



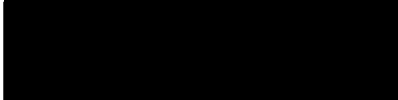
CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION  
12750 CENTER COURT DRIVE SOUTH, STE 400 CERRITOS, CA 90703-8594  
1-562-412-2655  
www.cdtfa.ca.gov

GAVIN NEWSOM  
Governor

YOLANDA RICHARDSON  
Secretary, Government Operations Agency

NICOLAS MADUROS  
Director

MITCHELL STRADFORD



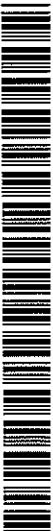
Letter Date: April 19, 2021  
Letter ID: L0010099119  
Account Type: Sales and Use Tax  
Account Number: [Redacted] 57  
Audit ID: [Redacted]  
Audit Period From: October 1, 2016  
Audit Period To: December 31, 2019

Dear [Redacted]

Based on our review of the records for the account and period(s) above, our Reaudit results and explanation of findings are provided below. Please review our findings and the provided working papers. If there is any portion you do not understand, contact us at the above address for clarification. Please note, the audit working papers are not final, and if the review results in a material change you will be informed prior to the amount being billed in the form of a *Notice of Determination*, or the issuance of a *Notice of Refund/Statement of Liability*.

<b>Proposed Liability</b>	
<b>Examination Period: October 1, 2016 to December 31, 2019</b>	
Tax	\$749,921.00
Credits	\$ (446,409.00)
Less Adjustments	\$0.00
Payments	\$0.00
Interest through April 30, 2021	\$60,067.57
Penalty(ies)	\$30,351.23
<b>Total**</b>	<b>\$393,930.80</b>

\*\*if multiple billings have occurred, the audit liability may not equal the sum of the billings.



Please cut along the line and return the bottom portion with your payment.

CDTFA-5020 REV. 1 (8-19)  
CDTFA-5000 (8-17)

**PAYMENT VOUCHER**



Account Type: Sales and Use Tax  
Account Number: [Redacted] 57  
Voucher Number: 454505678

L0010099119

CDTFA USE ONLY

<b>Amount Due Upon Receipt:</b>	<b>\$393,930.80</b>
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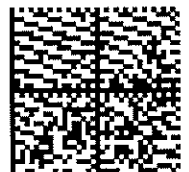
Enter amount paid

\$

Make check payable and send with the voucher to:  
California Department of Tax and Fee Administration  
PO BOX 942879  
Sacramento CA 94279-3535  
or visit [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov) to pay right now.

MITCHELL STRADFORD  
[Redacted]  
508 GIBSON DR STE 120  
ROSEVILLE CA 95678-5797

Please write your Account number and tax period end date on your check.



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Interest continues to accrue monthly on unpaid tax and will be added to the current interest amount shown on page 1 of this letter. Paying all or part of the liability shown on the *Notice* will in no way affect your right to protest portions with which you do not agree. If you would like to make a payment before receiving the *Notice*, please send your payment with the attached voucher or, if you prefer, you can pay online by visiting our website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov) and select *Make a Payment*.

In general, you have six (6) months from the date of payment to file a claim for refund on any overpayments. If you have already filed a timely claim for refund on or after January 1, 2017, for a payment made with respect to this *Notice*, you do not need to file another claim for refund with each subsequent payment you make toward this liability. If you paid for more than one disputed liability, you must file a timely claim for refund for payments made for each *Notice*. Any balance will be refunded with credit interest, if applicable.

Although we have applied commonly accepted auditing procedures during your examination, the auditor may not have examined all of your transactions. There may still be transactions not reported correctly. If you have any questions about the application of tax to a product or transaction, please contact us in writing and we will provide you with a written response.

**Tax Measure Disclosed by Examination**

	Taxable Measure	District Measure	Tax Difference
12A - R1	1,127,896	1,127,896	\$107,151.00
12I - Taxable Self Consumed Merchandise Withdrawn from Ex - R1	22,353	22,353	\$2,092.00
12 C_R1 - Additional Taxable Sales Based on Recorded POS and Reported Taxable Sales Differences	526,547	526,547	\$47,992.00
12 D_R1 - Additional Mandatory Gratuities	359,210	359,210	\$33,217.00
12 E_R1 - Additional Taxable Event Sales	1,215,914	1,215,914	\$113,064.00
12G - Disallowed Claimed Other Deductions - R1	0	0	\$0.00
<b>Total:</b>	<b>3,251,920</b>	<b>3,251,920</b>	<b>\$303,516.00</b>

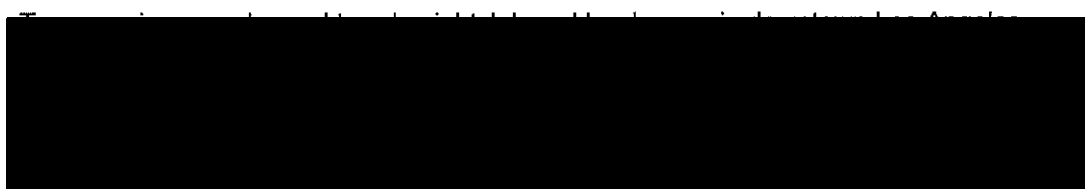
\*\*Due to rounding differences, totals on this page may display differently on this page than the front page.

**Explanation of Findings**

Type of Business  
Organization



Type of Transactions



Taxpayer serves bottled beer, liquor, and hors d'oeuvres. Entertainment (live DJ) on Fridays and Saturday nights. Nightly cover charge is \$20 (\$5 before 10:30PM) Taxpayer

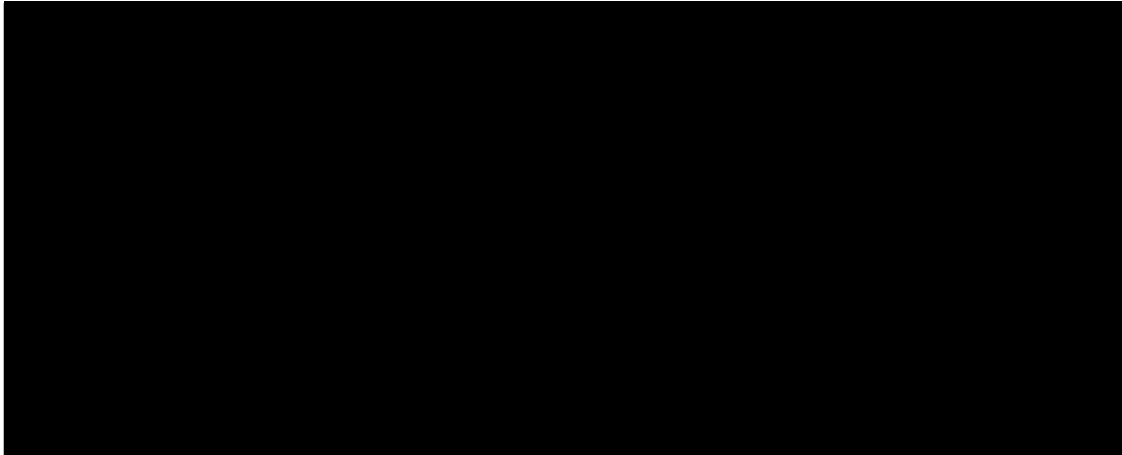
also are available for special events. Sample of events include film location, video gaming events, corporate functions, private parties, etc.

Please see Schedule 12H for a physical layout of the nightclub.

Books and Records	<p>Taxpayer maintains a single entry accounting system. Books and records were not considered adequate for sales and use tax audit purposes. Per taxpayer sales tax reimbursement is added to the selling price. Taxpayer explained that sales tax is added to the selling price. Taxpayer has not provided source documents for proof despite repeated requests by auditor. Taxpayer has a professional representative:</p> <p>Mitchell Stradford McClellan Davis LLC (855) 995-6789 mstradford@salestaxhelp.com</p> <p>POA secured and linked in CROS.</p>
Reporting Method	<p>The taxpayer prepares the Sales and Use Tax Return based on the POS reports. POS (2019 Toast, pre 2019 Micros) Sales are recorded and reported on a cash basis. Taxpayer provided incomplete daily POS reports for the audit period. Auditor has repeatedly requested supporting schedules and source documents for the reported amounts. None were provided by the taxpayer.</p>
Total Sales	<p>Taxpayer is a subsidiary and is reported under a FITR Consolidated Tax Return. No General Ledger, Financial Statements were provided after repeated request from Auditor. Auditor could not reconcile and verify total sales.</p>
Tax Accrual Account	<p>Taxpayer did not provide a sales tax accrual account.</p>
Verification and Findings	<p>Books and records were not sufficiently complete to verify the reported taxable sales; therefore, additional taxable sales were established using the Mark-Up Method of Computing Sales. Audited taxable purchases were factored by a shelf test markup, using January 2020 purchase invoices and corresponding selling prices provided by the taxpayer or his representative, disclosing an overall 133.94% error in reporting. Allowances were made for overpouring, spillage, and spoilage for liquor and wine. And the standard 1% breakage allowance for bottled beer. Standard allowance for self - consumption per AM 802.45 were allowed as well.</p> <p>Auditor circulated alcohol vendors and only received responses from 2 liquor vendors, Southern Wine and Young's Market. No responses received from the major beer and wine vendors. Auditor is still trying to reach out to obtain the purchase data. Vendors are understaffed and working remotely as a result of the present circumstances.</p> <p>Recorded purchase data from the POS reports were used for beer and wine audited purchases. Review of the recorded purchase data from the 2 vendors that responded indicate that recorded amounts are significantly understated compared to the audited purchases received from Southern Wine and Young's Market.</p>
Markup Analysis	<p>No markup analysis was performed since the taxpayer filed consolidated income tax returns and no reliable source of COGS was available.</p>
Other	<p>Bar Fact Sheet</p> <p>CDTFA 1311-B Bar Fact Sheet was completed at the nightclub premises on 11/25/2019. The following were present:</p>



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Other

Other Deduction

Claimed exempt other for the quarters 4Q-16, 1Q-17, 3Q-17, and 4Q-17 are for door cover charges and facility rentals for events. No supporting documents were provided (contracts with customers,

Charges related to the sale of tangible personal property ( taxable sales of food products, alcoholic drinks, sodas, etc.) are part of taxable gross receipts unless proven otherwise by the taxpayer (Regulation 1603).

Bad Debts

N/A

Paid Bills

The nature of the taxpayer’s business would indicate that most consumable supplies are purchased locally and tax-paid at source. Examination of consumable supplies was not deemed cost effective.

Fixed Assets

The nature of the taxpayer’s business would indicate that most fixed asset purchases are purchased locally and tax-paid at source. A physical tour of the premises indicate few and older equipment. Further examination of fixed assets was not deemed cost effective.

Self-Consumed Merchandise

Taxpayer explained that there is no formal complimentary and employee drink policy. Although discouraged by management, no internal control is in place to track and document self – consumption (comp drinks to customers, etc.). A standard allowance for self- consumption of 2% is allowed in the audit per AM 802.45 for food purchases.

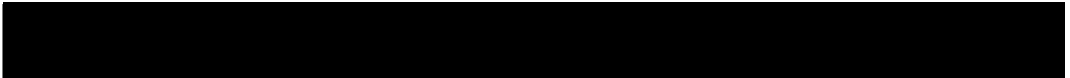
Sale of Fixtures and Equipment

Regulation 1595



The discontinuance of the business and subsequent transfer to a related person needs further investigation. Taxpayer will need to provide proof that no consideration was involved in the transfer. Sales or use tax will be due with respect to the transfer if there was a sale or purchase.

Nexus



Reason for Reaudit

REASON FOR REUDIT (RFR)

The taxpayer filed a timely Petition for redetermination on January 15 2021 for the audit liability billed by a Jeopardy Determination dated January 7 2021.



TAXPAYER'S CONTENTIONS (TPC)

Item 1 Additional Taxable Sales Based on the Markup

Representative contentions indicate that the shelf test analysis was incorrect. The additional taxable sales computed based on the mark up of cost was overstated. Representative recomputed the weighted purchases of liquor (call, well, and premium). Representative also presented POS Data as evidence for selling price adjustments and tax included prices.

Item2 Disallowed Claim Deductions

Representative presented Recorded POS Reports and Data that included Recorded Sales, Taxable Mandatory Gratuities, and Taxable Event Sales. Claimed Other Deductions were disallowed in the original audit because taxpayer cannot substantiate the other exemptions.

Item 3 Taxable Self Consumed Merchandise

Taxable Self Consumed Merchandise was recomputed based on the reaudit taxable cost of sales.

Please see attached Decision and Recommendation for a detailed discussion of the taxpayer's contention.

REAUDIT FINDINGS AND RELATED COMMENTS (RFC)

Reaudit adjustments are explained on Schedule 1R-414-A2.



0010099119 03

Thank you for your cooperation during the review of your account.

Sincerely,

Arcie Pragale

Business Taxes Specialist

Discussed with: Mitchell Stradford, Representative

cc: MITCHELL STRADFORD

  
508 GIBSON DR STE 120  
ROSEVILLE CA 95678-5797



STATE OF CALIFORNIA

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

P.O. BOX 942879, SACRAMENTO, CA 94279-0001
1-800-400-7115 • FAX 1-916-928-6241
www.cdtdfa.ca.gov

GAVIN NEWSOM
Governor

YOLANDA RICHARDSON
Secretary, Government Operations Agency

NICOLAS MADUROS
Director

C/O MCCLELLAN DAVIS, LLC
MCCLELLAN DAVIS, LLC
508 GIBSON DR STE 120
ROSEVILLE CA 95678-5797

Letter Date: January 7, 2021
Letter ID: L0009403840
Account Type: Sales and Use Tax
Account Number: [REDACTED] 57
Audit ID: [REDACTED]
Audit Period From: October 1, 2016
Audit Period To: December 31, 2019

Notice Service Date: January 7, 2021
Finality Date: January 19, 2021

NOTICE OF JEOPARDY DETERMINATION

Why we are contacting you:

The California Department of Tax and Fee Administration (CDTFA) records show you have an initial billing amount due. The amount determined, as shown below, is immediately due and payable. Additional interest will accrue if the tax is not paid in full.

Table with 2 columns: Category (Tax, Interest, Penalty, Other, Payments/Credits, Total) and Amount (\$749,921.00, 131,937.36, 74,992.08, 0.00, 0.00, \$956,850.44)

What you must do:

Payment must be in the form of guaranteed funds (for example, cashier's check, money order, or electronic payment) payable to the California Department of Tax and Fee Administration. Your account number must be listed on your payment. A return envelope is enclosed for your convenience.

What will happen if you do not comply:

Failure to pay this notice may result in additional penalties and/or interest. We may make a legal claim on your property, bank account, or income. If you disagree with the assessment, you must file a petition for redetermination with the CDTFA within 10 days after the notice service date shown above. You must provide the amount you are petitioning as well as the reasons for petitioning.

PAYMENT OPTIONS

To make a payment online, go to our website at www.cdtdfa.ca.gov and select Make a Payment. If you are paying by cashier's check or money order, please write your Account Number and Letter ID (shown above) on the cashier's check or money order, and include the attached Statement of Account payment voucher. Make your cashier's check or money order payable to the California Department of Tax and Fee Administration and mail to P.O. Box 942879, Sacramento, CA 94279-3535. If you need additional help, please call the telephone number listed at the top of this letter.

COLLECTION FEE

After 90 days from the date of this demand, collection fees will apply to amounts over \$250. For more information, including how to avoid the fee, visit our Collection Cost Recovery Fee page at www.cdtdfa.ca.gov.

INTEREST

Additional interest will accrue on the unpaid tax each month at the rate of 6 percent annually. Interest of \$3,749.60 will accrue if the tax is not paid on or before January 31, 2021.

**PENALTY FOR FAILURE TO PAY WHEN DUE**

A penalty of 10 percent attaches to the amount of tax due if this determination is not paid on or before the finality date, January 19, 2021.

**PETITION FOR REDETERMINATION**

This jeopardy determination becomes final 10 days after the notice service date, unless a petition for redetermination is filed and the required security, as indicated in this notice, is deposited with the CDTFA.

Any person against whom a determination is made may petition for redetermination. The petition must be in writing and state the specific grounds upon which it is founded. If an appeals conference is desired, it should be requested in the petition. To be timely, a petition must be filed (postmarked) with the CDTFA by the finality date. To file your petition online, log in with your username and password at [onlineservices.cdtfa.ca.gov](http://onlineservices.cdtfa.ca.gov).

Prompt payment of undisputed portion(s) of the liability should be made. This will prevent accrual of additional interest thereon and will not in any way affect the protested portion(s).

A petition may not be filed prior to the notice service date. Any action taken prior to that date does not constitute a petition for redetermination.

For more information about filing a petition for redetermination and where to file your petition, please visit our website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov).

**SECURITY REQUIRED IN CASE OF JEOPARDY DETERMINATION**

A petition for redetermination cannot be considered for a jeopardy determination unless the petitioner, within 10 days after the notice service date, also deposits with the CDTFA a security equal to the tax amount listed on the front of this notice. Security must be deposited with the CDTFA in one of the following forms:

1. Cash (personal or business checks will not be accepted).
2. Certificates of deposit issued by banks.
3. Surety bonds issued by any surety authorized to do business in this State.
4. Savings and loan insured accounts.
5. Shares issued by state and federal credit unions.

**ADMINISTRATIVE HEARING:**

Any person upon whom a jeopardy determination is made may also apply for an administrative hearing for one or more of the following purposes: (a) To establish that the determination is excessive; (b) To establish that the sale of property or any part of the property that may be seized should be delayed pending the administrative hearing because the sale would result in irreparable injury to the person; (c) To request release of all or part of the property to the person; (d) To request suspension of collection activities; and (e) To request administrative review of any other issue raised by the jeopardy determination.

A request for an administrative hearing must be filed with the CDTFA within 30 days from the notice service date. Security is not required to request an administrative hearing; however, if you do not deposit the required security, an administrative hearing will not stop most collection activities.

**PRE-INTERCEPT NOTICE**

The Franchise Tax Board (FTB) administers the Interagency Intercept Collection Program in conjunction with the State Controller's Office. FTB is authorized to redirect a refund owed to a taxpayer or feepayer to the CDTFA to offset the taxpayer or feepayer's liability under California Government Code section 12419.5. If you have any questions or objections to the liability on this notice, contact the CDTFA at the number above within 30 days from the date of this notice and a CDTFA representative will review and discuss your account with you. You have 30 days from the date of this notice to either remit payment in full, contact the CDTFA, or provide documentation to the CDTFA to show the liability is not due. Failure to respond within 30 days from the date of this notice will result in the CDTFA forwarding your account to



FTB to proceed with intercept collections.

**NEGLIGENCE PENALTY**

A 10% penalty has been added for negligence in accordance with Revenue and Taxation Code section 6484.

