



STATE BOARD OF EQUALIZATION

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Executive Director

November 5, 1996

K--- M---
A--- S--- T---
C--- Incorporated
XXXX --- Road, Suite XXX
---, CA XXXXX

Re: Unidentified Taxpayer

Dear K--- M---:

This is in response to your letter dated September 26, 1996, in which you ask whether a designer's charges for a "press check" are subject to tax. You state:

"A graphic designer (designer) enters into a contract with a client that provides for the fabrication and sale of final art. The client also enters into a separate contract with a printer for the actual printing of the printed matter. Upon completion of the final art by the designer, the designer delivers the final art to the printer, or to the client for redelivery to the printer.

"The designer has also agreed to perform a service for the client that is commonly known in the printing industry as a 'press check'. This service consists of the designer approving the print run prior to the completion of the full run in order to insure that the final output is optimal in terms of color and shading. The designer charges the client, not the printer, an hourly rate for providing this service.

“The ‘press check’ is not a required process in the completion of the printed material and is offered as an optional service by the designer for the convenience of the client. Furthermore, the designer is not the seller of the printed material; rather, the printer is under separate contract with the client to fabricate and furnish the completed printing.”

As you know, the gross receipts from retail sales of tangible personal property in California by a retailer are subject to tax. (Rev. & Tax. Code § 6051.) The “gross receipts” is the total amount of the sale price. (Rev. & Tax. Code § 6012.) Sales tax does not apply to the providing of a service which is unrelated to the sale of tangible personal property and which does not itself constitute a sale of tangible personal property. (See Rev. & Tax. Code § 6006(b),(f).)

We understand that the “press check” performed by the designer is truly an optional service offered to the client. That is to say, the client is in no way obligated to purchase this service in connection with the designer’s sale of the final art. Since the “press check” is truly optional it is not regarded as a service part of that sale. The remaining question is whether the “press check” itself constitutes a sale. Under certain circumstances, supervision of the fabrication or printing process constitutes a sale under subparagraph (b) or (f) of section 6006. For purposes of this opinion, we assume that the designer simply approves or disapproves the printing and in no way directs or supervises the manner in which the printer obtains the optimal results sought by the customer. Since the press check is optional and thus not part of the sale of the final art, and the press check is not a sale based on the assumption above, the designer’s charges for the press check are not taxable.

As you know, this opinion does not come within the provisions of Revenue and Taxation Code section 6596 since you have not provided the identity of your client.

If you have any further questions in regard to this matter, please do not hesitate to write again.

Yours very truly,

Anthony I. Picciano
Tax Counsel

AIP:cl

cc: --- District Administrator