STATE BOARD OF EQUALIZATION

CTS date: 5/26/50
March 16, 1950

Attention: X----------

A reply to your letter of January 20 has been delayed because of certain objections by various printers and typographers to the language used in our General Bulletin 49-44, upon the ground that the language did not convey to the trade the impression that we had intended should be conveyed. Accordingly, we have reworded the bulletin in the following language:

"'Reproduction proofs' are impressions of composed type forms containing type or type and illustrations, to be used for reproduction purposes only. The delivery by typographers or printers of reproduction proofs, as defined herein, will not be regarded as a sale of tangible personal property, provided the charge therefor includes the services of setting the type or making up the form from which the proof is made."

We believe that the revised language will adequately answer your Question No. l.

Your Question No.2: If the typographer actually sells the photostats, engravings, etc., after he has used them in the production of typography, his sale is a retail sale unless his customer will resell them before making any use of them and the tax will be applicable to the typographer's gross receipts. If you mean, however, that the cost of the photostats and engravings is merely a part of the charge for the setting of the type or making up the form from which reproduction proofs are made, delivering only the reproduction proofs and not selling the photostats and engravings, his gross receipts would not be taxable.

Your Question No.3: As long as the reproduction proof meets the definition of the term as used in the revised bulletin quoted above, it would appear immaterial whether the proof consists of black ink on white paper or white ink on black paper.

Your Question No.4: If a photostat of a reproduction proof is made and title to the photostat is transferred to the customer, it is our opinion that the tax is applicable to the total charge made for the furnishing of the photostat of the reproduction proof. The photostat is not a "reproduction proof" as defined above.

Your Question No.5: Under the revised bulletin quoted above, it is immaterial how many "reproduction proofs" are furnished to the customer.

Your Question No.6: When the customer furnishes art work to the artist for the sole purpose of being retouched, the work of the artist is not regarded as taxable, under Ruling 2. On the other hand, an artist who creates art work for delivery to a customer is not entitled to deduct any portion of his gross receipts that he might attribute to the retouching work performed by him in connection with the production of the finished art.

Your Question No.7: The answer to this question depends upon the circumstances. It is entirely conceivable that one artist holding a seller's permit would purchase art work from another artist solely for the purpose of reselling it, or incorporating it into other art work being produced for sale. It would, of course, be essential that the artist furnishing the resale certificate holds a seller's permit and that his purchase of the art work be for no purpose other than resale or to incorporate it physically into other tangible personal property to be sold.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:ph