



STATE BOARD OF EQUALIZATION

(916) 445-6450

March 15, 1989

Dear _____,

This is in reply to your recent letter regarding the application of sales tax to the sale of a master tape by a record company.

You noted that the record company purchased an original master tape from a band and made a subsequent retail sale of the master tape to a recording company. We understand that you are concerned with the application of tax to the sale by the record company to the recording company.

Sales and Use Tax Regulation 1527, Sound Recording, provides the application of sales tax to sales of "master tapes and master records embodying sound" at subdivision (b)(2):

"Effective January 1, 1976, the measure of tax with respect to the retail sale of master tapes or master records embodying sound is limited to the sale price of the unprocessed recording media. The measure of tax does not include charges for labor in recording sound, services rendered in producing, fabricating, processing or imprinting the master tapes, any other services or production expenses or amounts paid for the copyrightable, artistic, or intangible elements of master tapes or master records, whether desired as royalties or otherwise. Tax applies to subsequent retail sales of master records and tapes in the same manner as tax applies to the original retail sale. (See Regulation 1529 for application of tax to recording sound for motion pictures.)"

Under the facts you provided, we believe that sales tax applies to the sale of the master tape by the record company to the recording company. The measure of tax is the sale price of the unprocessed recording media (blank tape).

We hope this answers your question; however, if you need further information, feel free to write again. If your client wishes to rely on this opinion for audit purposes, you should provide us with the client's name, seller's permit number, and the specific facts and circumstances of the transaction.

Very truly yours,

Ronald L. Dick
Tax Counsel