



STATE BOARD OF EQUALIZATION

December 14, 1965

Gentlemen:

This is in reply to your letter of December 1, 1965 inquiring concerning the application of sales tax to fees paid to architects and engineers, as well as to charges for blueprints.

You mention the recent decision of Albers v. State Board of Equalization, 237 A.C.A 583. This case held a draftsman was subject to tax, and the basis for the court's decision is set forth in the following paragraph taken from the opinion.

“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.”

Plaintiff in this case was a commercial draftsman, but was neither an architect nor an engineer. Fees paid to architects or engineers for their ability to design, conceive, or dictate ideas, concepts, designs or specifications are not subject to the tax. If, in addition, they have blueprints made of their original drawings and sell these blueprints, the tax applies to the charge they make for the blueprints.

When a reproduction service is used, the reproduction services total charges would be taxable. Of course, if a person who although an architect or engineer were paid solely for the manual work of producing the drawing from ideas, concepts, designs, or specifications furnished to him by the customer, his charges would be taxable the same as in the Albers case. Although the holding in the Albers case confirms the position we have consistently maintained, the decision is not yet final, as there was a petition for hearing in the Supreme Court. As far as we are aware, the Supreme Court has not yet acted to grant or deny this petition.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:fb [lb]

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-5550

April 25, 1988

Mr. R--- L. M---, Jr.
XXXX --- Drive
---, CA XXXXX

Re: SR -- XX-XXXXXX

Dear Mr. M---:

We have previously written you regarding the application of sales tax to your activities as an architectural draftsman in letters dated April 23, 1987 and May 28, 1987. You have been audited by our Oakland District audit staff, and a question has arisen regarding a statement made in our letter to you dated May 28, 1987. [This tp worked under direction and supervision of licensed architects, and did the same work as they did, subject to their approval].

Although you are not a licensed architect, you perform architectural work. We have previously concluded that we will treat your charges for activities equivalent to that of an architect as nontaxable services as provided by Regulation 1501. We have also concluded that we will treat as taxable sales your charges for any activities equivalent to that of a draftsman as explained in Business Taxes Law Guide Annotation 515.0380 (12/12/65):

“Fees paid to architects or engineers for their ability to design, conceive or dictate ideas, concepts, designs, or specifications are not subject to the tax. If, in addition, they have blueprints made of their original drawings and sell these blueprints, the tax applies to the charge they make for the blueprints.”

We pointed out that, based on this annotation, the taxable portion of your charge also includes that portion attributable to your production of blueprints based on your own architectural concepts.

Our audit staff explains that you present many different ideas in drawings for consideration by your customers. When your customers accept your designs, you prepare a working drawing which is your final presentation of the accepted design to your customers. This drawing is on tracing paper, to scale, drawn in pencil, and its borders may be in ink. Your customers then take these working drawings and use them to make working plans for use in construction. Our audit staff has asked us to clarify whether your working drawings are subject to tax as blueprints.

As described by our audit staff, it appears that your working drawings are more equivalent to architectural design than blueprints, and if this is true your charges for them would not be subject to sales tax. Further, we have interpreted the annotation quoted above to allow as nontaxable the transfer by an architect of the blueprints called for in his or her original contract or commission. We will therefore treat your working drawings, even if properly regarded as blueprints, as part of your nontaxable service if they are called for in your original contract or commission. Of course, pursuant to the annotation quoted above, if you do furnish additional copies of blueprints that were not required by the original contract, sales tax would apply to the sale of those later copies.

We hope we have finally resolved the sales tax issues involved in your business. However, if you do have further questions, feel free to write us again.

Sincerely,

David H. Levine
Tax Counsel

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