

**STATE BOARD OF EQUALIZATION**1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)

August 11, 1971

Mr. W--- K. F---
Vice President
dba H--- S--- Advertising
XXX East --- Avenue
---, CA XXXXX

SR -- XX XXXXXX

Dear Mr. F---:

This is with reference to your petition for Redetermination of sales and use taxes which was reviewed at a preliminary hearing held in Pasadena on April 24, 1971.

The question presented is whether the tax applies to a separate charge made to your advertising customers for cutouts. The cutouts are a type of special order merchandise produced to the order of the advertising customer. While possession of the cutout is retained by your firm we have concluded that they are used solely for the benefit of the advertising customer and are sold within the meaning of Revenue and Taxation Code section 6006(f) which defines a sale to mean and include:

“A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.”

The utilization of the cutout on behalf of the customer is considered to be comparable to drawings, lettering, special assemblies, etc., produced for clients by advertising agencies in the course of providing an advertising service. Such items are classified as sales pursuant to the provisions of paragraph (C) for sales and use taxes ruling 2 (copy enclosed).

The cutouts are distinguishable from the sign copy because it is painted and displayed on reusable panels owned and retained by your firm.

In reviewing the board's files we find that the issue presented by your petition has been previously considered by the board at an oral hearing. A copy of a letter commenting on the board's decision is enclosed for your review.

Mr. W--- K. F---
SR -- XX XXXXXX

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In view of the above stated conclusion we have recommended that the taxes in question be redetermined without adjustment. In due course you will receive a notice of Redetermination which will constitute official notice of the action taken on the petition.

Very truly yours,

W. E. Burkett
Tax Counsel

WEB:kc
Enclosure