



# Post Production

## NEW YORK STATE SALES TAX

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### **Post Production: A Definition**

Post production involves the editing, dubbing and mixing of a film. It consists of the entire process by which the individual actions recorded during production are transformed into a cohesive body. Only selected portions of the images recorded on the original negative will appear in the final production. The selection process together with all subsequent editing may utilize either film, tape or any other visual/audio medium. Work prints, rushes, dailies, interpositives, CRI's (color reversal internegatives), rough cuts, answer prints, visual/audio masters, both analog and digital, and computer disks, are examples of items used in the selection process. Sound, corrected color, special effects shots, opticals, computer generated images and credits are incorporated. It results in the creation of the elements to be used for making dupes. These elements are exempt as either machinery, equipment, parts, tools or supplies used in production.

Internegatives, fine grain positives, edited visual/audio masters both analog and digital, and other intermediate elements are used ultimately to produce the materials used for exhibition in theaters or for distribution by cable or broadcasting. The purchase of these items is exempt as production equipment.

### **Questions of Billing and Collecting Sales Tax**

#### **15.0 Question**

An advertising agency contracts with a production company for the creation of a television commercial for \$50,000. The contract provides that the production company will contract with an agreed upon editing house which is located in New York for the post production work. The contract provides that the production company will deliver the original elements (which principally consist of the original negative and sound track) to the editing house in New York. Upon completion of the commercial, the contract further provides that the original elements together with the production elements will be shipped to a storage facility located in New Jersey. The contract also provides that the duplication elements, which have a cost of \$125, will be delivered to a duplication facility located in New York. Is the delivery of the original elements to the editing house taxable?



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### **15.0 Answer**

No. Since the editor is the subcontractor of the production company, there has not yet been any delivery to the purchaser of the commercial.

### **15.1 Question**

Must the editing house charge the production company tax for work that it has performed?.

### **15.1 Answer**

No. The activities of an editing house result in the creation and sale of tangible property rather than providing a service on the property of the producer. Since it has produced machinery or equipment that is used or consumed directly and predominantly in the production of tangible personal property for sale, no tax is due.

### **15.2 Question**

Must the production company bill the advertising agency tax on its total charge of \$50,125?.

### **15.2 Answer**

No. Since the commercial was delivered to a storage facility out of state, no tax is due. However, it is required to charge tax on the cost of the duplication elements delivered in New York which in this instance would be on \$125, which is the cost of the raw film stock and laboratory development thereof.

### **16 Question**

A post production facility is hired to do a revision of a commercial. The pre-existing materials from which the revision will be made, previously stored out-of-state, are returned to the out-of-state storage facility when the revision is completed. Is use tax due on these pre-existing materials?

### **16 Answer**



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No. The revision of a television commercial results in the creation of tangible personal property for sale. The pre-existing materials are machinery and equipment used to produce this property, and therefore, are exempt from tax.

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