



**STATE BOARD OF EQUALIZATION**

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*Executive Director*

September 6, 1995

A--- G---, President

--- --- ---

Consultants Incorporated

--- Building

XXXX --- Road

Suite XXX

---, California XXXXX

Re: J--- L---, Dual Determination  
Account No. SR -- XX-XXXXXX-1

Dear Mr. G---:

Mr. Jeff McGuire of the Board's Taxpayer's Rights Advocate Office has requested that this office respond to your letter to him dated July 7, 1995, concerning the above taxpayer.

Your letter to Mr. McGuire is similar to your letter to the Board dated June 14, 1994, in which you argued that the dual determination issued to Mr. L--- was invalid and should be canceled. We believe that our June 23, 1994 response to your initial letter correctly stated the reasons why the determination was validly issued.

In your July 7, 1995 letter, you state the relevant facts as follows:

"1. J--- L--- was a stockholder of C--- S--- Corporation, which was suspended for a period of time. Mr. L--- was a stockholder only for a portion of the period during which the corporation was suspended. The Board issued the dual determination for the period of time the corporation was suspended and Mr. L--- was a stockholder.

"2. Mr. L---'s address was not listed in the Board's records for C--- S--- Corporation.

"3. In October 1984, Mr. L--- severed his relationship with C--- S--- Corporation and started a new corporation, V--- S---, Inc. He was the president of

the new corporation and, as such, completed the application to obtain a seller's permit for the new corporation.

"4. The mailing address for V--- S---, Inc., as listed on the application, was XXX West --- Avenue, ---, CA XXXXX. This address was also the then-current residence address for Mr. L---.

"5. The application requested the residence address of the corporate officer completing the application. Since Mr. L--- completed the application, he listed his then-current residence address.

"6. In late June or early July 1985, Mr. L--- informed the Board of a change of mailing address for V--- S--- from XXX West --- Avenue, ---, CA XXXXX to XXXX North --- Street, ---, CA XXXXX. The Board properly changed the mailing address for V--- S--- in its records.

"7. Sometime in 1986, Mr. L--- was contacted at V--- S--- by the Fresno district auditor who was performing a sales and use tax audit of C--- S--- Corporation. They met at V--- S---'s location at XXXX North --- Street, ---, CA XXXXX. Subsequent to this meeting Mr. L--- had no further no [sic] contact from the Board **until** early October 1988.

"8. The Board issued the Notice of Determination against J--- L--- on February 25, 1987, and mailed the determination to XXX West --- Avenue, ---, CA XXXXX, which was the original mailing address for V--- S--- and the former residence address for Mr. L---. The determination reached the local branch post office on February 27, 1987. At that point the post office indicated that the mail forwarding order had expired and immediately returned the envelope containing the determination back to the Board's headquarters office. Upon receipt of the envelope, the Board made no attempt to remail or forward the determination to Mr. L---."

In your letter, you repeat your contention that "Mr. L---'s address was not listed in the Board's records for C--- S--- Corporation" even after this office has furnished you with pages of the *Report of Field Audit for California Sales Corporation* dated February 3, 1987, listing the --- Avenue address for Mr. L---. When the Board issued the dual determination against Mr. L--- in February 1987, the Notice of Determination was mailed to Mr. L---'s address "as it appears in the records of the board" (Rev. & Tax. Code § 6486) contained in the California Sales Corporation file (Acct. No. SR -- XX-XXXXXX).

You state, however, that after Mr. L--- terminated his relationship with C--- S--- Corporation, he became president of a new corporation, V--- S---, Inc. and applied for a seller's permit in the name of this new corporation. Mr. L--- listed his address as corporate officer on

the application for V--- S---'s seller's permit as XXX West ---, Fresno, CA. That application was dated October 24, 1984. It appears, therefore, that the Notice of Determination mailed to Mr. L--- in February of 1987 was mailed to the last known address for Mr. L--- "as it appears in the records of the board" as listed in both the C--- S--- Corporation file and in the V--- S---, Inc. file (Acct. No. SR -- XX-XXXXXX). Mr. L--- did not request that the address listed for him as corporate officer of V--- S--- in either file be changed to a more current address. The Board cannot assume that a change of address submitted for a business should serve to change the listed address of a corporate officer of that business.

You state in your letter:

"In this situation, Mr. L---, as an individual, was not a taxpayer or a retailer required to be registered with the Board. The residence address he listed on the V--- S--- application was not intended as an address where he expected to receive official notices from the Board, nor was he informed by the Board that this was the purpose for listing his residence address on the application. Prior to issuing the dual determination, Mr. L--- was not informed by the Board that they considered him to be a retailer for sales and use tax purposes. As such, he did not anticipate receiving any official notices from the Board as an individual."

As you know, the information required by the Board when issuing a seller's permit is obtained for Board purposes related to that permit. The Board issued a seller's permit to the C--- S--- Corporation. When this corporation was suspended, the corporation principals knew, or should have known, that the corporation could not continue to sell tangible personal property under the seller's permit issued to the corporation.

Very truly yours,

Thomas J. Cooke  
Staff Counsel

TJC/cmm