



STATE BOARD OF EQUALIZATION

September 28, 1966

Mr. J--- G. L---
XXXX --- --- ---
--- ---, CA XXXXX

SR -- XX XXXXXXX

Dear Mr. L---:

This is in answer to your letter of September 13, 1966, concerning the application of sales tax to charges for certain "computer work" as described by you.

If the product of the operation consists simply of punch cards or other tangible personal property prepared from data furnished by the customer, the activity constitutes, in our opinion, a processing of personal property taxable as a sale under § 6006(b) of the Sales and Use Tax Law, quoted in ruling 15, copy enclosed. On the other hand, if the computer operation involves the developing or ascertainment of information, or the evaluation of data so that the operator of the computers is, in fact, creating ideas, information, or concepts, he would be regarded as performing a service and the consumer rather than the retailer of the cards or other tangible property delivered to customers.

Items 2 and 3 of your letter appear to us to be taxable. We are not certain as to item 1, whether it represents a sale or a service. If you wish to amplify this statement, we shall be glad to advise you further. In considering the matter, we are guided by and set forth for your information the following excerpt from the opinion of the California District Court of Appeal in Albers v. State Board of Equalization, 237 Cal. App. 2d 494:

"Plaintiff herein was not paid to conceive or to dictated any of the ideas, concepts, designs, or specifications in the drawings made by him. He simply applied his ability to the details supplied by the customer for the purpose of putting such details down on paper and thereby producing a drawing for use by the customer. In other words, the customer was purchasing the detailed drawing for his use, he was not purchasing the design or specifications pictured in the drawing." (The court held the tax applicable.)

Mr. J--- G. L---

-2-

September 28, 1966
120.0060

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:fb
Enclosures

cc: Hollywood – Subdistrict Administrator
Los Angeles – District Administrator