

1 CALIFORNIA STATE BOARD OF EQUALIZATION

2 APPEALS DIVISION BOARD HEARING SUMMARY

3 In the Matter of the Petition for)
 4 Redetermination and Claim for Refund)
 Under the Sales and Use Tax Law of:)
 5 TIM FINNELL INC., dba Palm Desert Arco) Account Number SR EHC 23-845232
 Case ID's 521823, 577253
 6 Petitioner/Claimant)
 La Quinta, Riverside County

7
8 Type of Business: Gas station

9 Audit period: 07/01/05 – 12/22/08

10 Item Disputed Amount

11 Unreported taxable sales \$64,890

12 Tax as determined \$17,965.70

13 Pre-D&R adjustment - 1,013.17

14 Post-D&R adjustment - 9,886.36

15 Proposed redetermination \$ 7,066.17

16 Less concurred - 2,037.17

17 Balance, protested \$ 5,029.00

18 Proposed tax redetermination \$7,066.27

19 Interest 209.30

20 Total tax and interest \$7,275.57

21 Payments - 7,275.57¹22 Balance Due \$ 00.00

23 This matter was scheduled for Board hearing in April 2012, but petitioner requested a
 24 postponement on the day of the hearing.

25 **UNRESOLVED ISSUE**

26 **Issue:** Whether adjustments are warranted to the unreported taxable sales. We find no further
 27 adjustment is warranted.

28 Petitioner operated a gas station from April 1, 1990, through December 22, 2008. The Sales
 and Use Tax Department (Department) found that reported taxable sales were less than the amounts
 recorded in the ARCO Franchise Accounting System reports and established those differences as

¹ Petitioner has made payments in excess of the amount proposed to be redetermined, and the Sales and Use Tax
 Department is processing a refund of \$11,263.82 plus interest.

1 unreported taxable sales. Petitioner argued that the understatement established by the Department was
2 excessive, asserting that the Department should have made some adjustments to the amounts recorded
3 in the Franchise Accounting System reports. As support, petitioner provided documentation prior to
4 the pre-conference reaudit and after the appeals conference. After considering petitioner's additional
5 information, the Department concluded that reported and recorded sales tax reconciled for all quarters
6 except the first quarter 2007 and the fourth quarter 2008. The Department thus recommended that the
7 measure of tax be reduced to \$64,890 based on the differences between tax recorded on the ARCO
8 reports and reported sales tax for the two quarters. Petitioner disputes the Department's computations
9 but has not identified any specific errors in those computations.

10 Petitioner has not identified any errors in the Department's computations, and we cannot find
11 any. We therefore conclude that no further adjustments are warranted. Since the Department has
12 refunded the amounts petitioner has paid in excess of the tax liability we conclude is due, we
13 recommend that the balance of the claim be denied.

14 **OTHER MATTERS**

15 None.

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