



STATE BOARD OF EQUALIZATION

October 27, 1970

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Dear Mr. ---:

Your letter of May 19, 1970 addressed to Mr. John T. Quick of our Pasadena office has been referred to this office for reply. You request our opinion as to the application of the Sales and Use Tax Law to the activities of your client, "F".

We understand that "F" is part of a national network which sends printed information over telephone lines through signals generated by a telecopier machine to reproduce an exact copy at a distant location. This operation is accomplished by establishing public locations which performs the sending and receiving operations.

"F"'s customer brings his chart, photo, contract or any other material to the nearest "F" public station. If he is a registered subscriber, he can show his ID card to have the charges billed to him. As a registered subscriber he will also receive a discount from list "F" rates. The charge made to the customer consists of a transmission fee plus the normal telephone charges involved in the transmission.

The "F" station operator places the material into the facsimile transmission unit. The operator then places a call to the "F" station nearest the desired location and inserts her telephone into the acoustic coupler. The customer's material is then automatically transmitted. The receiving "F" station operator removes the facsimile copy from the facsimile receiving unit and acknowledges that the message has been received. The receiving "F" station then calls the local recipient to advise him that a message has been received. The recipient can pick up the message or have it delivered to him by special messenger.

The equipment used for this service is leased from the manufacturer, and tax is paid, measured by the monthly lease charge.

In our opinion tax does not apply to "F"'s receipts from the operation of its photocopy transmission service. Although the question is a close one, we think the service element outweighs the sales element in these transactions, such that the "true object" of the transactions can be said to be the performance of a service and not the furnishing of the property produced by the service [see our Regulation 1501, Service Enterprises Generally, copy enclosed]. What the customer desires, in coming to "F", is a rapid mailing or communication service. "F" is the consumer and not the retailer of tangible personal property, such as photocopy paper, used by it in rendering its photocopy transmitting service. Tax applies to the sale of such property to "F" and not to "F"'s receipts from the performance of its service.

Very truly yours,

Gary J. Jugum
Tax Counsel

GJJ:ab [lb]