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May 18, 1993

BURTON W. OLIVER
Executive Director

Mr. P--- S---
P--- S--- P---
XXX --- Street
--- ---, CA XXXXX

SR -- XX-XXXXXX

Dear Mr. S---:

This is in reply to your March 17 letter regarding the application of sales tax to your charges under the following facts you provided:

"My business, P--- S--- P---, is a sole proprietorship, located in San Francisco, I have no employees and do not have any offices other than this one. I am a printing broker. The nature of my business is supplying printed marketing collateral (literature, packaging, conference manuals, brochures, point of sale printed aids, etc.). I contract with clients (advertising agencies, design firms, product manufacturers, etc.) to supply these materials, and then contract out the actual manufacturing to my suppliers (color separators, printing film suppliers, printers, trade binderies, paper manufacturers, paper distributors, direct mail houses, etc). No 'on-site' manufacturing occurs at my place of business, only sales by phone and fax. Occasionally but not usually, do I physically go to a client's location to collect a job. I then manufacture and deliver the printed materials by messenger common carrier, U.P.S., Federal Express, etc."

Given this information, you asked the following specific questions:

"(1) Who's tax rate do I use when **I PRINT A JOB IN CALIFORNIA AND DELIVER THAT JOB TO A TAX AREA OTHER THAN MY OWN, IN CALIFORNIA? THE PLACE OF DELIVERY MAY NOT BE THE PLACE OF BUSINESS OF MY CLIENT (THE PURCHASER).**"

Preliminarily, we note that when you make a retail sale in the City and County of San Francisco, the applicable rate is 8 1/2 percent which is comprised of 6 percent state tax, 1 1/4 percent uniform local sales and use tax, 1/2 percent San Francisco Bay Area Rapid Transit District tax, 1/2 percent San Francisco County Transportation Authority Tax, and 1/4 percent San Francisco Educational Finance Authority Tax.

Although you note that you have no employees and have no offices other than your San Francisco location, you also note you occasionally "go to a client's location to collect a job." If you regularly travel to another district to sell, deliver, or take orders for the tangible personal property you sell, you are a "retailer engaged in business in the district" for purposes of the Transactions and Use Tax Law, and you are required to collect that district's use tax on your sale of property you ship or deliver to that district. (Transactions and Use Tax Reg. 1827, subd. (c).) Enclosed is a copy of Pamphlet No. 44, District Taxes, for your further information.

Even though you may not be engaged in business in Alameda and Contra Costa Counties, since the BART district includes those counties, when you make a sale and deliver the property to either of those counties you are responsible for reporting and paying the BART transactions tax on those sales.

"(2) Who's tax rate do I use when I **PRINT A JOB IN OUTSIDE OF CALIFORNIA AND DELIVER IT TO A CLIENT (A) IN MY TAX AREA, (B) IN THEIR TAX AREA OR (C) OUTSIDE OF EITHER OF OUR TAX AREAS, BUT IN THE STATE OF CALIFORNIA?**"

We assume that, in this case, you contract with an out-of-state printer to print the materials and ship them to a client in California. If the printing is delivered to your client for use in San Francisco, the applicable tax rate is 8 1/2 percent. If the delivery is to a client in Alameda or Contra Costa counties for use in those counties, the applicable rate is 7 3/4 percent (7 1/4 state and local use tax and 1/2 percent BART use tax)*. If you have the printing delivered to a client outside of BART but to the client in another district for use in that district, you are not required to collect the district use tax unless you are engaged in business in that district. Assuming you are not engaged in business in that district, you are required to collect only the 7 1/4 percent state and local use tax. The client is required to report and pay the applicable district use tax.

* i.e., the rate this retailer is responsible for. The client still owes the remaining tax due.

"(3) Who's tax rate do I use when I **PRINT A JOB FOR A CALIFORNIA CLIENT OUTSIDE OF THE STATE AND DELIVER IT FOR THEIR USE, ALSO OUTSIDE OF THE STATE, TO A LOCATION THAT IS NOT THEIR OFFICES, (to a place other than a direct mail house, which is tax-free).**"

We assume that, in this case, you contract with an out-of-state printer to ship the printed material to a location outside California for the client's use outside California. In such case there is no use of the property in California, and California sales and use tax does not apply.

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:sr