

## 1 CALIFORNIA STATE BOARD OF EQUALIZATION

## 2 APPEALS DIVISION BOARD HEARING SUMMARY

3 In the Matter of the Petition for Redetermination )  
 4 Under the Sales and Use Tax Law of: )  
 5 STAINLESS FIXTURES, INC. ) Account Number SR S AP 17-780533  
 ) Case ID 505327  
 6 Petitioner ) Pomona, Los Angeles County

7 Type of Business: Construction contractor

8 Audit period: 7/1/03 – 6/30/06

9 Item Disputed Amount

10 Unreported taxable sales \$2,140,233

11 Negligence penalty \$16,840

	<u>Tax</u>	<u>Penalty</u>
12 As determined	\$176,780.58	\$17,678.11
13 Post-D&R adjustment	- 8,382.94	- 838.32
14 Balance, protested	<u>\$168,397.64</u>	<u>\$16,839.79</u>
15 Proposed tax redetermination	\$168,397.64	
16 Interest through 11/30/15	131,114.90	
17 Negligence penalty	<u>16,839.79</u>	
18 Total tax, interest, and penalty	\$316,352.33	
19 Payments	- 153.86	
20 Balance Due	<u>\$316,198.47</u>	
21 Monthly interest beginning 12/01/15	<u>\$841.22</u>	

19 This matter was scheduled for Board hearing in April 2012, but was postponed at petitioner's  
 20 request due to a scheduling conflict. It was rescheduled for Board hearing in October 2012, but was  
 21 postponed again at petitioner's request to allow additional time to submit information. After being  
 22 rescheduled for Board hearing in February 2013, the matter was deferred at the request of the Appeals  
 23 Division to review the information submitted by petitioner. It was rescheduled again for Board hearing  
 24 in July 2013, but was deferred at the request of the Sales and Use Tax Department (Department) to  
 25 complete a reaudit. In that reaudit, the Department reduced the amount of unreported taxable sales by  
 26 \$103,571, from \$2,243,805 to \$2,140,234, as explained under Issue 1. This matter was rescheduled for  
 27 Board hearing in October 2013, but was postponed for settlement consideration.

**UNRESOLVED ISSUES**

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2       **Issue 1:** Whether any additional adjustments to the amount of unreported taxable sales are  
3 warranted. We conclude that no further adjustments are warranted.

4       Petitioner has operated a business selling and installing restaurant fixtures, materials, and  
5 equipment, such as kitchen fixtures, laminated counters and table tops, cabinets, booths and other  
6 restaurant furnishings, and an array of restaurant equipment since October 1989. For jobs involving  
7 installation of materials, fixtures and equipment, petitioner contracts on a time-and-materials basis,  
8 with sales tax reimbursement added to the invoiced selling price of the tangible personal property. For  
9 audit, petitioner provided its invoice register data with line item detail that it downloaded from its  
10 computerized accounting system. The Department totaled sales tax reimbursement recorded in the  
11 invoice register, and then made adjustments for several posting errors, to establish audited sales tax  
12 reimbursement of \$369,082, which exceeded reported tax of \$192,302 by \$176,780. The difference  
13 between recorded and reported tax represented unreported taxable sales of \$2,243,805. In a post-D&R  
14 submission, petitioner provided documentation consisting primarily of sales invoices, some credit  
15 memos, shipping documents, and other miscellaneous records to support its contention that  
16 adjustments are warranted for voided invoices, sales written off as bad debts, a sale in interstate  
17 commerce, and sales that had been reported previously. Based on our review of this additional  
18 documentation in preparation for the Board hearing, we asked the Department to reconsider whether  
19 certain adjustments might be warranted. The Department concluded that audited sales tax  
20 reimbursement should be reduced by \$8,383 to allow for a credit memo that petitioner had issued to  
21 correct its error in collecting tax for an exempt sale in interstate commerce, and another credit memo  
22 that petitioner had issued to adjust for a bad debt. In a reaudit, the Department reduced the amount of  
23 unreported taxable sales by \$103,571, from \$2,243,805 to \$2,140,234.

24       We concur with the adjustments in the reaudit and find that petitioner has not provided  
25 sufficient documentation to warrant any additional adjustments for voided invoices, taxable sales that  
26 allegedly were reported in prior periods, or bad debts. Accordingly, we conclude that there is no basis  
27 on which to recommend any other reductions to the amount of unreported taxable sales.  
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