

M e m o r a n d u m**320.0220**

To: Mr. Frank Zuppan
Return Review Section - MIC:35

Date: June 11, 1993

From: Thomas J. Cooke
Tax Counsel

Subject: The W--- S---, Inc.
Account No. SR -- XX-XXXXXX

In a memorandum to the Legal Division dated April 22, 1993, you requested an opinion on whether interest assessed by a determination may be waived pursuant to Revenue and Taxation Code section 6593.

The taxpayer, dba U--- R---'s, operated an electronics store in Los Angeles that was damaged in the Rodney King riots. The taxpayer requested and was granted relief from the interest and penalty on the taxes due for the second and third quarters of 1992.

On June 14, 1992, the taxpayer filed an amended return self-assessing additional tax of \$18,132.00 over that declared in the initial return. Interest of \$352.85 was assessed on this additional tax by the issuance of a determination.

Revenue and Taxation Code sections 6592 (Excusable Delay) and 6593 (Disaster) permit the Board to relieve a taxpayer of the interest and/or penalty provided by various code sections (including section 6591). Section 6591 states that any person who fails to pay any tax, except amounts of determinations made by the Board under Article 2 (commencing with Section 6481), or Article 3 (commencing with Section 6511), within the time required, shall pay a penalty.

Section 6591 exempts unpaid determination amounts from the penalty otherwise applicable to unpaid taxes.

If a taxpayer is eligible to be relieved of the penalty and/or interest pursuant to Revenue and Taxation Code sections 6592 and 6593, it is irrelevant that the penalty or interest was assessed by a determination.

TJC:sr