

**STATE BOARD OF EQUALIZATION**

LEGAL DIVISION (MIC:82)

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Executive Director

January 27, 1994

REDACTED TEXT

This is in response to your letter dated January 3, 1994, regarding the application of tax to advertising copy that you provide to your clients. In your letter you state:

"I am primarily in the business of writing print ads and brochures for a variety of clients. I submit my work to them in typed form or on computer disc. The clients then turn my work over to a graphic designer, who is responsible for incorporating my written words into the final artwork. I do not do any layout work, nor do I create the finished, tangible product. I simply write the words that are made part of the finished product by someone else."

A retailer's gross receipts from the retail sale of tangible personal property in California are subject to sales tax unless the sale is specifically exempt by statute. (Rev. & Tax. Code § 6051.) On the other hand, the charge for providing a service is not subject to sales tax. Regulation 1501 states that, "the transfer to a publisher of an original manuscript by the author thereof for the purpose of publication is not subject to taxation." We consider this conclusion from Regulation 1501 applicable to the circumstances you describe, that is, since you provide words (text only) to your clients to be used by them in certain materials you are considered an author performing nontaxable services. (Regs. 1501, 1543.) Please note, however, if you provide your customers with any copy that also includes graphics or other artwork, your charges for that item would be subject to tax. (Regs. 1540, 1541.)

In addition, Regulation 1501 states that "the tax would apply to the sale of mere copies of the author's works or the sale of manuscripts written by other authors where the manuscript itself is of particular value as an item of tangible personal property and the purchaser's primary interest is in the physical property." Therefore, the sale of copy is taxable to the extent that you sell copies of the original work. Assuming you are not selling reproductions of the original copy and that original copy includes no artwork, you are an author performing nontaxable services.

January 27, 1994

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If you have further questions, feel free to write again.

Sincerely,

Pat Hildebrand
Staff Counsel

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