



STATE BOARD OF EQUALIZATION

November 13, 1953

T--- P--- of A---, Inc.
XXX – Xth Avenue
--- --- XX, New York

Your letter of September 9

Attention: Mr. S--- S. S---

Gentlemen:

Your are engaged in the business of renting films to television stations.

Persons engaged in the business of selling tangible personal property in this State are required to obtain seller's permits, file returns, and pay the tax applicable to their sales. The tax applies to all retail sales with the exception of those specifically exempted.

Certain lease contracts are regarded as sales for the purposes of the sales tax. In general, however, this is limited to two situations, first where the lease contract provides that the lessee is to acquire title at the end of the lease period, and second where the property is substantially consumed during the period of the lease. See Sales and Use Tax Ruling 62 (copy enclosed).

Assuming that none of your contracts would be regarded as sales for the purposes of the sales tax, you might be subject to use tax liability. The use tax is legally imposed upon a purchaser and applies to the use in this State of tangible personal property which has been purchased for use in this State. The rental of property is regarded as a use of the property by the owner. Accordingly, all your rentals of film to California customers are uses of the film by you within the meaning of the Sales and Use Tax Law. You are subject to tax measured by cost on such use if the film was purchased by you for use in California. It is very difficult to state general rules governing when property is and when it is not purchased for use in California. Usually each case must turn on its own specific facts.

We enclose a pamphlet copy of the California Sales and Use Tax Law. Note particularly the Analysis of Law commencing on page 5 thereof. We also enclose a consumers use tax return for your convenience in reporting any use tax to which you might be subject.

If you have any question concerning the application of tax to a specific transaction, we shall be pleased to give you our opinion upon being furnished with a complete statement of facts.

Yours very truly,

Bill Holden
Junior Counsel

BH:ja
cc: New York