

1 CALIFORNIA STATE BOARD OF EQUALIZATION

2 APPEALS DIVISION BOARD HEARING SUMMARY

3 In the Matter of the Petition for Redetermination)
 4 Under the Sales and Use Tax Law of:)
 5 JUANA MARIA OLMOS, dba Twin's Bridal) Account Number: SR AC 100-438863
 6 Petitioner) Case ID 496090
 7) San Fernando, Los Angeles County

8 Type of Business: Bridal shop

9 Liability period: 04/01/06 – 03/31/09

10 Item Disputed Amount

11 Unreported sales \$150,912

12 Negligence penalty \$ 1,297

	<u>Tax</u>	<u>Penalty</u>
13 As determined	\$15,229.27	\$1,522.91
14 Adjustment – Appeals Division	<u>- 2,256.88</u>	<u>- 225.62</u>
15 Proposed redetermination	\$12,972.39	<u>\$1,297.29</u>
16 Less concurred	<u>- 522.06</u>	
17 Balance, protested	<u>\$12,450.33</u>	<u>\$1,297.29</u>
18 Proposed tax redetermination	\$12,972.39	
19 Interest through 07/31/12	4,596.79	
20 Negligence penalty	<u>1,297.29</u>	
21 Total tax, interest, and penalty due	<u>\$18,866.47</u>	
22 Monthly interest beginning 08/01/12	<u>\$64.86</u>	

23 This matter was scheduled for Board hearing in October 2011. Since petitioner did not respond
 24 to the Notice of Hearing, the matter was presented to the Board for decision without oral hearing, and
 25 the Board ordered no further adjustments. Petitioner filed a timely petition for rehearing, which was
 26 granted by the Board at its meeting on February 28, 2012.

27 UNRESOLVED ISSUES

28 **Issue 1:** Whether adjustments are warranted to unreported sales. We find no further
 adjustments are warranted.

Petitioner operates a bridal shop, selling wedding dresses and related accessories, and she also
 provides alteration services. Petitioner provided incomplete records for review.

1 To establish total sales, the Sales and Use Tax Department (Department) used an analysis of the
2 source and application of funds. The Department compared amounts of income reported on
3 petitioner's federal income tax returns (including her husband's wages) to the total of petitioner's
4 business expenses (from those returns) and personal expenses (estimated using figures published by
5 the U.S. Bureau of Labor Statistics for a family of four). The Department found that expenses
6 exceeded income, and it divided the deficit by the yearly gross profit ratios from the federal returns to
7 arrive at unreported taxable sales of \$178,268. As recommended in the D&R, the estimated personal
8 expenses have been adjusted to reduce the housing costs because petitioner provided evidence that her
9 mortgage was paid in full. After that adjustment, the amount of unreported taxable sales is \$150,912,
10 the amount in dispute.

11 Petitioner contends that the amount of income used in the analysis should be increased by
12 amounts she receives from her brother and adult children. As support, petitioner has provided
13 affidavits from her brother and two sons stating that they contribute a total of \$1,400 per month to
14 petitioner's household, along with unsigned federal tax returns for the three individuals, with no W-2
15 statements from the employers. Petitioner also argues that the expense amounts used in the analysis
16 should be further reduced because the Department's estimate for transportation expense is too high
17 since she does not have any car payments. As support, she has provided affidavits from her adult
18 children stating that they own all of the four household vehicles.

19 We note that petitioner has not provided evidence, such as cancelled checks, that her relatives
20 provided additional income to her household. Also, we find that the unsigned federal tax returns are
21 not sufficient to establish the actual amount earned by the three individuals. We find that the evidence
22 does not support an increase in the amount of funds received by petitioner. With respect to
23 transportation expenses, petitioner has not provided any evidence regarding car payments. Further, we
24 find the affidavits from her adult children are contradicted by the certificates of title and proof of
25 insurance cards which show petitioner's husband, Jorge Luis Mora, as the registered owner of all four
26 cars. Accordingly, we find that petitioner has not documented that further adjustments are warranted
27 to the expenses used in the analysis.

28 **Issue 2:** Whether petitioner was negligent. We find that she was.

