

**CALIFORNIA STATE BOARD OF EQUALIZATION**

**APPEALS DIVISION FINAL ACTION SUMMARY**

In the Matters of the Petition for )  
 Redetermination and Claim for Refund )  
 Under the Sales and Use Tax Law of: )  
 )  
 LOS ANGELES COUNTRY CLUB ) Account Number: SR AS 18-002721  
 ) Case ID's 361952, 416903  
 )  
 )  
 Petitioner/Claimant ) Los Angeles, Los Angeles County

Type of Business: Golf club with restaurant

Audit Period: 10/01/02 – 09/30/05

<u>Item</u>	<u>Amount in Dispute</u>
Unreported sales	\$851,800
Tax as determined	\$89,381.91
Adjustment – Post Hearing	<u>-89,381.91</u>
Proposed redetermination	\$0.00
Payments	<u>-24,604.27</u>
Refund due	<u>\$-24,604.27</u>

The Board held a hearing regarding this matter on October 21, 2010, granting petitioner time to provide additional records and the Sales and Use Tax Department (Department) time to respond. The Department now recommends that the petition and claim be granted.

Petitioner is a non-profit organization operating a country club with a restaurant. The Department accepted that petitioner's reported taxable sales of food were substantially accurate, but calculated a deficiency in reported taxable sales of beer, wine, and liquor, on a markup basis. Adjustments based on its review of petitioner's post-hearing submissions (including the correction of a mistake in the original audit) resulted in an error rate of 9.25 percent when compared to reported bar sales. Section 802.65 of the Board's Audit Manual section 802.65 provides that recorded on-premises sales of distilled spirits, beer, and wine should be accepted if the audit indicates under-reporting of less than 10 percent unless it can be established by other means that an actual understatement exists. Here, noting that petitioner had excellent records and consistency of recorded sales, the Department concluded that there the error rate of less than 10 percent is not sufficient basis to impeach petitioner's

1 records. We agree. Accordingly, we recommend that the deficiency be reduced to zero and the  
2 petition and claim be granted.

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Summary prepared by Thea Etheridge Business Taxes Specialist II

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**MARKUP TABLE**

Percentage of taxable vs. nontaxable purchases	100%
Mark-up percentage developed	271.89%
Self-consumption allowed in dollars	None
Self-consumption allowed as a percent of total purchases	None
Allowance for spillage of wine in dollars	\$49,339
Spillage allowed as a percent of wine purchases	6%
Breakage of bottled beer in dollars	\$1,111
Breakage allowed as a percent of bottled beer purchases	1%
Shrinkage allowed in dollars	\$19,940
Shrinkage allowed as a percent of total purchases	2%