

**STATE BOARD OF EQUALIZATION**

450 N STREET, SACRAMENTO, CALIFORNIA  
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February 24, 1994

BURTON W. OLIVER  
*Executive Director*

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Re: ---

Dear Ms. ---:

Your November 29, 1993 letter to Ms. E. L. Burgan of the State Board of Equalization, Return Review Section, has been referred to the legal staff for reply.

Your letter asked for the application of sales and use tax to charges for artwork. We understand that you are an artist and sell or lease your artwork to persons who reproduce the artwork on prints, posters, and jigsaw puzzles. You explained that you typically make a copy of the original artwork in the form of a photograph or transparency. You provide that copy to the publisher who makes the necessary printing plates, color separations, and other printing aids necessary to produce the final product.

You are correct that your transfer of the photograph or transparency is a retail sale subject to sales tax. The measure of tax is the total amount you receive from the publisher valued in money, whether you receive the gross receipts in money or otherwise, with no deduction on account of the cost of the property sold, the cost of the materials you use, your labor or service cost, or any other expense. (Rev. & Tax Code § 6012.)

You asked whether the sales tax is added separately from the total amount of the royalties. Generally, you are required to report and pay the tax measure by the entire amount you receive from your client and may add the sales tax reimbursement to that amount. (Civil Code Section 1656.1.)

You note that, when you sold transparencies to publishers in Japan and Utah, you shipped the tangible personal property outside the state by U.S. mail, Federal Express, or other commercial carriers. You delivered none of those transparencies within the state of California.

When you are required pursuant to contract to ship the transparencies to a point outside

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the state, and you ship the transparencies by U.S. mail or by carrier in accordance with subdivision (a)(3) of Sales and Use Tax Regulation 1620, your sale is exempt from sales tax. Assuming the publisher's use of the transparencies in manufacturing the prints, posters, and puzzles is solely outside this state, the use is not subject to California use tax. (Cf. Sales and Use Tax Reg. 1620, subd. (b).)

We hope this answers your questions; however, if you need further information, feel free to write directly to this office.

Very truly yours,

Ronald L. Dick  
Staff Counsel

RLD:plh  
O\---.ltr

bc: Santa Ana District Administrator - EA

Ms. Louise Burgan  
Return Review Section - MIC:35