those items that you physically incorporate into the property you sell and not those which you consume or use in the production of the property you sell. For example, the photograph does not become an ingredient or component part of quarterly reports you sell merely because the image of the photograph is reproduced as part of the quarterly reports. When you make a reproduction of the photograph, you make a use of that photograph. Tax applies to the sale of the photograph to you. See Sales

REDACTED TEXT

-2-

August 5, 1993
442.0500

and Use Tax Regulation 1540, subdivision (d). Enclosed for your further information is a copy of Sales and Use Tax Regulation 1543, Publishers.

Very truly yours,

Ronald L. Dick
Senior Staff Counsel

RLD:ph

Enclosures: Regulations 1540 and 1543.