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**STATE BOARD OF EQUALIZATION**

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June 16, 1971

Dear X-----,

This is in response to your letters of February 23 and May 5, 1971, which were referred to the undersigned for reply.

We apologize for the delay in answering your inquiry and for the inconvenience caused you in revising your billing procedure.

You inquire as to whether the entire selling price, or only the film portion, is subject to the California sales tax when black and white microfilm is sold with processing and billed at one price. If the entire selling price is subject to tax, when billed at once price, you further inquire whether the processing would be exempt if separately stated.

Retail sales of black and white microfilm sold without processing are subject to the California sales and use taxes unless sold for resale.

Retail sales of black and white micro film sold with processing and billed at one price are subject to the California sales and use taxes on the entire selling price.

In response to your specific question, the entire selling price is taxable when microfilm is sold with processing, even though the processing charge is billed separately. Our inquiries on microfilm processing have revealed that in normal procedures the raw microfilm used for recording pictures is the same microfilm return to the customers as the finished product. Such processing of customer-furnished property constitutes fabrication labor and is taxable under section 6006(b) of the Sales and Use Tax Law, regardless of the method of billing. Therefore, we cannot agree with your statement that "...sales of the service of processing black-and-white microfilm are not subject to tax." On the contrary, all processing of microfilm for a consumer, regardless of the billing method, is subject to the tax.

We believe the confusion in this area results from a misunderstanding of Ruling 23 (18 California Administrative Code 1933, copy enclosed), which provides in part (b):

"Tax applies to charges for printing pictures or making enlargements from negatives furnished by the customer but not to charges for developing the negatives if such charges are separately stated." (Emphasis added.)

This exclusion from tax of separately stated development charges applies only when the development involves the use of a separate positive and negative. When the processing involves

either the reverse processing method or microfilm, the entire charge is taxable, no matter how billed. Reverse processing and the processing of microfilm are within section 6006 (b) which defines a "sale" to include:

"The producing, fabricating, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing or imprinting."

We call your attention to the fact that ruling 23, referred to above, is now being revised. On May 7, 1971, we distributed to interested parties a copy of proposed regulation 1528 (the regulation which will supersede ruling 23). This proposed regulation provides that, "Tax applies....to charges for developing negatives...." It would be immaterial to the application of the tax that the charges for developing might be separately stated. We are enclosing for your review a copy of the regulation as proposed. Your comments would be welcome.

Very truly yours,

Donald J. Hennessy  
Legal Counsel

DJH:kc  
Enclosures  
Bcc: Out-of-State – District Adm.  
New York

