

**CALIFORNIA STATE BOARD OF EQUALIZATION**  
**APPEALS DIVISION BOARD HEARING SUMMARY**

In the Matter of the Petition for Redetermination )  
Under the Sales and Use Tax Law of: )  
AMERICAN PLANET INC ) Account Number SR EH 101-088635<sup>1</sup>  
dba Smoker's Choice ) Case ID 575606  
Petitioner ) Hesperia, San Bernardino County

Type of Business: Smoke shop

Audit period: 07/01/08 – 09/30/10

<u>Item</u>	<u>Disputed Amount</u>
Unreported taxable sales	\$308,550
Tax, as determined and protested	\$28,326.49
Post-D&R adjustment	<u>- 3,191.83</u>
Proposed tax redetermination	\$25,134.66
Interest through 08/31/14	<u>8,972.77</u>
Total tax, and interest	<u>\$34,107.43</u>
Monthly interest beginning 09/01/14	<u>\$ 125.67</u>

**UNRESOLVED ISSUE**

**Issue:** Whether further adjustments to the amount of unreported taxable sales are warranted.

We conclude that no further adjustments are warranted.

Taxpayer operated a smoke shop from July 2008 through December 2011, when the business was sold. For audit, petitioner provided sales and use tax returns for the audit period, a federal income tax return for 2008, profit and loss statements for the period September 1, 2008, through March 31, 2010, and a limited number of merchandise purchase invoices. The Sales and Use Tax Department (Department) found that merchandise purchases exceeded petitioner's recorded and reported taxable sales. As a result, the Department established audited taxable sales using the markup method. The

<sup>1</sup> A separate Board Hearing Summary has been prepared for a related appeal: Nizar Taher Breiche, SR EH 100-950392, Case ID 575605.



1 reductions to the audited merchandise purchases for the purchase discounts. Petitioner has not  
2 provided any documentation to support any reductions to audited merchandise purchases.

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Summary prepared by Ted Matthies, Business Taxes Specialist III

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**MARKUP TABLE**  
**Convenience Store**

Percentage of taxable vs. nontaxable purchases	99.33%
Mark-up percentages developed	9.72%
Self-consumption allowed in dollars	None
Pilferage allowed in dollars	\$9,599.00
Pilferage allowed as a percent of taxable purchases	1.00%
Theft of cigarettes allowed in dollars (for year 2009)	\$10,000.00