STATE BOARD OF EQUALIZATION

916-445-3723

April 10, 1979

X----------

Re: X----------

Dear Mr. X----------,

Following our last discussion of Regulation 1541 in relation to typographers, we have reached the following conclusions.

First, we understand that the product of a photocomposition machine, consisting of words arranged into sentences and paragraphs on film, is cut and assembled into a product which is the equivalent of a locked up chase of type produced by the hot type method, as, for example, a page of a book or a complete advertisement with headlines, but not including artwork. We have concluded that the product which is the equivalent of a locked up chase of type produced by the hot type method is composed type within the meaning of Section 6010.3 of the Revenue and Taxation Code and Regulation 1541, and that a direct copy of that product is a reproduction proof within the meaning of that section and regulation. Accordingly, a transfer of that product for use in the preparation of printed matter, or a transfer of a direct copy of it to a printer for rise in printing, is not subject to sales or use tax.

We remain of the view, however, that a copy of composed type does not qualify as a reproduction proof unless it is a direct copy, i.e., a copy of the composed type and not a copy of a copy. Accordingly, a copy of a copy of composed type, even though the second copy is made to remove defects in the first copy, is not a reproduction proof under the section and regulation.

Our position as to the necessity of a “direct” copy is grounded in the history of Section 6010.3. That section was drafted by our staff following discussions with printing industry representatives, and the purpose was to preserve and legitimatize the then existing Board practices. The problem that led to the discussions was the application of the 1965 tax on leases to transfers of composed type by hot-type typographers. Prior to 1965, the temporary transfer of composed type to the typographer's customer was not regarded as a sale. The transfer of a reproduction proof of the composed type was equated

with the transfer of the composed type itself and was also not regarded as a sale. A few years after the tax on leases was enacted, it became apparent that there was no sound basis for exempting the transfer of composed type, even if temporary. Section 6010.3 was then enacted to preserve the status quo.

The derivation of the language in Regulation 1541 regarding the word "direct" is former Business Taxes General Bulletin 62-3, which provided that:

> “a ‘reproduction proof’ is a direct proof, copy, likeness, or photographic image of type set by any type setting process, and used exclusively for reproduction purposes.”

In practice, the bulletin was limited to truly direct proofs, copies, likenesses, or photographic images of type. The bulletin, which was in effect when Section 6010.3 was enacted, establishes what the practice was that was preserved in the section. Regulation 1541, which reflects Section 6010.3, was drafted with that "'direct" limitation in mind.

We found much of value in your proposed redraft of Regulation 1541. However, we found that portions of the proposed redraft go beyond our concept of the "direct" limitation and also that it does not square entirely with our concept of "composed type" as contrasted with “artwork.”

In the near future, we will send you our modifications of your redraft. Thereafter, we plan to schedule amendments of the regulation for public hearing.

We want to thank you for your cooperation and assistance.

Sincerely,

Thomas P. Putnam
Assistant Chief Counsel

TPP:po

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