



STATE BOARD OF EQUALIZATION
TAXPAYERS' RIGHTS ADVOCATE 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
www.boe.ca.gov

BETTY T. YEE
First District, San Francisco

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Fourth District, Los Angeles

JOHN CHIANG
State Controller

CYNTHIA BRIDGES
Executive Director

September 23, 2014

Mr. Joseph Love

Dear Mr. Love:

Thank you for your participation in the June 24, 2014, Taxpayers' Bill of Rights Hearings held in Culver City. I appreciate your taking the time to explain the problems you experienced in 2010 and 2011 because of the inconsistent and incorrect advice you received from Board of Equalization (BOE) staff regarding your Sales and Use Tax Return. You expressed frustration at being ignored, and you stated that you believe you are due some form of monetary restitution for the expenses you incurred in having to make numerous trips to the Van Nuys District Office in attempts to resolve the issue.

I was deeply concerned about the poor service you described, and assigned Taxpayers' Rights Advocate (TRA) Office staff to research this matter. First, it may be helpful to give some general background concerning the format and manner of your tax return filings.

We learned that when you registered for a seller's permit in 2005 your account was set up to receive the *Short Form - Sales and Use Tax Return*, BOE-401-EZ, which was typical for new permits with single locations. The Short Form consists of only one page and contains an abbreviated list of common deductions, along with a fill-in line for "Other Deductions." In contrast, the full-length return form, *State, Local, and District Sales and Use Tax Return*, BOE-401-A2, is currently an 8-page document with pages 2 and 3 devoted to schedules for calculating various types of deductions (nontaxable transactions) to be claimed on page 1.

In 2009, a majority of taxpayers transitioned from paper to electronic filing (efiling) via the BOE's website. You filed your first return electronically for First Quarter 2009.

I understand that, based on your business operations, you generally have the need to claim a deduction for "Cost of Tax-Paid Purchases Resold Prior to Use." However, because this particular deduction is not separately listed on the Short Form return, your returns were questioned by Return Analysis Unit (RAU) staff. Unfortunately, your explanation for the deduction, entered on the "Other Deductions" line, was not properly reviewed by RAU staff. This resulted in subsequent returns being questioned and notices sent.

After you wrote to Chairman Horton's office, the Chairman's staff ensured that your concerns were addressed by requesting the RAU Administrator personally address the issue. For reference, I have enclosed a copy of a letter you mentioned in your presentation to the Board, dated November 15, 2011 from Mr. Dario Romano, Administrator, Return Analysis and Allocation Section. In his letter, as a follow-up to a telephone conversation with you the previous day, Mr. Romano:

- Offered an apology for “repeatedly questioning your returns after you originally provided sufficient information to accept your returns as filed;”
- Described the solution that was implemented (updating your account to provide you the more detailed Sales and Use Tax Return form BOE-401-A2 that would allow you to utilize the Cost of Tax Paid Purchases Resold deduction line on future returns); and
- Provided a schedule showing how payments were applied, included those you remitted in response to BOE correspondence.

Mr. Romano also responded by telephone on November 22, 2011 to your written response to him of November 17, 2011.

It appears that in 2010 RAU staff was still becoming familiar with all the new procedures required by the recent transition to e-filing by most of the sales and use tax accounts. This, however, does not excuse the poor service you received over an extended period of time, which cost you time, expenses, and frustration. Given the acknowledged errors made by staff, I would prefer to inform you that the BOE will be compensating you for your expenses related to this matter. Unfortunately, however, there is no statute that grants the BOE the authority to do so.

Whenever my office discovers a lapse in policy or procedure that causes harm or inconvenience to a taxpayer, one of our responsibilities is to follow up with the BOE area of responsibility to ensure that any systemic problems are remedied, either through enhanced staff training, more thorough educational outreach efforts, or changes in procedures.

In answer to our inquiries as to what steps have been taken to prevent similar negative experiences for other taxpayers, we learned that staff in RAU has indeed learned from your experience and has placed renewed emphasis on the need for extensive employee training when new processes are implemented. Specifically, the following training and process improvements were undertaken:

- Staff is continually reminded that, when working returns, they need to review the account history, verify comments, and call the taxpayer if necessary.
- All new Business Taxes Representatives attend a structured class.
- All staff receives classroom training for significant new processes.
- Lessons learned are discussed in meetings between supervisors and specialists, and shared in team meetings.

In addition, the following RAU staff development processes were previously established and are ongoing:

- Training materials are made conveniently available electronically, along with procedures, unit policy, and PowerPoint presentations.
- Specialists discuss new and ongoing issues in monthly meetings.
- Staff receives detailed training on how to review electronically filed returns.
- RAU staff visits District Offices to provide insight on RAU processes, to foster better communication.
- An internal RAU email box was implemented to more efficiently process requests and inquiries from District Offices.

Thank you again for sharing your experience as part of the annual hearing process. Although there is no legal basis for the BOE to monetarily compensate you, I hope you can take some degree of satisfaction in knowing that, by bringing this matter to the attention of your Board Member in 2011, your efforts led to significant improvements that were undertaken to prevent similar negative experiences for other taxpayers. If you have any further questions regarding this matter, please do not hesitate to contact me at 1-916-324-2798. You may also contact Ms. Lauren Simpson of my staff at 1-916-445-0218.

Sincerely,

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

TCG: ls
LoveResponse092314.pdf

Enclosure

cc (with enclosure):

Honorable Jerome E. Horton, Chairman
Honorable Michelle Steel, Vice Chair
Honorable Betty T. Yee, 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. Joel Angeles, Board Member's Office, Third District
Mr. Sean Wallentine, Board Member's Office, Second District
Mr. Alan LoFaso, Board Member's Office, First District
Ms. Maria Delgado, Board Member's Office, First District
Mr. David Hunter, Board Member's Office, Fourth District
Ms. Shellie Hughes, Board Member's Office, Fourth District
Mr. Neil Shah, Board Member's Office, Third District
Mr. Tim Treichelt, Board Member's Office, Third 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. Robert Tucker, Assistant Chief Counsel, MIC 82
Mr. Jeffrey McGuire, Deputy Director, Sales and Use Tax Department, MIC 43
Mr. Kevin Hanks, Chief, Headquarters Operations Division, MIC 49
Mr. Wayne Mashihara, Chief, Field Operations, MIC 46

Ms. Susanne Buehler, Chief, Tax Policy Division, MIC 92
Mr. Dario Romano, Business Taxes Administrator, "ONE" Team, MIC 40
Mr. Brian Manuel, Administrator, Return Analysis and Allocation Section, MIC 32
Ms. Kristen Connor, Administrator, Return Analysis Unit, Group A, MIC 35
Ms. Joy Gonzalez-Cabatic, Administrator, Return Analysis Unit, Group B, MIC 35
Mr. Dan Leddy, Manager, Taxpayers' Rights Advocate Office, MIC 70
Ms. Lauren Simpson, Taxpayers' Rights Advocate Office, MIC 70