



STATE BOARD OF EQUALIZATION

TAXPAYERS' RIGHTS ADVOCIATE OFFICE MIC: 70
450 N STREET, SACRAMENTO, CALIFORNIA 95814-0070
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0070
PHONE 1-916-324-2798 • FAX 1-916-323-3319
TOLL-FREE 888-324-2798
www.boe.ca.gov

BETTY T. YEE
First District, San Francisco

SEN. GEORGE RUNNER (Ret.)
Second District, Lancaster

MICHELLE STEEL
Third District, Orange County

JEROME E. HORTON
Fourth District, Los Angeles

JOHN CHIANG
State Controller

CYNTHIA BRIDGES
Executive Director

August 11, 2014

Mr. Norwood Clark

Dear Mr. Clark:

Thank you for your participation in the June 24, 2014, Board of Equalization (BOE) Taxpayers' Bill of Rights Hearing held in Culver City. I appreciate your taking the time to provide your concerns about businesses being taxed twice and the need for assistance during a sales and use tax audit.

During the hearing you explained that you believe the business is being taxed twice: first, when you pay sales tax reimbursement to your vendor when purchasing inventory for the restaurant, and second, and when you remit sales tax to the state on sales made to your customers. You also requested information regarding the proper method to report these transactions when filing your sales and use tax return. You mentioned that your business is currently being audited, and asked about assistance.

I understand that, immediately after the hearing, you met with Mr. Kevin Hanks, Chief, Headquarters Operations Division, who spoke to you about your concerns. During the discussion, I understand Mr. Hanks advised you that, during an ongoing audit, it is best to address your questions to the auditor or the auditor's supervisor; he identified the kinds of items that should or should not be purchased for resale in your business; and he discussed audit procedures. I also understand that Mr. Hanks sent a July 3, 2014, follow-up email to you concerning purchases of items for resale in your restaurant. In the email he advised you on how to claim a tax-paid purchases resold deduction on your sales and use tax return when the items are purchased tax-paid from your vendors. In order to ensure that all of your issues are adequately addressed by audit staff my office contacted the Culver City District Administrator and District Principal Auditor and apprised them of your questions and concerns.

As I explained during the Taxpayers' Bill of Rights Hearing, the BOE's audit program is designed in part to help educate taxpayers regarding their sales tax responsibilities and to ensure they properly report their tax liability. Therefore, as part of the audit process, auditors are expected to anticipate questions from taxpayers and provide helpful information in response. Additionally, as part of the BOE's educational outreach efforts, the BOE offers a variety of online and printed educational tools, as well as seminars and webinars, to assist businesses in learning about their tax responsibilities and how to report and remit the taxes and fees due. An

industry guide, *Tax Guide for Restaurant Owners*¹, is available on the BOE's website to help taxpayers better understand the tax obligations specific to the dining and beverage industry. The guide also provides access to resources pertinent to restaurant businesses such as regulations, publications, and special notices.

The BOE periodically offers in-person seminars targeted to the needs of specific business sectors, including a seminar designed for food service businesses. The BOE identifies businesses that may benefit from these seminars based on registration information. Invitations are sent via mail and email to those businesses in close proximity to the seminar location. You may also find information on the BOE website about seminars² scheduled to occur outside your area, which you are welcome to attend.

Thank you again for sharing your concerns as part of the annual hearing process. If you have any further questions regarding this matter, please do not hesitate to contact me at (916) 324-2798 or you may also contact Ms. Lauren Simpson of my staff at (916) 455-0218.

Sincerely,

Todd C. Gilman
Chief, Taxpayers' Rights and
Equal Employment Opportunity Division

TCG:vs (TPD)
Clark 081114.docx

cc: Honorable Jerome E. Horton, Chairman
Honorable Michelle Steel, Vice Chair
Honorable Betty T. Yee, Board Member, First District
Senator George Runner (Ret.), Second District
Honorable John Chiang, State Controller
Ms. Marcy Jo Mandel, Deputy State Controller
Mr. Mike Gipson, Board Member's Office, Fourth District
Mr. David Hunter, Board Member's Office, Fourth District
Ms. Shellie Hughes, Board Member's Office, Fourth District
Mr. Joel Angeles, Board Member's Office, Third District
Mr. Neil Shah, Board Member's Office, Third District
Mr. Tim Treichelt, Board Member's Office, Third District
Mr. Alan LoFaso, Board Member's Office, First District
Ms. Maria Delgado, Board Member's Office, First District
Mr. Sean Wallentine, Board Member's Office, Second District
Mr. James Kuhl, Board Member's Office, Second District
Ms. Cynthia Bridges, Executive Director, MIC 73
Mr. David Gau, Chief Deputy Director, MIC 101
Mr. Randy Ferris, Chief Counsel, MIC 83
Mr. Jeffrey McGuire, Deputy Director, Sales and Use Tax Department, MIC 43
Mr. Kevin Hanks, Chief, Headquarters Operations Division, MIC 49

¹ <http://www.boe.ca.gov/industry/restaurant.html>

² http://www.boe.ca.gov/news/news_and_events.htm#Events

Mr. Wayne Mashihara, Chief, Field Operations, MIC 46
Ms. Susanne Buehler, Chief, Tax Policy Division, MIC 92
Mr. Dan Leddy, Manager, Taxpayers' Rights Advocate Office, MIC 70
Ms. Lauren Simpson, Taxpayers' Rights Advocate Office, MIC 70