



515.1420

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

October 28, 1953

REDACTED TEXT

Attention: Mr. REDACTED TEXT

Your letter of October 14
REDACTED TEXT

Gentlemen:

Your inquiry concerns the possible application of the California Sales and Use Tax Law to polarized viewers used in connection with the viewing of third dimensional motion pictures.

You state that there are two types of viewers now available; (1) a disposable type which the patron may keep or dispose of as he sees fit after viewing the picture, and (2) a permanent type which, after use, the patron is supposed to return to the theatre management. The permanent viewer is thereafter used by other patrons.

In most cases the permanent viewer is returned to the theatre management. The management purchases these glasses from suppliers who, in some cases, are the distributors of the motion picture involved. You desire to be advised concerning sales or use tax consequences in each of the following circumstances:

- (1) Disposable viewers are given to the patrons upon purchase of a ticket of admission and no separate charge is made for the viewers.

In this circumstance, we would regard you as the consumer of the disposable viewer.

- (2) Disposable viewers are made available to patrons upon payment of a separate charge for the viewers if they desire them. The separate charge usually runs between 10¢ and 15¢. Patrons purchasing tickets of admission but having viewers of their own would ordinarily not pay for or receive such viewers.

In this instance we would regard you as a retailer of the disposable viewers, the sale price being the additional charge

- (3) The patron is granted the use of a permanent type of viewer upon purchase of the ticket of admission, and no separate charge is made for the viewer.

In this case, you are regarded as the consumer of the viewer.

- (4) The patron is granted the use of a permanent type of viewer upon purchase of the ticket of admission, and a separate charge is made for the viewer. Patrons purchasing tickets but having viewers of their own would ordinarily not pay for or be granted the use of such viewers.

You again would be regarded as the consumer. In this instance, the reason is that you are not selling the viewer but are merely renting it since, in all cases, it is your intent that the viewer shall be returned and this does actually occur in most instances.

It would appear, therefore, that all permanent viewers should be purchased on a tax-paid basis inasmuch as you are to be regarded as the consumer of them in all instances. However, you may purchase the disposable viewer tax free for resale in view of the provision in the second paragraph of ruling 68 (copy enclosed) that property may be purchased ex tax where a person intends to sell the property in the regular course of business or cannot then ascertain whether it will be sold or not. Thereafter, you should report as self-consumed merchandise on your own sales and use tax return the cost to you of the disposable viewers which are given to the patrons without making a separate charge.

Yours very truly,

W. W. Mangels
Assistant Counsel

WWM:ja

cc: New York