



STATE BOARD OF EQUALIZATION

916-445-6450

June 16, 1988

Dear Mr. X-----,

This is in reply to your May 4, 1988 letter regarding the application of sales tax to charges for microfiche copies of X-ray films.

You noted that, because of limited on-site storage areas and the prohibitive cost of accessing X-ray films stored off-site, many hospitals are replacing X-ray films with microfiche images. In the case of one hospital client, the replacement is made five years after the X-rays are produced. Personnel of the radiology department of the hospital informed you that the microfiche images are used regularly for diagnostic purposes. Given this information, you asked whether the producers of such copies are the consumers of the materials and supplies used.

As you noted, Revenue and Taxation Code section 6020, provides:

"Producers of X-ray films or photographs for the purpose of diagnosing medical or dental conditions of human beings, excluding use of those products for purely cosmetic purposes, are the consumers of materials and supplies used in the production thereof."

We believe that section 6020 is not applicable to the facts you provided. Although the X-ray films that are copied were originally produced for the direct purpose of diagnosing medical or dental conditions of human beings, the microfiche copies are primarily made to replace the existing X-ray films with smaller copies to save space. We do not believe that the potential or even actual later use of the microfiche copies for such diagnostic purposes causes the persons who make the copies to be consumers of the copies under Section 6020. Accordingly, we conclude that the person who sells such copies is the retailer of the copies, and sales tax applies to the total charge.

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

Very truly yours

Ronald L. Dick
Tax Counsel

RLD:sr