

Memorandum

To: Los Angeles District - District
Principal Auditor (JTQ)

Date: January 7, 1971

From: Legal Counsel (DJH) - Headquarters

Subject: REDACTED TEXT

This is in response to your memorandum of December 18, 1970, addressed to Mr. T. P. Putnam, which was referred to the undersigned for reply.

REDACTED TEXT creates garment designs under contracts such as those forwarded to us. She prepares sketches for approval by her customers and then executes patterns and sample garments which become the property of the customers. The sample garments are used by customers in preparing production patterns.

The attorney for REDACTED TEXT believes she performs an exempt service. The auditor believes tangible personal property is produced when patterns and prototypes are prepared and transferred to manufacturers.

We are of the opinion that the described transactions are sales of tangible personal property and subject to the sales tax. Under Regulation 1501, paragraph 2, the true object of the contracts at issue is the property produced by the service, not the service per se. The customers wish REDACTED TEXT's ideas as embodied in the patterns and samples. The typical contracts submitted call for the production and delivery of tangible personal property. Specifically, the contracts provide that REDACTED TEXT will provide her customers with "original sample and designers pattern from which duplicates can be cut." (See California Tax Service annotation 1463.70.)

We have previously held the creation of a plan, blueprint, lawyer's brief or accountant's financial statement necessary for the expression of ideas and nontaxable. However, the production of a model or sample which can be used to produce production patterns goes beyond the exempt expression of ideas. It is a taxable sale of a usable product. (See California Tax Service annotation 1809.60.)

If you have further questions on this matter, please write this office.

DJH:lt

cc: Hollywood – Subdist. Admin.