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FRIED FISH DESIGN / ILLUSTRATION
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April 25, 2001

Audit Evaluation and Planning
MIC 40
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0040

RE: 6596 query

Dear State Board of Equalization,

I am writing to request written information on how current BOE regulations affect my business. Please respond to me at your earliest convenience.

1.) Copyright license. I am a graphic designer and illustrator. I license a copyright interest in my artwork to publishers and other clients who subsequently produce products by exercising those rights. In its recent ruling, Preston v. Board of Equalization, the California Supreme Court held that transactions identical to mine are "technology transfer agreements," and that the value of the copyright interest is not subject to tax. Please confirm that I am no longer responsible for collecting sales tax on the copyright license portions of my transactions. On which line of the sales and use tax return do I report these non-taxable transactions?

2.) Fair rental value. The Court also held in Preston that the fair rental value of any tangible person property loaned to the client remains subject to tax. Please answer the following questions to help me calculate fair rental value:

a) My material costs are minimal, usually the cost of a computer disk. How should I calculate the fair rental value of a computer disk or piece of artwork temporarily loaned to my client?

b) I incur no labor charges, since I produce my own work and do not calculate my time, nor bill my clients, by an hourly rate. Please confirm that labor charges are therefore inapplicable to the determination of fair rental value for the temporary transfer.

3.) Refund. I have collected sales and use tax on transactions which have been ruled to be technology transfer agreements. These past collections, which were in compliance with Board requirements at the time, have been invalidated by the Supreme Court. Please explain the procedures for me to file a refund claim, and any relevant deadlines or statutes of limitations.

Danny Friday
sellers permit # AA AA 00000000

(sample 6596 query letter)