

1 CALIFORNIA STATE BOARD OF EQUALIZATION

2 APPEALS DIVISION BOARD HEARING SUMMARY

3 In the Matter of the Claim for Refund)
4 Under the Sales and Use Tax Law of:)5 MAR DWATMADJA SIJANGGA and)
6 ROSLIN OCTAVIA BASUKI, dba)
7 Willow Pass Union 76)Account Number SR CH 100-115776
Case ID 533973

8 Claimant)

Concord, Contra Costa County

9 Type of Business: Gasoline station

10 Audit Period: 04/01/04 – 03/31/07

11 Item Claimed Refund

12 Negligence penalty \$13,591.12

13 Claimant filed a claim for refund for the negligence penalty paid with respect to the
14 determination issued as a result of an audit of the period April 1, 2004, through March 31, 2007.15 **UNRESOLVED ISSUE**16 **Issue:** Whether claimant was negligent. We conclude that it was.17 Claimant, a husband and wife partnership, has operated a gas station with a mini-mart and auto
18 repair shop since October 2002. The Sales and Use Tax Department (Department) conducted an audit
19 of the period April 1, 2004, through March 31, 2007. For audit, claimant provided bank statements for
20 most of the audit period (excluding April 1, 2004, through September 30, 2004), gasoline and diesel
21 fuel purchase invoices for the audit period, and purchase invoices for mini-mart and auto repair shop
22 merchandise for the second and third quarters of 2007.23 The Department established audited taxable sales on a markup basis, computing audited
24 taxable sales of \$4,772,854, which exceeded reported taxable sales of \$3,278,998 by \$1,493,856. The
25 Department imposed the negligence penalty because the understatement of almost \$1.5 million was
26 substantial, and because claimant's records were not complete. Claimant disputes the negligence
27 penalty, arguing that it relied on an outside accountant to prepare the sales and use tax returns
28 correctly, and any errors were made by the accountant. Also, claimant asserts that their daughters

