



STATE BOARD OF EQUALIZATION

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January 27, 1994

Mr. R--- J. P---
Senior Tax Accountant
L--- I---, Inc.
XXX --- --- Road
P.O. Box XXXXX
---, CT XXXXX

Re: Application of Sales Tax
Annotation 515.0015
Training-Schools
Use of Master Printing Plates

SC -- XXXXXXXX

Dear Mr. P--:

This is in response to your letter dated December 3, 1993, regarding the application of tax to seminar services and training program materials you provide for your clients. In your letter you state:

"L--- I---, Inc. is a training company that provides seminar services and training program materials for the purpose of training a client in various applications (but primarily in the sales and service areas). In some instances, we will customize our standard products and develop material and seminars to meet the specific needs of our clients. A separately stated fee is charged for this development and customization work. The transaction may also involve a fee for the use of master plates from which the client can print the material themselves and a license for the right to use these plates. The contract would state that the master copy must be returned by the date specified in the contract and that the client is granted the right to reproduce the material for training a specified population during this period."

A retailer's gross receipts from the retail sale of tangible personal property in California are subject to sales tax unless the sale is specifically exempt by statute. (Rev. & Tax. Code § 6051.) On the other hand, the charge for providing of a service is not subject to sales tax.

Schools which provide significant educational services, including classroom instruction, are consumers of printed instructional matter furnished to students where tuition charges made to students do not separately state charges for such teaching aids. If a separate charge is made for such teaching aids, tax applies to that charge. (Business Taxes Law Guide Annotation 515.0015 (3/31/80).) When a school is a consumer, tax applies to the sale of such items to the school or to the school's use of such items.

You state that L--- I--- provides seminar services and training to companies in the areas of sales and services. In some instances, your company also provides the client with training program materials and/or master plates from which the client can print the material themselves. Although you state that you separately state your charges for customizing certain seminar materials you do not indicate whether your charges for the training program materials are separately stated or are included as part of the charge for the seminar services.

You further state that the transaction sometimes involves a fee for the use of the master plates from which the client can print the material themselves and a license fee for the right to use these plates. The lease of tangible personal property in California is a continuing sale and purchase when the property is not leased in substantially the same form as acquired by the lessor. A lease which is a continuing sale and purchase is subject to use tax which is measured by rentals payable and which must be collected by the lessor from the lessee at the time rentals are paid. (Rev. & Tax. Code §§ 6006(g), 6006.1, 6010(e), and 6010.1 and Sales and Use Tax Regulation 1660(c)(1).) You will be transferring possession to your customers of printing plates which are not in substantially the same form as acquired by you, and your customers will be required to return them to you. You will therefore be regarded as leasing the plates in continuing sales subject to use tax. (Rev. & Use Tax. Code § 6006.3, Reg. 1660.) Accordingly, the rental receipts from such leases are subject to use tax which you must collect and pay to this Board. Such taxable amounts include the fee for the use of the plates and the license fee for the right to use the plates.

You do not indicate whether you provide significant educational services which include classroom instruction. If so, your charge for such services is not subject to tax. You also do not indicate whether you separately itemize your charges. If you do not make a separate charge for training materials you furnish the students when providing significant education services including classroom instruction, then you are regarded as the consumer of such materials. If, however, you make a separate charge for such materials, you are a retailer of such property and tax applies to such charges. Your charges for the plates (rental receipts) are subject to tax whether separately stated or not.

Mr. R--- J. P---
SC -- XXXXXXXXX

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December 11, 2007
515.0069

If you have further questions, please write again.

Sincerely,

Gerald Morrow
Tax Counsel

GM/md

cc: --- - District Administrator