



## ISSUE

The issue to be decided is:

Is the taxpayer the responsible corporate officer of the corporation and personally liable under G.S. 105-253(b) for payment of sales tax owed by the corporation for the months of April 1996 through August 1996 and October 1996 through December 1996?

## EVIDENCE

The Sales and Use Tax Division introduced the following items into evidence:

1. Copy of memorandum dated May 16, 2001 from Secretary of Revenue to the Assistant Secretary of Administrative Hearings, designated Exhibit E-1.
2. Copy (front and back) of the corporation's sales and use tax returns for the months of April 1996 through August 1996 and October 1996 through December 1996, designated Exhibit E-2.
3. Copy of Notice of Sales and Use Tax Assessment against the taxpayer dated November 11, 1999 for the months of April 1996 through August 1996 and October 1996 through December 1996, designated Exhibit E-3.
4. Copy of letter dated March 20, 2000 with attachments from taxpayer to Department, designated Exhibit E-4.
5. Copy of letter dated April 20, 2000 with attachments from taxpayer to Department, designated Exhibit E-5.
6. Copy of letter dated June 6, 2000 with attachment from the Sales and Use Tax Division (Division) to taxpayer, designated Exhibit E-6.
7. Copy of letter dated June 28, 2000 with attachments from taxpayer to Division, designated Exhibit E-7.
8. Copy of letter dated August 9, 2000 from Division to taxpayer, designated Exhibit E-8.
9. Copy of letter dated October 27, 2000 and Collection Information Statement from taxpayer to Division, designated Exhibit E-9.
10. Copy of letter dated November 8, 2000 from Division to taxpayer's attorney, designated Exhibit E-10.
11. Copy of letter dated January 23, 2001 from Division to taxpayer, designated Exhibit E-11.
12. Copy of letter dated April 6, 2001 from Division to taxpayer, designated Exhibit E-12.
13. Copy of Annual Reports for Business Corporation for fiscal years ending August 31, 1995, 1996, and 1997, designated Exhibit E-13.

14. Copy of letter dated May 4, 2001 from the Acting Assistant Secretary of Revenue to taxpayer, designated Exhibit E-14.
15. Copy of Brief for Tax Hearing, designated Exhibit E-15.

**DECISION**

1. An assessment of tax is presumed to be correct.
2. The burden is upon a taxpayer who takes exception to an assessment to overcome that presumption.
3. Notice of time and place of hearing was mailed to the taxpayer's last known address by first-class mail, postage prepaid, on May 4, 2001, and has not been returned by the postal service.
4. The taxpayer received notice of time and place of hearing but neither the taxpayer nor anyone representing the taxpayer appeared at the hearing.
5. No evidence was presented at the hearing that would tend to contradict the assessment or overcome the presumption of correctness.

Wherefore the assessment is sustained in its entirety, and is declared to be final and immediately due and collectible.

This 12<sup>th</sup> day of July, 2001.

Signature \_\_\_\_\_

Eugene J. Cella  
Assistant Secretary of Administrative Hearings