

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 324-3828

September 27, 1973

Mr. A--- H---, President
H--- & A---
XXXX --- ---
--- ---, California XXXXX

SR -- XX-XXXXXX

Dear Mr. H---:

Please excuse the delay in replying to your letter of August 10, 1973, in which you set forth examples of jobs you perform and ask for clarification of the application of the California sales tax to each. We have summarized your examples in the following paragraphs, and added our comments regarding the application of the tax in each instance.

In the first example, advertising layouts are furnished to your clients who take the layouts to printers or publishers for use in the printing of newspapers, magazines or other advertising media. In most instances, you retain title and so indicate by a stamp on the reverse side of the layout. In other instances, both title and possession of the layouts are transferred to your client.

The application of tax to this example is explained in (e) of Regulation 1540, copy enclosed. If the layout is considered preliminary art, sales tax would not apply. On the other hand, if the layout is in the form of finished art and used in the actual reproduction, sales tax would apply. This is true whether or not you retain title to the layout as the transfer of either title or possession constitutes a sale under the law.

The second example involves mechanical past-ups utilizing your own layout and type. Illustration or photography may or may not be done by you. You would like to sell your clients the right to use the paste-ups while retaining ownership and so indicating by a stamp on the reverse side.

Under Section (c) of Regulation 1540, mechanical paste-ups are subject to tax whether they are used for reproduction or for display purposes. Accordingly, your charges to the client for these paste-ups are subject to sales tax even though you retain title, because the transfer of possession to your client again constitutes a sale under the law.

In the final example, you ask if sales tax applies to sales of artwork to your client and if so should you pay tax on any of the materials.

If the artwork is in the form of "preliminary art" as defined in (e) of the regulation, tax would not apply to your cost of any materials used in preparing the preliminary art. On the other hand, if the artwork is in the form of finished art, sales tax would apply to your total charge therefore to the customer and any materials used in the production which became a component of the finished art may be purchased without tax as a sale for resale.

Certain revisions to Regulation 1540 are currently under consideration. A copy of the revised regulation will be mailed to you when completed and adopted by the Board of Equalization.

I hope this information and the enclosure answers your questions satisfactorily. If you desire further information, please write again or feel free to contact our district office in San Luis Obispo at 940 Chorro Street, telephone 543-8376.

Very truly yours,

C. L. Cordell
Supervising Auditor

LHL:js

cc: Santa Barbara – Compliance
Santa Barbara - Auditing