

Request for Payment of Department of Revenue Taxes

BAM 04
R 07/01

COPY

(Bankruptcy Code Cases - Administrative Claims)
DEPARTMENT OF REVENUE/STATE OF FLORIDA

United States District Court for the /WILMINGTON
District of DELAWARE

Bankruptcy No	0310963	MFW
Type of Bankruptcy Proceeding	11	
Date of Petition	4/01/03	
Tax Number	00-1138432	
Social Security Number		
Employer Identification Number		

HEAD DISTRIBUTING COMPANY

1945 LAKEPOINTE DRIVE
LEWISVILLE

TX 75057-6424

- The undersigned whose business address is Post Office Box 6668 Tallahassee Florida 32314-6668 is the agent of the agent of the Department of Revenue and is authorized to make this claim on behalf of the State of Florida
- Request is made for payment of taxes and any interest or penalty due the Department of Revenue State of Florida as shown below
- The grounds for the liability is for taxes interest and penalty due under the Revenue Laws of the State of Florida

ADMINISTRATIVE CLAIMS CODE s 503

Kind of Tax	Tax Due	Accrued Interest To Date	Accrued Penalty To Date	Balance Due
UNEMPLOYMENT COMPENSATION	11 34	0 00	0 00	11 34

FILED
SEP 15 2003
BMC

Total amount due as of date of this request

\$ 11 34

Dollar amount per day at which interest will accrue after this request

\$ 00

Returned Item Check Fee

\$ 00

Claimant reserves the right to amend if claim is based on estimated amounts of tax due or is otherwise subject to more accurate determination

Penalty for Presenting Fraudulent Claim - Fine of not more than \$5,000 or imprisonment for not more than 5 years or both Title 18, U S C , Sec 152	Signature	Date
	Title	Phone
	D W JACKSON TAX SPECIALIST-I	08/21/03 (850) 921-2151

Filing Companies Claim



See Attached Summary Sheet



Legal Claims Summary Sheet Administrative Claims

DR-88B
R 07/01

New Case
 Prior Case

Out of State
Case Code

COPY

Taxpayer's Name HEAD DISTRIBUTING COMPANY		Location of Court /WILMINGTON DELAWARE	
Business Name		Bankruptcy Case Number 53/0310963 MFW	
Address 1945 LAKEPOINTE DRIVE		Chapter Number 11	Petition Date 4/01/03
City LEWISVILLE	State TX	Zip Code 75057-6424	Account Number 00-1138432
Tax Type UNEMPLOYMENT COMPENSATION		Date Business Close/Date Converted	

Period Due	Tax Amount	Tax Type	Tax Account	R itm/Court Fees	Penalty	Interest	Returned Check Control Number
06/03	11.34	Bill			0.00	0.00	

TOTAL TAX \$ 11.34 PENALTY \$ 0.00 INTEREST \$ 0.00

Amended Claim
Supersedes Claim for \$ _____

Dated _____
Adj \$ _____

Court Costs/Sheriff's Fee \$ _____ 0.00
Returned Check Fee \$ _____ 0.00
Total of Claim \$ _____ 11.34
Daily Interest _____ 0.00

LAURA DAVIS JONES
Attorney's Name
919 N MARKET STREET 16TH FLOOR
Attorney's Address
WILMINGTON DE 19899-8705
City State Zip
(302) 652-4100
Attorney's Phone No

Trustee's Name _____
Trustee's Address _____
City State Zip _____

Date Prepared 8/21/03 Prepared By DWJ P & I Figured to 8/21/03

TO DEBTOR AND DEBTOR'S ATTORNEY

Please find enclosed a copy or copies of Florida Department of Revenue ("DOR") Proof(s) of Claim and/or Request(s) for Payment filed in the referenced bankruptcy case. Originals have been filed with the court

Please note any "Estimated Amount" listed on the Legal Claims Summary Sheet are prima facie correct liability determinations under applicable law See s 212 12(5)(b), F S It is the legal duty of the debtor-in-possession or trustee to take appropriate steps to further liquidate any such estimated amounts, as by filing delinquent returns or cooperating with DOR's auditors where a Notice of Intent to Audit has been furnished to a taxpayer In fact, in some jurisdictions, failure to file delinquent tax returns (whether pre- or post-petition) is made a specific ground to consider case dismissal or conversion by standard court order

In some cases, DOR files claims based on preliminary estimates of likely audit liability, often where a taxpayer has declined to waive the statutory 60-day notice of an audit In such cases, DOR will attempt to complete the audit as soon as possible so that an amended claim can be filed with a liquidated audit liability See generally ss 212 12 and 212 13, F S (duties of registered sales tax dealer), 28 U S C ss 959 and 960 (applying Florida Duties to trustee [or debtor-in-possession] in bankruptcy), and H & H Beverage v Pa Dept of Revenue, 850 F 2d 165 (3rd Cir 1988) (state taxing authority's audit of debtor, including issuance of "Notice of Final Assessment," was not act to assess a claim and therefore did not violate bankruptcy stay)

DEPT OF REVENUE POSITION ON LIABILITY FOR COLLECTED SALES TAX

Registered sales tax dealers are required by Florida law to collect sales tax from customers purchasing taxable personal property Sales tax is property of the state of Florida from the moment of collection. Section 212 15(1), F S A dealer has no ownership interest in sales tax funds and acts solely as an agent of the Florida Department of Revenue See Cash v State, 18 F L W S611 (Fla Sup Ct , Dec 2, 1993) Theft of sales tax is a criminal offense under Florida law Section 212 15(2), F S Responsible corporate officers may be held personally liable for tax which is collected but not remitted Section 213 29, F S

If a sales tax dealer has collected the tax and properly preserved it for remittance to the Department of Revenue, such tax is NOT property of the dealer's bankruptcy estate and is NOT subject to the provisions of 11 U S C s 549 In re Al Copeland Enterprises, 133 B R. 837 (Bkrcty WD Tex 1991), aff'd, 991 F 2d 233 (5th Cir 1993) The Department may be entitled to collect statutory post-petition interest on any such trust fund taxes which remain unpaid However, if the sales tax has been collected and not properly held and preserved so as to be excluded from the bankruptcy estate, the Department may seek to impose civil or criminal liability on responsible persons, in addition to filing any appropriate claims against the bankruptcy estate

Depending on the circumstances of your case, the Department's attorneys may seek discovery in the context of a contested matter in your bankruptcy to determine whether sales tax collections are or are not property of the bankruptcy estate The Department's auditors may further notify you of intent to audit your books and records and, where facts indicate, the Department's criminal investigators may also be assigned to consider whether referral for criminal prosecution is appropriate It is the Department's position that it has the legal authority to take any or all of the above steps without violating the automatic bankruptcy stay

IMPORTANT NOTICE
POST PETITION TAXES
(TAX BECOMING DUE AFTER FILING BANKRUPTCY)

To Debtor & Debtor's Attorney

From Department of Revenue

Re Electronic Funds Transfer (EFT)

It is the responsibility of the trustee, debtor-in-possession, or debtor in a Chapter 13 case, to file all returns and pay all taxes due after the bankruptcy petition date. It is most important to recognize that the responsibility includes remitting taxes through Electronic Funds Transfer (EFT). Should a new bank account be established, as required in all Chapter 11 cases, a new EFT account will need to be established. Information regarding the EFT system may be obtained from the Department of Revenue's EFT Section at (850) 487-7972 or 1-800-352-3671.

Payments not made as required by EFT will be deemed late causing additional penalties and interest to be added to your account. Please use the EFT system after the bankruptcy filing to avoid unnecessary hardship.