



STATE BOARD OF EQUALIZATION

LEGAL DIVISION - MIC: 82
450 N STREET, SACRAMENTO, CALIFORNIA
(P. O. BOX 942879, SACRAMENTO, CA 94279-0082)
TELEPHONE: (916) 445-6450
FAX: (916) 323-3387

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Executive Director

May 12, 1996

Mr. J--- H---
G--- L--- I--- N---
XXX --- ---, --- ---
--- ---, CA XXXXX

Dear Mr. H---:

This is in response to your letter of January 18, 1996, addressed to Gary Jugum, regarding the application of sales tax to your charges for providing businesses with advertising on the Internet. Your letter was referred to the undersigned for reply.

You asked whether tax applies to your charges if you transfer electronic images of the advertisements to your clients.

California imposes the sales tax on retailers at the applicable rate of the gross receipts from the retail sale of tangible personal property in this state.

If you prepare advertisement layouts and merely transfer the image of the advertisement by modem to your client, or you post the advertisement on the Internet, sales tax does not apply to your charge, because you do not make a sale of tangible personal property when you transfer information by electronic means. On the other hand, if you provide your client with a hard copy of the advertising layout or transfer the layout to the client on a computer diskette or any other tangible personal property, your charge is subject to sales tax.

If you make a temporary transfer of tangible personal property to your client, the transaction would be subject to use tax as a lease of that property. For example, if you prepared the layout on paper and allowed your client to photocopy the layout, the transaction would be a lease. The applicable tax would be the use tax which you would be required to collect and report and pay to this Board.

Mr. J--- H---

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March 12, 1996
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We hope this answers your questions; however, if you need further information feel free to contact me directly.

Very truly yours,

Ronald L. Dick
Supervising Staff Counsel

RLD:sr