



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001
TELEPHONE (916) 920 - 7445

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

June 14, 1994

BURTON W. OLIVER
Executive Director

X-----

Re: Sales Taxability of Licensing Fees

Dear X-----,

This is in reply to your response to our April 20, 1994 letter regarding the licensing of artwork by your client.

You further explained that your client is not a commercial artist or designer. An artist or designer licenses artwork to your client. Your client, in turn, licenses the artwork to clothing manufacturers which, we assume, reproduce the artwork on items of clothing.

We assume your client transfers to the clothing manufacturer the very same artwork which the artist licenses to your client rather than your client reproducing the artwork and transferring the reproduction to the manufacturer. We also assume that your client is not required to return artwork to the artist.

In such case, the artist's sale of the artwork to your client is a sale for resale. Your client may issue a resale certificate to the artist. The application of tax to charges by your client is as explained in our April 20, 1994 letter to you. Sales tax applies to your client's retail sale of the artwork to the clothing manufacturer in this state. Your client's sale of the artwork to the out-of-state manufacturer is exempt from tax pursuant to Revenue and Taxation Code section 6396 if your client is required under its contract with the clothing manufacturer to ship the artwork to a point outside this state, and your client does so ship the artwork by mail or carrier.

Very truly yours,

Ronald L. Dick
Senior Staff Counsel

RLD:plh

Cc: San Francisco District Administrator