

1 CALIFORNIA STATE BOARD OF EQUALIZATION

2 APPEALS DIVISION BOARD HEARING SUMMARY

3 In the Matter of the Petition for)
 4 Redetermination and Claim for Refund)
 4 Under the Sales and Use Tax Law of:)
 5) Account Number SD AC 101-278938
 5 JAY NEWMAN) Case ID's 519365 & 571504
 6))
 6 Petitioner/Claimant) Tarzana, Los Angeles County
 7 _____)

8 Transaction: Purchase of artwork

9 Liability period: 11/17/04

10 Item Disputed Amount

11 Interest \$140

	<u>Tax</u>	<u>Interest</u>
13 As determined	\$849.42	\$353.96
14 Pre-D&R adjustment	<u>0.00</u>	<u>-213.80</u>
14 Proposed redetermination	\$849.42	\$140.16
15 Less concurred	<u>-849.42</u>	<u>0.00</u>
15 Balance, protested	<u>\$ 0.00</u>	<u>\$140.16</u>
16 Proposed tax redetermination	\$849.42	
17 Interest through 4/30/07	<u>140.16</u>	
Total tax and interest	\$989.58	
18 Payments	<u>-989.58</u>	
19 Balance Due	<u>\$ 0.00</u>	

20 A Notice of Appeals Conference was mailed to petitioner's address of record and the notice
 21 was not returned by the Post Office. Petitioner did not respond to the notice or appear at the appeals
 22 conference, which was held as scheduled. We thereafter sent a letter offering petitioner the
 23 opportunity to provide any additional arguments and evidence in writing. Petitioner responded with a
 24 request for relief of interest.

25 These matters were scheduled for Board hearing in January 2012, but petitioner did not respond
 26 to the Notice of Hearing. Accordingly, they were scheduled for decision on the nonappearance
 27 calendar. Petitioner subsequently requested that the matters be rescheduled for hearing.
 28

UNRESOLVED ISSUE

1
2 **Issue:** Whether further relief of interest is warranted. We conclude no further relief is
3 warranted.

4 The Sales and Use Tax Department (Department) received information from the United States
5 Customs and Border Patrol that on November 17, 2004, petitioner, a California resident, imported
6 artwork from Italy. In August 2009, the Department provided petitioner a consumer use tax return to
7 report and pay the applicable use tax, but petitioner failed to file the return or pay the tax. Petitioner
8 informed the Department that he purchased the artwork for the equivalent of \$10,296. On November
9 6, 2009, the Department issued a Notice of Determination to petitioner for use tax of \$849.42, plus
10 interest of \$353.96 for the period August 1, 2005, through November 30, 2009. On November 27,
11 2009, petitioner paid the NOD in full, and filed a petition for redetermination, and later filed a claim
12 for refund. Petitioner concedes he owed the use tax, but argues that he should not be held liable for the
13 interest because he was not aware of the existence of the use tax and there was an unreasonable error or
14 delay by the Board because it should have collected the use tax at the time he imported the artwork
15 into California.

16 Petitioner's lack of awareness of the use tax does not constitute a basis for relief, nor is the
17 Department authorized to collect use tax at the point of entry, as petitioner apparently contemplates.
18 Taxpayers are given the opportunity to report their use tax liability on their state income tax returns,
19 which are due on April 15 of the year following the tax year. The Department states that it does not
20 begin processing unpaid use tax liabilities until after the income tax filing deadlines, and estimates that
21 it should take approximately two years from the date of the income tax filing of April 15 of the
22 following year in which the item was brought into California to notify taxpayers of their use tax
23 obligation, that is, here, before May 1, 2007. Since the Department did not notify petitioner within that
24 period here, the Department has agreed to relief of interest accruing from May 1, 2007, through the
25 date of payment. We find that there was no unreasonable error or delay because the Department did
26 not notify petitioner of his use tax liability by April 30, 2007. Accordingly, we conclude that no
27 further relief of interest is warranted.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

OTHER MATTERS

None.

Summary prepared by Pete Lee, Business Taxes Specialist II