

CALIFORNIA STATE BOARD OF EQUALIZATION
APPEALS DIVISION BOARD HEARING SUMMARY

In the Matter of the Petitions for Redetermination)
Under the Sales and Use Tax Law of:)
ERIC CHRISTOPHER DUTRA,) Account Number SR FH 101-118919
dba Point Loma Scooters) Case ID's 607843, 746362
Petitioner) San Diego, San Diego County

Type of Business: Scooter dealer
Liability periods: 01/01/10 – 12/31/10 (Case ID 607843)
01/01/11 – 12/31/12 (Case ID 746362)

<u>Item</u>	<u>Disputed Amount¹</u>	
Relief of interest	\$ 3,555 (Case ID 607843)	
	\$ 6,033 (Case ID 746362)	
	<u>607843</u>	<u>746362</u>
Proposed tax redetermination (not protested)	\$12,167.00	\$28,976.00
Interest through 06/30/15 (protested)	<u>3,554.71</u>	<u>6,033.37</u>
Total tax and interest	\$15,721.71	\$35,009.37
Payments	- 00.00	- 195.34
Balance Due	<u>\$15,721.71</u>	<u>\$34,814.03</u>
Monthly interest beginning 07/01/15	<u>\$ 60.83</u>	<u>\$143.90</u>

UNRESOLVED ISSUE

Issue: Whether some or all of the interest that has accrued on the tax assessed in two determinations should be relieved. We conclude that relief of interest is not warranted.

Petitioner has sold new and used motorized scooters since July 2008. The Sales and Use Tax Department's (Department) Return Analysis Section (RAS) used the selling prices and dates of sale shown in the applications for registration of new vehicles that petitioner had submitted to the Department of Motor Vehicles (DMV) to compile petitioner's taxable sales of scooters. The RAS computed audited taxable sales of scooters totaling \$159,985 for 2010, which exceeded petitioner's

¹ The disputed amounts shown here are the amounts of interest that has accrued through June 30, 2015. However, interest will continue to accrue until the tax has been paid in full.

1 reported taxable sales for that year by \$138,660, and issued a Notice of Determination (NOD) to
2 petitioner based on that amount. In a timely petition for redetermination, petitioner stated that the
3 determination should be reduced by the amount of tax he had paid with returns filed for 2010,
4 \$2,104.08, and by one month's interest (Case ID 607843). For the years 2011 and 2012, the RAS
5 computed audited taxable sales of scooters totaling \$413,198, which exceeded petitioner's reported
6 taxable sales for those two years by \$361,578, and issued an NOD to petitioner based on that amount.
7 In a timely petition for redetermination, petitioner again stated that the determination should be
8 reduced by the amount of tax he had paid with returns filed for the liability period, and also requested
9 that no more interest accrue until the matter could be resolved (Case ID 746362).

10 During both of the appeals conferences, we explained to petitioner that the NOD's were based
11 on the differences between the amounts of taxable sales that he had reported to the DMV and the
12 taxable sales amounts reported on his sales and use tax returns. Petitioner conceded that he owed the
13 tax as determined, but requested relief of interest on the basis that he is on a limited budget and needs
14 assistance during these difficult financial times.

15 The imposition of interest is provided by statute (Rev. & Tax. Code, § 6482) and it may be
16 relieved only under narrow circumstances: 1) where the failure to pay the tax was due to a natural
17 disaster (Rev. & Tax. Code, § 6593); 2) where the failure to pay the tax was due to an unreasonable
18 delay or error on the part of a Board employee (Rev. & Tax. Code, § 6593.5); and 3) where the failure
19 to pay the tax was due to erroneous advice received from the Board (Rev. & Tax. Code, § 6596.)
20 Since there are no statutory provisions for relieving interest due to financial hardship, we have no basis
21 on which to consider recommending interest relief.

22 **RESOLVED ISSUE**

23 As stated above, once petitioner had received an explanation that the RAS already had taken
24 the tax he had remitted with returns into account when it issued the NOD's, petitioner conceded that he
25 owes the determined tax amounts.

26 **OTHER MATTERS**

27 None.

28 Summary prepared by Lisa Burke, Business Taxes Specialist III