

1 CALIFORNIA STATE BOARD OF EQUALIZATION

2 APPEALS DIVISION FINAL ACTION SUMMARY

3 In the Matter of the Petition for Redetermination)
 4 Under the Sales and Use Tax Law of:)
 5 ERITECH INTERNATIONAL, INC.) Account Number SR AC 101-112916
 6 Petitioner) Case ID 469541
 7) Glendale, Los Angeles County

8 Type of Business: Retailer of electronics

9 Audit period: 07/01/04 – 03/31/08

10 Items in dispute: None

	<u>Tax</u>	<u>Penalty</u>
12 As determined:	\$131,900.50	\$13,190.12
13 Adjustment - Sales and Use Tax Department	- 24,549.29	- 2,454.97
13 - Appeals Division	- 160.42	- 16.04
14 - Post Board Hearing	<u>- 82,109.13</u>	<u>- 8,210.93</u>
14 Proposed redetermination	<u>\$ 25,081.66</u>	<u>\$ 2,508.18</u>
15 Proposed tax redetermination	\$25,081.66	
16 Interest	7,253.56	
16 Negligence penalty	<u>2,508.18</u>	
17 Total tax, interest, and penalty	\$34,843.40	
17 Payments	<u>- 34,843.40</u>	
18 Balance Due	<u>\$ 00.00</u>	

19 The Board held a hearing regarding this matter on March 23, 2011, at which time the
 20 deficiency consisted of disallowed claimed nontaxable sales of \$249,215, unreported sales of
 21 \$1,061,920, excess district tax reimbursement measured by \$186,160, and a negligence penalty, all of
 22 which petitioner disputed. Since petitioner agreed to provide additional records and the Sales and Use
 23 Tax Department (Department) agreed that a reaudit was warranted, the Board ordered a reaudit.
 24 Petitioner submitted reconstructed records for the reaudit which the Department concluded were
 25 sufficient to regard as materially accurate (e.g., the reconstruction agreed to third-party shipping and
 26 payment documentation). Based on the reconstruction, the reaudit reduced the measure of unreported
 27 sales by \$995,321, from \$1,061,920 to \$66,599 (reducing the overall deficiency in taxable measure to
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1 \$315,814), and reduced the measure of excess district tax collected by \$184,537, from \$186,160 to
2 \$1,623.

3 The Department's report indicates that petitioner agrees to the reaudit findings. We asked the
4 Department whether this means petitioner concedes the remainder of the liability, and in particular
5 whether petitioner concedes the negligence penalty. The Department has advised us that the auditor
6 did in fact discuss application of the negligence penalty with both the petitioner and petitioner's
7 representative, and they agreed to the assessment of the penalty. Although the reaudit has resulted in a
8 substantial reduction, it still represents an error of 29 percent when compared to reported taxable sales,
9 and this is a clear case of negligence in maintaining records. Accordingly, we recommend that the tax
10 and penalty be redetermined in accordance with the post-hearing reaudit, and petitioner agrees.

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12 Summary prepared by Deborah A. Cumins, Business Taxes Specialist III

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