

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-2641

April 11, 1979

Mr. G--- S. H---
Attorney At Law
XXXX --- Street, Suite XX
---, CA XXXXX

Dear Mr. H---:

This is in reply to your letter of February 14, 1979. We apologize for the delay in our response.

You have inquired on behalf of your client, a court reporting service, concerning the client's obligation to report and pay sales tax with respect to depositions and other reporting and transcribing activities.

As you are aware, we have recently concluded that private court reporters generally perform a service when they report depositions in connection with current or proposed litigation. Tax does not apply to original copies furnished to the party contracting for the performance of the service nor does tax apply to the extent that the reporter furnishes one copy of the deposition to other parties (or the deponent) to the litigation.

You inquire as to whether it is the intent of our recent decision to provide for nontaxability of originals and a copy furnished to each party and the deponent in any matter where a court reporter provides services or whether it is our intent to limit nontaxability to situations involving litigation only.

The question as to whether tax applies to charges for reporting and transcribing a hearing or proceeding arose initially in the context of the taking of depositions for use in litigation. The principle of nontaxability applies more broadly however.

We are of the opinion that persons who undertake by contract to report and transcribe oral proceedings perform a service and that receipts from the performance of the service in accordance with the service contract are not taxable. The true object of the contract is the performance of a service and not the furnishing of tangible personal property notwithstanding the fact that a written transcript is provided to the customer. See our regulation 1501 "Service Enterprises Generally," copy enclosed for your reference.

The tax applies, however, to additional copies furnished to the customer since these copies are regarded as "printed matter," and tax generally applies to the sale of printed materials. Tax also applies where a transcript is furnished to a person other than the person who originally contracted for the performance of the service (unless the transcript is furnished pursuant to Code of Civil Procedure, Section 2019). The tax applies in this instance because the person furnishing the transcript provides no services to the customer but provides printed matter only. In summary, the general rules are that a contract to report and transcribe an oral proceeding is a contract to perform a service and the tax does not apply. Tax applies to sales of printed matter, and thus tax generally applies where a single copy of a transcript is furnished and no services are performed or where multiple copies of transcripts are furnished to the customer pursuant to a contract for recording and transcribing an oral proceeding.

Very truly yours,

Gary J. Jugum
Tax Counsel

j:alicetilton
Enclosure