



STATE BOARD OF EQUALIZATION

March 21, 1973

REDACTED TEXT

In your letter of March 2 you explain that REDACTED TEXT is a consulting firm in the broad field encompassing the development and management of natural resources. Your contracts with clients usually call for you to provide a written report detailing the results of your technical findings. In many of the contracts it is required that you supply your client additional printed copies of the original report detailing the results of your service. The copies supplied range from a few to 50 or 100. The vast majority of your clients are located out of the State of California and 80 percent of them are outside the United States. You have been advised that instead of paying sales tax to the printer you should obtain a resale permit number from the State Board of Equalization and collect sales tax reimbursement from your clients when the items are subject to tax. You ask us to advise you on how this matter can best be handled.

Generally, consulting firms are engaged in a service enterprise and under Regulation 1501, copy enclosed, are the consumers of the property which they use incidentally in rendering this service. This is so even though the property is transferred to their clients in the form of a written report.

The basic distinction in determining whether a particular transaction involves a sale of tangible personal property or the transfer of tangible personal property incidental to the performance of a service is one of the true object of the contract. That is, is the real object sought by the buyer the service in and of itself or the property produced by the service.

The professional services of architects, engineers, and similar professional people are not considered subject to the tax upon the basis that they are predominantly engaged in formulation and expression of ideas rather than selling tangible personal property. However, when such an individual supplies additional copies of reports or the like they are regarded as the retailer of these additional reports. Accordingly, such an individual should take out a seller's permit and collect tax measured by the selling price of the reports that are delivered and are used in California. If there is no separate charge for these extra reports, we would regard the taxable measure as the fair retail selling price of such copies. Of course, the retailer can in such a case issue a resale certificate to his printer for the charges the printer makes for the additional copies. It should be noted that the resale certificate only covers the actual cost of printing the extra copies and not any charges made for setting type, etc., which is attributable to the original printed report. For example, if the printer charges \$100 for the printing of the original report and will charge 3 cents a page for making copies it is only this latter amount that may be regarded as a sale for resale.

Summarily, it is our opinion that except for the original copy you are the retailer of the additional copies and accordingly can issue a resale certificate to the printer for the additional copies. The reports that are being shipped outside the state pursuant to the contract are not subject to tax. We

suggest that for case of auditing and billing that you make a separate charge for the additional copies.

If you have any further questions in this regard, please let us know.

Very truly yours,

Glenn L. Rigby
Tax Counsel