

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 THO PHUOC PHAM,) Account Number: SR AP 97-920847
 dba 2000 Games & Video) Case ID 509278
 6)
 7 Petitioner) City of Industry, Los Angeles County

8 Type of Business: Video rentals

9 Audit period: 1/1/05 – 2/29/08

10 Item Disputed Amount

11 Unreported taxable sales \$117,556

12 Tax determined \$13,333.67

13 Adjustment - Sales and Use Tax Department - 3,470.37

14 Proposed redetermination \$ 9,863.30

15 Less concurred - 164.92

16 Balance, protested \$ 9,698.38

17 Proposed tax redetermination \$ 9,863.30

18 Interest through 2/29/12 4,176.13

19 Total tax and interest \$14,039.43

20 Monthly interest beginning 3/1/12 \$57.54

21 UNRESOLVED ISSUE

22 **Issue:** Whether additional adjustments to audited taxable sales are warranted. We find that no
 23 further adjustments are warranted.

24 The Sales and Use Tax Department (Department) was unable to determine petitioner's
 25 reporting method, and petitioner provided incomplete records for audit. The Department accepted that
 26 the gross receipts reported on the 2005 federal income tax return represented petitioner's gross receipts
 27 for 2005, used bank deposits and cash payouts to calculate petitioner's gross receipts for 2006 and
 28 2007, and used a credit card billing statement for January 2008 to establish gross receipts for January 1
 through February 29, 2008. In sum, the Department computed total sales of \$193,787 for the audit
 period, then reduced that amount by \$70,480 for exempt sales of food products and for prepaid phone

1 card sales, resulting in \$123,306 audited taxable sales which, compared to reported taxable sales of
2 \$5,750, resulted in understated taxable sales of \$117,556.

3 Petitioner has not shown that the taxable sales computed by the Department includes
4 nontaxable receipts from commissions, service activation, phone cards, video rental memberships, or
5 petitioner's own money. Therefore, we find that no further adjustments are warranted.

6 **OTHER DEVELOPMENTS**

7 None.

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9 Summary prepared by Pete Lee, Business Taxes Specialist II

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