

M e m o r a n d u m

170.0006.100

To : Mr. Steve Adams
Supervising Tax Auditor, Petitions Section

Date: August 18, 1997

From : Thomas J. Cooke
Tax Counsel

Telephone: (916) 445-6496
CalNet 485-6496

Subject: M--- M---/C---, Inc.
Permit No. SR -- XX-XXXXXX-010

Gary Jugum has requested that I respond to your memorandum to him dated August 11, 1997 concerning the above taxpayer.

In your memorandum, you state that a Notice of Determination was issued to the taxpayer on December 10, 1996 for the period July 1, 1992 to September 30, 1995. A timely petition for redetermination was filed on December 24, 1996.

On May 31, 1996, the taxpayer filed Chapter 11 bankruptcy. The case was converted to a no-asset Chapter 7 bankruptcy. The San Jose District Office states that the no-asset case was closed on March 14, 1997. You ask if the petitioned liability is subject to discharge and whether the case should proceed to an appeals conference.

11 U.S.C. section 727(a) provides that the bankruptcy court shall grant the debtor a discharge unless the debtor is not an individual. This corporate taxpayer cannot discharge its sales tax liability in a Chapter 7 no-asset case.

It is our recommendation that the Board proceed with the taxpayer's petition. If the taxpayer chooses not to cooperate in the Appeals process, the Board should implement its usual procedures.

TJC/cmm
Attachments

cc: San Jose District Administrator (GH)