

1 CALIFORNIA STATE BOARD OF EQUALIZATION

2 APPEALS DIVISION BOARD HEARING SUMMARY

3 In the Matter of the Petition for)
 4 Redetermination and Claims for Refund)
 Under the Sales and Use Tax Law of:)
 5) Account Number SR AP 97-067926¹
 6 JANTEX INKS & BEYOND, INC., dba) Case ID's 712415, 797612, 816214
 Imagine Displays)
 7 Petitioner) Pico Rivera, Los Angeles County

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 9 Type of Business: Sales of inks and chemicals for the textile printing industry

10 Audit period: 01/01/08 – 12/31/10

11 <u>Item</u>	<u>Disputed Amount</u>
12 Disallowed claimed nontaxable sales for resale	\$766,244 ²
13 Tax as determined	\$97,116.06
14 Pre-D&R adjustment	- 2,165.55
14 Post-D&R adjustment	- 25,505.08
15 Proposed redetermination	\$69,445.43
15 Less concurred	- 1,460.93
16 Balance, protested	<u>\$67,984.50</u>
17 Proposed tax redetermination	\$69,445.43
17 Interest	<u>23,683.73</u>
18 Total tax and interest	\$93,129.16
18 Payments	- 71,150.58
19 Balance Due	<u>\$21,978.58</u>

20 This matter was scheduled for Board hearing in November 2014, but was postponed at
 21 petitioner's request in order to schedule the matter for hearing in Culver City. It was rescheduled for
 22 Board hearing in February 2015, but was postponed at petitioner's request because its representative
 23 was recovering from hospitalization. The matter was rescheduled for Board hearing in June 2015 but
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 27 ¹ Petitioner's account number was changed from "SR AA 97-067926" to "SR AP 97-067926" due to a change in the district
 of account from the Norwalk District to the West Covina District.

28 ² Petitioner protests a portion of the disallowed claimed nontaxable sales for resale, but has not specified the amount with
 which it concurs. Accordingly, we show the entire amount as disputed.

1 was deferred at the request of the Tax and Fees Division of the Legal Department in order to allow
2 time for the Sales and Use Tax Department (Department) to make an adjustment.³

3 UNRESOLVED ISSUE

4 **Issue:** Whether adjustments are warranted to the disallowed claimed nontaxable sales for
5 resale. We find no further adjustments are warranted.

6 Petitioner sells inks, pigments, bases, chemical additives, and other supplies to the textile
7 printing and dyeing industries. Its customers are primarily apparel-related companies, which purchase
8 petitioner's products either for resale or for use in printing designs on garments and fabrics. For audit,
9 petitioner provided a revenue report for the third quarter 2010 (3Q10), sales invoices, resale
10 certificates, sales and use tax returns and related worksheets, paid bills, and federal income tax returns
11 for 2008 and 2009. The Department examined petitioner's claimed nontaxable sales for resale for the
12 month of October 2010 and disallowed 50 transactions in the reaudit dated July 31, 2013.⁴ The 50
13 transactions represented 25 sales of Jantex Parolite, 9 sales of Jetcol, 9 sales of HD Max Film, and
14 7 sales of miscellaneous printing supplies. Upon further review during its preparation for the hearing
15 scheduled for June 2015, the Tax and Fees Division determined that petitioner has provided sufficient
16 evidence to show that Parolite is purchased to be incorporated into the manufactured item to be sold.
17 In other words, the Division concluded that petitioner's sales of Parolite were valid nontaxable sales.
18 Accordingly, the Department prepared a reaudit to delete sales of Parolite from the disallowed claimed
19 nontaxable sales in the test and recalculated the error rate in claimed resales to 6.2323 percent. As a
20 result of those adjustments, the amount of disallowed claimed nontaxable sales was reduced from
21 \$1,069,014 to \$783,814. Upon further review, we noted that there was another sale of Parolite, which
22 had been overlooked due to a misspelling on the schedule, with a total amount of Parolite sales
23 disallowed in the test of \$4,831. Deducting that amount from the total disallowed in the test of
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25 ³ The adjustment, to reflect the Tax and Fees Division's conclusion that sales of Parolite were valid nontaxable sales, is
26 addressed under "Unresolved Issue."

27 ⁴ In the audit, the Department also had disallowed petitioner's sales of Jantex Foil Adhesive. After the Notice of
28 Determination was issued, petitioner provided evidence that this product is incorporated into the finished product sold by its
customers. Thus, the Department concluded that petitioner's sales of Jantex Foil Adhesive were valid nontaxable sales for
resale. As a result of that adjustment, the amount of disallowed claimed nontaxable sales for resale was reduced from
\$1,095,424 in the audit to \$1,069,014 in the reaudit.

1 \$17,040, the remainder disallowed is \$12,209 ($\$17,040 - \$4,831$), the percentage of error is 6.0926
2 percent, and the amount of disallowed claimed nontaxable sales has been reduced to \$766,244.

3 Upon further review of the audit workpapers, we find that there are other errors in the stated
4 numbers and amounts of sales in other categories. Accordingly, we are stating the correct numbers and
5 amounts of sales here, and figures indicated in the D&R should be disregarded. In the first reaudit, the
6 Department disallowed 25 sales of Parolite for a total of \$4,831 (which have been removed in the most
7 recent reaudit, as explained above), 11 sales of Jetcol for a total of \$9,856, 9 sales of HD Max film for
8 a total of \$1,275, and 5 sales of miscellaneous printing supplies, for a total of \$1,078. Thus, as a total
9 for the test, in the first reaudit, the Department disallowed 50 sales that petitioner had regarded as
10 nontaxable, for a total amount of \$17,040 ($\$4,831 + \$9,856 + \$1,275 + \$1,078$).

11 Petitioner contends that two of the sales of Jetcol were valid nontaxable sales for resale that
12 were disallowed in error, stating that two of the XYZ letters returned by its customers stated that the
13 purchases had been for resale. However, the Department contacted both purchasers and verified that
14 they did not resell the Jetcol but instead consumed it in transferring images onto fabric. Since
15 petitioner did not provide timely resale certificates, and the purchasers' responses to XYZ letters are
16 not equivalent to valid resale certificates, the Department is not required to relieve petitioner of the tax
17 based on the responses. (Cal. Code Regs., tit. 18, § 1668, subd. (f)(3).) We find that the Department
18 properly disallowed these claimed sales for resale based on the information gathered after the XYZ
19 responses were received.

20 Petitioner has filed three claims for refund (two of which have been assigned case ID 797612,
21 and one which has been assigned case ID 816214), which are timely for payments totaling \$6,520.48.
22 However, time remains during which petitioner may file a claim for refund for all payments, since a
23 claim for refund of any payments made against the determination is timely if filed within six months of
24 the date of the payment or six months from the date the determination becomes final, whichever is
25 later. (Rev. & Tax. Code, § 6902 (a).) The claims for refund are based on the same grounds as the
26 petition for redetermination. Since we recommend no further adjustments to the determination, and the
27 payments do not exceed the amount due, we recommend that the claims for refund be denied.

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OTHER MATTERS

None.

Summary prepared by Deborah A. Cumins⁴, Business Taxes Specialist III