



STATE BOARD OF EQUALIZATION

LEGAL DIVISION - MIC 82
450 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
TELEPHONE NO.: (916) 445-6450
FAX NO: (916) 323-3387

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Executive Director

March 27, 1995

Mr. K--- M. B---
Certified Public Accountant
XXX --- --- --- - P.H. X
--- ---, CA XXXXX

Dear Mr. B---:

This is in reply to your December 27, 1994 letter regarding the application of sales tax to charges by your client, a commercial artist.

You explained she will perform design work for clients. She will retain the original art or designs and provide a "stat" copy for her clients to use in newspaper advertisements. You asked whether the artist's charges would be subject to sales tax.

The sales tax is imposed upon retailers at the applicable rate of the gross receipts from the sale of all tangible personal property sold at retail in this state. (Rev. & Tax. Code § 6051.) Sales and Use Tax Regulation 1540, Advertising Agencies, Commercial Artists and Designers, provides at subdivision (c):

"The tax applies to the entire amount charged by commercial artists or designers for items of tangible personal property such as drawings, paintings, designs or sketches transferred to the client, whether or not the property is suitable for display or is useful for actual reproduction by photo-mechanical or other processes."

"Tax does not apply to separate charges for preliminary art as defined in (b)(4)(A)."

A copy of Regulation 1540 is reproduced on page 21 of the enclosed Pamphlet No. 38, Tax Tips for Advertising Agencies.

When the artist performs design work for her clients, the artist's charges are subject to sales tax regardless that she merely provides a copy of the design to the client. If your client has not done so, she should contact her nearest State Board of Equalization District office to apply for a seller's permit.

We hope this answers your questions; however, if you need further information, feel free to write again.

Very truly yours,

Ronald L. Dick
Senior Staff Counsel

RLD:sr

Enc.