

STATE OF CALIFORNIA
BOARD OF EQUALIZATION

465.1542

In the Matter of the Petition)
for Redetermination of State)
and Local Sales and Use Taxes)
)
R. J. W--- and)
V. N---, a partnership)
dba B--- W--- S---)
)
Petitioner)

MODIFIED
DECISION AND RECOMMENDATION

No. SR -- XX XXXXXX-010

Summary of Prior Recommendation

Petitioner had conducted business using the seller's permit of a predecessor in the business and had filed returns under the predecessor's account number. Petitioner had been regarded as having failed to file returns and tax had been asserted from the time that petitioner began in business. In addition, a penalty for failure to file returns had been imposed.

Basis for Modification

Petitioner filed returns under the seller's permit number of its predecessor. It is the policy of the Board to regard returns filed under a predecessor's permit number as returns filed by the actual seller. Therefore, the audit should be limited to the three-year statute of limitations of Section 6487, and the penalty for failure to file returns does not apply. An appropriate adjustment should be made.

Recommendation

Delete from the amount subject to tax all sales outside the three-year period. Delete the penalty for failure to file returns. Petitions Unit to make adjustments.

H. L. Cohen, Hearing Officer

3-10-82
Date

Reviewed for Audit:

Principal Tax Auditor

March 12, 1982
Date