

527.0000 SOUND RECORDING—Regulation 1527

527.0050 Audiocassettes as Advertisements. A taxpayer produces audiocassettes for clients for the purpose of advertising products or services offered by the clients. The audiocassettes play for 2 to 10 minutes. Sufficient copies are made for use on radio commercials, syndicated radio programs, or educational purposes. The copies are regarded as master recordings with tax applicable only to the charge for the blank tape. 6/28/91.

527.0100 Compact Disks for Radio Commercials. Subdivision (b)(1) of Regulation 1527 defines “master tapes and master records embodying sound” to mean tapes, records, and other devices, not including mothers, stampers, or finished records utilized by the recording industry in making recordings embodying sound. The term includes tapes or records which are produced for use as radio commercials or other advertising, syndicated radio programs, or for educational purposes.

Accordingly, if a taxpayer produces and sells compact discs to be used for radio commercials, the taxable measure with respect to the retail sale of such compact discs is limited to the sales price of the unprocessed recording media (compact discs). 2/5/90.

527.0140 “Educational Purposes.” The term “educational purposes” as used in Regulation 1527 includes master tapes or records used which are produced for general instruction or training presentations. The term is not limited to instruction received at a school or college. 12/31/85.

527.0300 Master Lacquers. A firm’s invoices show charges for masters and lacquers. section 6362.5 provides a partial exemption from sales tax for the sale of “master tapes or master records embodying sound”. This term includes lacquer masters, cassette masters, or CD masters produced by a mastering lab for a recording company.

The charge for masters and lacquers qualifies for the partial tax exemption. Tax would apply only to the portion of the charge that represents the charge for the blank recording tape or disc. 6/8/92.

527.0325 Master Tapes. A record company purchases an original master tape from a group of musicians and makes a subsequent retail sale of the master tape to a recording company.

Under these facts, sales tax applies to the sale of the master tape by the record company to the recording company. The measure of tax is the sale price of the unprocessed recording media (blank tape). 3/15/89.

527.0340 Master Tapes and Records. Master tapes and master records under Regulation 1527(b)(1) will generally include the lacquer master, cassette master, or CD master produced by a mastering laboratory for a recording company from a two track tape. The multi track and two track tapes produced by recording and mix studios would therefore be considered intermediate working productions included within the exemption for master tapes and records. The furnishing of “mothers,” “stampers,” and finished records by a processor to a record manufacturer remain sales of tangible personal property subject to tax. 5/29/96. (Am. 2000–1).

527.1008 Radio Commercials Delivered Electronically. A taxpayer is in the business of sending radio commercials from recording studios hired by their customers (advertising agencies) directly to radio stations through a multimedia communications network established by the taxpayer. The multimedia communications network is comprised of Record Send Terminals (RST’s) located at various recording studios, and Receive Playback Terminals (RPT’s) located at radio stations. The RPT’s and RST’s communicate with the Taxpayer’s Network Operations Center located in California through standard telephone lines. The recording studios do not pay taxpayer for use of the RST’s or RPT’s. Rather, taxpayer provides such equipment to them free of charge

The RST’s and RPT’s are essentially customized multimedia computers (equipped with modems) that are either purchased or leased by the taxpayer, with the taxpayer paying sales tax reimbursement or use tax resulting from the purchase or lease. The Taxpayer’s Network Operations Center functions essentially like

a switchboard, receiving radio commercials from an RST located at a recording studio and routing the radio commercial to the appropriate RPT at the radio station.

The taxpayer's charges to advertising agencies are based on the number of commercials distributed at one time to a radio station on the agencies' behalf and the time frame within which the distribution is made. In cases where a radio station is not part of the taxpayer's multimedia communications network, i.e., the radio station does not have an RPT on-site, the taxpayer will transfer the radio commercial onto audio tape at its out-of-state facility and have the tape delivered by courier to the radio station. In those instances, the taxpayer pays sales tax on the purchase price of the blank tapes.

Under the facts presented, the taxpayer is regarded as using the RST's and the RPT's itself, rather than leasing them. The charges made by the taxpayer are not for the RST's and RPT's, but for the transmission of the recordings. The transfer electronically of the radio commercials from the recording studios to the radio station through the taxpayer's multimedia communications network is not a sale of tangible personal property and, therefore, is not a taxable transaction.

On the other hand, when the taxpayer's out-of-state facility copies a radio commercial onto audio tape and then sends the audio tape to a radio station in California, there is a transfer of tangible personal property, the audio tape. Since the taxpayer is a retailer engaged in business in California, the transfer of the audio tape for a measurable monetary consideration to a radio station in California is a taxable transaction. The measure of tax for the transfer of the audio tape is the sales price of the unprocessed recording media (the blank audio tape). (Regulation 1527(a)(1).) 1/4/96.

527.1100 Sound Recording for Commercials. A firm produces sound recordings for use by advertising agencies in commercials for radio and television. It hires its own musicians, writes the music, and makes its own arrangements for the recording session. The session is recorded on 24 track 23 tape which is subsequently mixed down to 1/43 mono or stereo and 3–4 cassette copies.

The firm consumes the 23 tape in manufacturing the 1/43 tape, and therefore cannot purchase the 23 tape for resale. It is also the consumer of the 1/43 tape which incorporates sound to be used on a film or videotape commercial since the creation of the music track is a "qualified production service". It is the retailer of the 1/43 tape used in radio commercials. However, the tapes are "master tapes" and the measure of the tax is therefore limited to the sales price of the blank tape. 10/6/89.

527.1250 Syndicated Radio Programs—Master Tapes. Tapes and records used in the broadcast of syndicated radio programs are "master records" and the lease of these tapes to radio stations qualifies for the partial exemption as provided in Regulation 1527. 3/10/92.