



442.0810

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
(PO 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

BURTON W. OLIVER
Executive Director

October 19, 1994

REDACTED TEXT

Re: REDACTED TEXT

Dear REDACTED TEXT,

This is in reply to your August 22, 1994 letter regarding the application of sales tax charges by REDACTED TEXT for editorial and production work you perform for REDACTED TEXT. You provided the following facts:

"The publisher sends me an author's paper manuscript and word processing disk files. I have the paper manuscript edited and sent to the author for approval. We enter the corrections to the original computer disk files, then import the text files into a digital page layout program. We computer-generate any illustrations that are required and combine them with the text in the page layout program. We print laserprinted proofs of the pages and send photocopies to a proofreader, the publisher, the author, and an indexer. Corrections are returned to us, we change the computer files as necessary, and print new proofs for confirmation. The disk files are sent via modem to a local service bureau for output as lithographic film negatives. The film is returned to REDACTED TEXT for inspection and packaging. The film and the final laserprinted proofs are shipped to an out-of-state printer, as REDACTED TEXT required by the client. The disk files are archived at REDACTED TEXT for possible future editions.

We first note that, under the "Terms and Conditions" section of your form, Price Quote, you have a title passage clause which provides that title to all tangible personal property you purchase as manufacturing aids passes to REDACTED TEXT prior to your use. In such case, sales tax applies to your sale in this state of the tangible personal property to REDACTED TEXT regardless that you may ship the final product to a point outside this state. (Cf. Sales and Use Tax Regulation 1541, Printing and Related Arts, subdivision (e) (2).) For example, your Price Quote includes a charge for data translation; that is, conversion of text and graphics from IBM to Macintosh-compatible format. If you have subcontracted that work, your charge to the customer for the conversion is a sale of tangible personal property in this state and subject to sales tax.

As to the products you produce in fulfilling your contract, you are the retailer of tangible personal property you are required to deliver to your client or to other persons for the benefit of your client. For example, under the Production Requirements section of Price Quote, you are

required to send the four sets of photocopies for positive editing by the proofreader, publisher, author, and indexer. If those photocopies are shipped to those persons in this state, your sale of the photocopies is subject to sales tax.

We note that, under your purchase order, your final product is single page negatives. We assume that those negatives are the lithographic film negatives that you state you purchase from the "local service bureau". We also assume that you purchase the negatives for resale to REDACTED TEXT and make no intervening use of them, that is, you do not purchase them as an agent on behalf of REDACTED TEXT. In such case, the sale to you is a nontaxable sale for resale, and your sale to REDACTED TEXT is exempt from tax when you ship the negatives to REDACTED TEXT to an out-of-state point for REDACTED TEXT's use outside of this state. That is true regardless that you inspect and package the film for shipment.

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

Very truly yours,

Ronald L. Dick
Senior Tax Counsel

RLD:plh

cc: Santa Rosa District Office – JH