OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:	OTA Case No. 21017123
WATERFORD IRRIGATION SUPPLY, INC.	CDTFA Case ID 743-986

OPINION

Representing the Parties:

For Appellant: John Nydam, Chief Financial Officer

For Respondent: Courtney Daniels, Tax Counsel III

For Office of Tax Appeals: Lisa Burke, Business Taxes Specialist III

N. DANG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 6901, Waterford Irrigation Supply, Inc. (appellant) appeals a decision issued by the California Department of Tax and Fee Administration (respondent)[1] denying appellant's claim for refund of $16,362 for the period January 1, 2017, through March 31, 2017 (claim period).

We decide this matter based on the written record because appellant waived its right to an oral hearing.

ISSUE

Whether appellant is entitled to a refund based on its reliance on information posted on respondent's website.

FACTUAL FINDINGS

1. Appellant is a retailer of irrigation equipment and supplies. During the claim period, appellant made sales to farmers of irrigation products, such as pipes, tubing, and sprinklers, which qualified for the partial tax exemption for farm equipment and

[1] The Sales and Use Tax Law was formerly administered by the California State Board of Equalization (SBE). Effective July 1, 2017, the administrative functions of SBE relevant to this case were transferred to respondent. (Gov. Code, § 15570.22.) Thus, when referring to acts or events which occurred before July 1, 2017, the term "respondent" shall refer to SBE.

machinery pursuant to R&TC section 6356.5 and California Code of Regulations, title 18, section 1533.1.

2. Beginning January 1, 2017, the partial tax exemption rate decreased by 0.25 percent (from 5.25 percent to 5.00 percent).
3. During the claim period, appellant was unaware of this rate change and continued to charge and collect tax reimbursement from its customers based on the higher 5.25 percent exemption rate.
4. Upon e-filing its return for the claim period, appellant discovered that the partial tax exemption rate had decreased by 0.25 percent, and as a result, the tax reimbursement it had collected was insufficient to fully satisfy its tax liability for the claim period.
5. Appellant paid the amount due and subsequently filed a refund claim for $16,362, which represents the 0.25 percent of its sales for which it did not collect tax reimbursement.

DISCUSSION

Appellant does not dispute the tax owed nor does it allege that it overpaid its liability for the claim period. Rather, appellant's sole argument is that it should be relieved of liability for any unreimbursed tax because it detrimentally relied upon outdated information posted on respondent's website indicating that the applicable partial tax exemption rate for the claim period was 5.25 percent. Appellant asserts that respondent's failure to update its website deprived appellant of the ability to obtain full reimbursement for the tax from its customers.

Respondent concedes that it failed to update a portion of its website prior to the 0.25 percent rate change, but nonetheless, it had notified all sales and use tax accountholders of the change prior to January 1, 2017, either by email or postcard, and by posting an informational notice on its website.

Appellant cites no authority for its position. However, as a matter of law, we note there is no statutory relief provision for taxpayers who detrimentally rely on erroneous or outdated information posted on respondent's website. Moreover, the general common law rule is that the misrepresentations of an administrative official will not exempt a taxpayer who relied upon them from the obligation to pay the tax that is rightfully owed to the state.[2] (*U.S. Fidelity & Guaranty*

[2] One notable exception (not relevant here) is where the taxpayer expressly seeks and receives written advice from respondent pursuant to R&TC section 6596.

Co. v. State Bd. of Equalization (1956) 47 Cal.2d 384, 389-391 [discussing the applicability of the equitable doctrine of estoppel in tax cases].)[3] Thus, regardless of whether appellant received any advance notice from respondent of the rate change, there is simply no legal basis for relieving or refunding the tax under these circumstances.

HOLDING

Appellant is not entitled to a refund based on its reliance on information posted on respondent's website.

DISPOSITION

We sustain CDTFA's action denying appellant's refund claim.

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Nguyen Dang
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Nguyen Dang
Administrative Law Judge

We concur:

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Teresa A. Stanley
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Teresa A. Stanley
Administrative Law Judge

DocuSigned by:
Sara A. Hosey
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Sara A. Hosey
Administrative Law Judge

Date Issued: 7/22/2021

[3] As applied to tax disputes, equitable estoppel is an affirmative defense asserted for purposes of preventing the government from assessing or collecting the tax owed on the basis that the taxpayer detrimentallyrelied upon the inaccurate representations of the government or its representatives. (See, e.g., *La Societe Francaise De Bienfaisance Mutuelle v. California Employment Commission* (1943) 56 Cal.App.2d 534.)