

M e m o r a n d u m**170.0007**

To: Mr. David Rivera, Jr
Fresno District Office - DH

Date: October 21, 1993

From: Thomas Cooke, Staff Counsel
Legal Division – MIC:82

Subject: DISCHARGE OF TAXPAYER IN BANKRUPTCY
J--- B---
dba L---'S PLACE
ACCOUNT NO. SR --- XX-XXXXXX

In our recent telephone conversation concerning the above taxpayer, you stated that the Board is in the process of issuing a determination for the period from January 1, 1980 to February 21, 1990. The taxpayer has provided information to the Board that he filed Chapter 7 bankruptcy in 1990, and was discharged from all dischargeable debts at that time. You ask if the discharge affects the determination that will be issued.

The bankruptcy records should be consulted at the Fresno Bankruptcy Court. In all probability, the taxpayer did not “schedule” the Board as a creditor in his bankruptcy. In this event, the Board received no “notice” of the bankruptcy case and any pre-petition debt is not subject to discharge. 11 U.S.C. § 523(a)(3).

Even if the taxpayer “scheduled” the State Board of Equalization as a creditor, the taxpayer, who admits underreporting over a period of years, probably did not “schedule” the unreported liability which forms the basis for the present liability.

If the taxpayer did “schedule” the Board in his bankruptcy petition, please contact this office with the details and we will advise if any portion of the determination is deemed to be discharged.

TJC:plh