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**STATE BOARD OF EQUALIZATION**

July 11, 1966

Mr. R--- C. S---  
Attorney at Law  
T--- & B---  
XXX South --- Street  
--- ---, CA XXXXX

L--- P--- Service, Inc.  
Your File No. XXXX  
Your letter dated June 16, 1966

Dear Mr. S---:

An adequate answer to your letter of June 16 requires some discussion of the basic principles of the sales tax.

In distinguishing between the sale of a service (nontaxable) and the sale of tangible personal property (taxable) it is necessary to determine the true object of the transaction, i.e., is the real object sought by the buyer the "service" per se, or the finished article produced by the service?

The court in Albers v. State Board of Equalization, 237 Cal.App. 2d 494, in holding the tax applicable to the receipts of a draftsman, explained the distinction as follows:

"Plaintiff herein was not paid to conceive or to dictate any of the ideas, concepts, designs, or specifications in the drawings made by him. He simply applied his ability to the details supplied by the customer for the purpose of putting such details down on paper and thereby producing a drawing for use by the customer. In other words, the customer was purchasing the detailed drawing for his use, he was not purchasing the design or specifications pictured in the drawing."

In Opinion NS 3889, November 6, 1941, the Attorney General held the tax to apply to charges by a city for blueprints of maps in the office of the Bureau of Engineering.

It is basic that sales tax applies to charges for photographs, photocopies and other reproductions. See ruling 23.

Applying the foregoing tests, it is difficult for us to see wherein the copies of police reports, and hospital and doctor's records, photocopied and furnished by your client are not the "true object of the transaction" as between your client and its customers. The contents of the reports, already in existence, are obviously not created or modified by your client. While he may utilize some degree of skill in selecting the appropriate report or portion of the report to copy, this appears to us to be nothing more than a "service that is a part of the sale," or as a "labor or service cost," neither of which are deductible in computing the amount of taxable gross receipts, by the specific language of § 6012 of the Sales and Use Tax Law. A photographer's ability to select the most appropriate subjects to meet the needs of his customer does not seem to us to change the true object of the transaction as the finished article delivered to the customer, whether the subject of the photography is nature or printed records.

We cannot agree with your analogy to a "messenger service," because your client does more than merely provide a transportation service. It actually makes, or has made by a photofinisher, the copies desired by its customers. The tax would not apply to the photofinisher's charge to your client for finished copies resold by your client, and the amount by which tax paid on such sales is measured would be offset against the amount of any taxable gross receipts determined against your client.

We believe the amounts received by your client would be the measure of the tax (less a deduction for tax-paid purchases of photofinishing), including the "fee" paid to doctors. This is simply one of the expenses of production, not deductible by the express language of § 6012.

It appears, accordingly, that L--- P--- Service, Inc. must obtain a seller's permit and pay tax on its gross receipts. Insofar as your letter indicates, it does not appear that any of its receipts are tax exempt.

Section 6489 provides an eight year limitation period for determinations in the case of failure to make a return.

If, after reviewing this letter, you feel that there are additional matters which should be taken into account, we shall be pleased to give consideration thereto.

Very truly yours,

E. H. Stetson  
Tax Counsel

EHS:fb

cc: --- – Subdistrict Administrator  
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