



STATE BOARD OF EQUALIZATION

April 16, 1975

Dear REDACTED TEXT,

This is in response to your letter of March 26, 1975.

You have raised a question as to whether our opinions of September 30, 1974, and February 18, 1975, in which we concluded generally that sales tax applies to automated drafting services, are applicable to all drafting services which you provide for your customers.

You state that the majority of your activity is a much more sophisticated service where a customer uses your programs which perform engineering computations, and automated design or layout. For example, for one of your customers you have developed a complete symbology for piping and instrumentation diagrams for nuclear power plants and the resulting drawings are produced by a computer automated layout program. In another example, in the case of producing logic diagrams, you input logic equations and the interrelationship of the elements and the use of your programs produces finished logic diagram drawings.

It is thus your position, in essence, that the work that you perform for your customer goes beyond the drafting found to be taxable by the court in Albers v. State Board of Equalization, as described in our letter of February 18 to REDACTED TEXT. Indeed, it is apparently your position that your customer is purchasing a design service from you and not merely detailed drawings for the customer's own use prepared from previously determined specifications.

A review of our previously issued opinions suggests that the situation most analogous to the one presently before us involved the activities of structural steel detailers. With respect to their activities, we have issued the following opinion:

"When construction plans prepared by an architect or engineer are incomplete as to structural details, the steel contractor engages a person in the business of steel detailing to furnish the missing details in the form of detailed plans. The details usually pertain to the type of connections to be used in assembling the steel structure, i.e., whether particular steel members will be welded, bolted or riveted together. The steel detailer does not merely produce a drawing from information and data furnished to him but rather he exercises his own independent judgment in conceiving and dictating his own ideas and designs. Accordingly, steel detailers are consumers of tangible personal property which they utilize in rendering such service and not retailers."

It would appear from your most recent letter that you provide more than an automated drafting service in some instances. That is, it would appear that your customer seeks actual engineering designs, computations, and specifications from you and that you exercise

independent professional judgment in dictating the ideas and designs which are expressed in the drawings which you furnish to your customers.

The distinction is obviously a close one. We are of the opinion, however, that to the extent you provide an engineering service to your customers you are engaged in the performance of nontaxable services and you are the consumer of tangible personal property which you utilize in rendering such services. To the extent, however, that you perform automated drafting services analogous to the services performed by the taxpayer in the Albers case, then you are making sales of tangible personal property and these sales are subject to the tax.

Very truly yours,

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Tax Counsel

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