

CALIFORNIA STATE BOARD OF EQUALIZATION

APPEALS DIVISION PETITION FOR REHEARING SUMMARY

In the Matter of the Petition for Reallocation )
of Local Tax Under the Uniform Local Sales )
and Use Tax Law of: )
CITY OF FILLMORE ) Case ID 466375
Petitioner )

Taxpayer: Seller of uniforms and other related items
Date of Knowledge: March 27, 2008
Allocation Period: April 1, 2007 - Current
Amount in Dispute: \$842,821^1

The Board heard this matter on November 16, 2011, concluding that the petition should be denied because the local tax is properly allocable through the countywide pools of the places of use rather than directly to petitioner.

UNRESOLVED ISSUE

Issue: Whether the petition for rehearing should be granted. We conclude that the petition for rehearing should be denied.

In its petition for rehearing, petitioner reiterates the same arguments it made throughout the appeals process, including at the Board hearing. Petitioner has not provided any new arguments or any new evidence that has not already been considered, nor has it shown that the Board's decision is wrong. However, upon further consideration, we believe that it would be appropriate to accommodate petitioner's request for a more complete statement of reasons for the Board's denial of the petition for reallocation of local tax than had been included in the December 1, 2011 notification to petitioner, by replacing the December 1, 2011 statement of reasons with the following:

The Board found that one or both of the requirements for the application of sales tax set forth in Regulation 1620, subdivision (a)(2)(A) were not met, that is, that the sales occurred in California and that there was some participation in the sales by a California location of Taxpayer: the contract did not include an F.O.B. destination provision or explicitly state a

^1 This is the amount that the taxpayer reported to petitioner from April 1, 2007, through March 31, 2012.

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1 requirement that Taxpayer must deliver at Customer's destination and thus title passed and the  
2 sales occurred at the time and place of shipment outside California in accordance with  
3 California Uniform Commercial Code section 2401 and Regulation 1628, subdivision  
4 (b)(3)(D); and/or, the unrelated third party's activity of processing monthly a Purchase Order  
5 and Authorization to Release Inventory at its office in Fillmore does not constitute negotiation  
6 or participation in the sales by a California place of business of Taxpayer and Taxpayer has not  
7 conducted negotiations or taken orders at that office during the period at issue, even though  
8 Taxpayer was issued a seller's permit.

9 The Board denied the petition because the sales are subject to use tax and not sales tax and  
10 ordered the reallocation of local tax in the amount of \$842,821 on such sales through the  
11 countywide pools of the places of use.

12 Since petitioner has not shown that the Board's decision is wrong and has not provided any other basis  
13 for granting a new hearing, and since we conclude that the Board's decision is indeed correct, we  
14 recommend that the petition for rehearing be denied. We further recommend that the notice to  
15 petitioner denying its petition for rehearing include the statement of reasons set forth above to explain  
16 the reasons for the Board's denial of the petition for reallocation.

17 Summary prepared by Trecia M. Nienow, Tax Counsel IV  
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