

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

In the Matter of the Petitions for Redetermination )  
Under the Sales and Use Tax Law of: )  
7 BAY TRUCK STATION, INC. ) Account Number: SR AA 101-175268  
ARIS MANUKIAN, dba 7 Bay Truck Station ) Case ID 484942  
Petitioners ) Account Number: SR AA 99-883841  
Los Angeles, Los Angeles County ) Case ID 484943

Type of Business: Gasoline station

Audit period: 01/01/05 – 12/31/07<sup>1</sup>

<u>Item</u>	<u>Disputed Amount</u>
Unreported sales	\$316,219
Tax as determined:	\$88,722.97
Adjustment - Appeals Division	<u>- 4,525.87</u>
Proposed redetermination	\$84,197.10
Less concurred	<u>58,109.01</u>
Balance, protested	<u>\$26,088.09</u>
Proposed tax redetermination	\$ 84,197.10
Interest through 3/31/11	<u>33,206.40</u>
Total tax and interest	\$117,403.50
Payments	<u>- 9,689.00</u>
Balance Due	<u>\$107,714.50</u>
Monthly interest beginning 4/1/11	<u>\$ 434.63</u>

**UNRESOLVED ISSUE**

**Issue:** Whether adjustments are warranted to the audited amount of unreported sales. We recommend no further adjustment.

Petitioners operated a gasoline station, selling only premium gasoline and diesel fuel. The business was originally operated by Mr. Manukian as a sole proprietor, but was incorporated effective January 1, 2005. The Sales and Use Tax Department (Department) became aware of the incorporation during its audit of the sole proprietorship. Since Mr. Manukian did not notify the Board of the transfer

<sup>1</sup> The audit period and the determined and protested amounts are the same for both petitioners.

1 of ownership, the Department issued a Notice of Determination to the corporation and a dual  
2 determination to Mr. Manukian for the same liability. Mr. Manukian concedes that he operated the  
3 predecessor business as a sole proprietorship and that the real or ultimate ownership of the business  
4 was the same before and after the transfer. Therefore, Mr. Manukian does not dispute his liability as a  
5 predecessor. Petitioners reported all sales as taxable, and they stated that reported amounts were  
6 established by adding a markup of two percent to merchandise costs. The Department considered that  
7 markup lower than expected for this business and concluded that further investigation was warranted.

8 The Department established audited sales of fuel using the audited number of gallons of fuel  
9 purchased (computed using the prepayments to vendors of fuel and the amount of prepayment per  
10 gallon) and selling prices obtained from the Department of Energy, with some adjustments as  
11 described in the D&R. Petitioners protested the audit findings on the basis that the quarterly average  
12 selling prices should be computed using a different procedure. Petitioners provided various  
13 computations attempting to illustrate that the audit was flawed. As explained in the D&R, we found  
14 petitioners' arguments and computations unconvincing. However, petitioners also stated that they  
15 could provide daily sales reports for the entire period. Since those records were not available during  
16 the audit, we recommended a reaudit to give petitioners an opportunity to provide those daily sales  
17 reports. We recommended that audited taxable sales be established using the daily sales reports, if the  
18 Department concluded that all of petitioners' sales were recorded on the daily sales reports. The  
19 Department has conducted a reaudit, using daily sales reports, after adjustments for discounts for diesel  
20 sales given to certain customers, to establish audited taxable sales. The reaudit resulted in a decrease  
21 in understated tax of \$4,525.87, from \$88,722.97 to \$84,197.10.

22 Petitioners contend that the audited understatement is excessive, and, as noted in the D&R, they  
23 have computed an understatement of reported taxable sales of \$704,351 (tax of \$58,109.01). Thus,  
24 petitioners dispute the remaining understatement of \$316,219 (tax of \$26,088.09).

25 Petitioners have used various estimates and assumptions to compute an understatement of  
26 \$704,351. However, the remaining understatement, after the most recent reaudit, represents the  
27 difference between taxable sales *recorded* on daily sales reports and reported taxable sales. Petitioners  
28 have not provided evidence, or even an explanation, to support a conclusion that their computed

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figures are more accurate than their own recorded taxable sales. Accordingly, we recommend no further adjustment.

**OTHER DEVELOPMENTS**

None.

Summary prepared by Deborah A. Cumins, Business Taxes Specialist III