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Executive Director

June 3, 1997

Ms. C--- S---
C--- S--- Design
XXXX --- Drive
--- ---, CA XXXXX

Account No. SR -- XX-XXXXXX

Dear Ms. S---:

This is in reply to your March 31, 1997 letter regarding the application of sales tax to your charges for graphic design.

We understand your procedure to be as follows. You get a request for a job. You then give the client an estimate for the job, including your charge for all the time and materials you need to complete the job. As an example, you describe an ad layout. When your client approves the estimate, you prepare sketches. You do not show those sketches to the client; rather, you decide the sketches with which you will proceed.

On your computer, you create a page design that is the size of the final ad, and you incorporate your ideas into two or three layouts. You laser print the two or three layouts to present to the client. The client suggests changes which you incorporate. You then work on the original idea page, since it is already the correct size, and you create the final art. You present the final art in color to the client who makes from one to six additional changes. You then provide the client the final approved art on a disk.

The Sales and Use Tax Law imposes the sales tax upon all retailers at the applicable rate of the gross receipts from the retail sales of all tangible personal property in this state. (Rev. & Tax. Code § 6051.) When you provide the final art to the client in the form of tangible personal property in this state, whether the final art is on paper or computer disk, your charge is subject to sales tax.

As noted in Sales and Use Tax Regulation 1540, subdivision (b)(4)(A), you may exclude from the measure of tax your separately stated charges for preliminary art even where you prepare the art on a computer. As noted in the regulation, you should produce a hard copy of

each of the roughs, visualizations, layouts, or comprehensives you present for client approval and retain the copies for audit purposes in accordance with Regulation 1698, subdivision (d).

Your nontaxable preliminary art charges may include your charges for the sketches, the meetings you attend prior to obtaining approval to proceed to finished art, the time you spend on the photo shoot, and your research time.

You ask whether you can break out on your billing, and consider nontaxable, "preliminary art," "meetings," and "art direction." Given that you may conduct meetings with a client or perform art direction after obtaining approval for final art, you should retain records to substantiate that the meetings and art direction which you consider as nontaxable charges occur prior to your obtaining approval to complete final art.

We hope this answers your question; however, if you need further information, feel free to write again.

Very truly yours,

Ronald L. Dick
Senior Tax Counsel

RLD:sr

Encs. Regs. 1540 & 1698

cc: --- --- District Administrator - --