

CALIFORNIA STATE BOARD OF EQUALIZATION
APPEALS DIVISION BOARD HEARING SUMMARY

In the Matter of the Petition for Redetermination)
Under the Sales and Use Tax Law of:)
EASY LIFE FURNITURE, INC.) Account Number SR Y EA 99-927869
Petitioner) Case ID 487694
Buena Park, Orange County

Type of Business: Furniture retailer

Audit period: 01/01/05 – 12/31/07

<u>Item</u>	<u>Disputed Amount</u>
Disallowed excess delivery charges	\$1,538,566
As determined and proposed to be redetermined	\$137,247.95
Less concurred	- 13,316.16
Balance, protested	<u>\$123,931.79</u>
Proposed tax redetermination	\$137,247.95
Interest through 07/31/13	<u>68,630.95</u>
Total tax and interest	\$205,878.90
Payments	- 13,638.00
Balance Due	<u>\$192,240.90</u>
Monthly interest beginning 08/01/13	<u>\$ 618.05</u>

This matter was scheduled for Board hearing in February 2013, but was postponed at petitioner's request to allow additional time to prepare for the hearing.

UNRESOLVED ISSUE

Issue: Whether relief is warranted based on petitioner's expressed inability to pay the liability. We find relief is not warranted.

Petitioner has operated as a retailer of furniture since 1996. It provided complete records for audit. The Sales and Use Tax Department (Department) noted that the amounts petitioner charged customers for delivery routinely exceeded the charges by the common carrier to petitioner. The Department determined that those transportation charges to customers in excess of the amounts actually paid to common carriers represented gross receipts subject to tax. The Department reviewed

1 delivery charges by four of petitioner's major carriers and computed percentages of overstatement in
2 the amounts of claimed nontaxable delivery charges.

3 Petitioner does not dispute the method the Department used to compute that amount of claimed
4 nontaxable delivery charges in excess of the amounts actually charged to petitioner by the common
5 carriers. Further, petitioner concedes that the Department properly disallowed that portion of its
6 claimed nontaxable delivery charges.¹ Petitioner's only argument is that it cannot afford to pay the
7 amount of tax due.

8 The amounts at issue are transportation charges to customers that exceed the amounts charged
9 to petitioner by common carriers. It is undisputed that those charges in excess of the actual
10 transportation cost are subject to tax. There is no provision in the law that affords relief from the
11 obligation to remit tax on the grounds that a retailer cannot afford to do so. Accordingly, we find no
12 adjustment is warranted on that basis. However, we advised petitioner at the conference that the Board
13 has provisions for settlement and offers in compromise, and we provided the relevant contact
14 information to petitioner.

15 **OTHER MATTERS**

16 None.

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18 Summary prepared by Deborah A. Cumins, Business Taxes Specialist III
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26 ¹ Petitioner had requested relief pursuant to Revenue and Taxation Code section 6596, on the basis that it received
27 erroneous advice from the Board in a prior audit. However, petitioner expressly stated at the appeals conference that it is
28 no longer making this argument. Also, based on our review of the prior audit workpapers, we find that no incorrect written
advice was presented therein. Accordingly, petitioner's entitlement to relief pursuant to section 6596 will not be addressed
herein.