Regulation 1540: *Advertising Agencies, Commercial Artists and Designers*

Regulation 1540 explains how tax applies to transactions by advertising agencies, commercial artists, and designers. The revised regulation, among other things,

- Changes the title of the regulation to "Advertising Agencies and Commercial Artists."
- Reformats subdivision (a) to provide definitions of terms and the application of tax at the beginning of the regulation.
- Defines the term "commercial artists" in subdivision (a)(3) to include commercial photographers who provide finished art to their clients for use in their clients' advertising campaigns, or for their clients' other commercial endeavors, such as sales of copies of photographic images.
- Incorporates in subdivision (b)(2)(D) the California Supreme Court ruling in *Preston v. State Board of Equalization* on the taxability of charges for finished artwork when sold along with copyright interests pursuant to technology transfer agreements.
- Provides in subdivision (b)(2)(D)2 that temporary transfers of finished art transferred on computer storage media pursuant to a technology transfer agreement are incidental to the transfer of reproduction rights.
- Provides in subdivision (b)(2)(D)2.c that when the transfer of finished art is pursuant to a technology transfer agreement, only the labor purchased from a third party or performed by an employee is used in determining the measure of tax of finished art using the 200% combined cost of materials and labor formula.
- Creates subdivision (d) to incorporate the provisions of SB 330 (Chapter 799, Statutes 1999), which specifies the circumstances under which tax does not apply to charges for the transfer of original drawings at social gatherings for entertainment purposes.

A copy of Regulation 1540 can be obtained from our Information Center or our website at *www.boe.ca.gov/sutax/staxregs.htm*.

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