

1 CALIFORNIA STATE BOARD OF EQUALIZATION

2 APPEALS DIVISION PETITION FOR REHEARING SUMMARY

3 In the Matter of the Petition for Redetermination)
 4 Under the Sales and Use Tax Law of:)
 5 S & C MOTORS) Account Number: SR X BH 98-014652
 6) Case ID 468140
 6 Petitioner) City and County of San Francisco

7 Type of Business: Vehicle dealer

8 Audit period: 07/01/01 – 12/31/02

9 <u>Item</u>	<u>Disputed Amount</u>
10 Disallowed claimed exempt sales in interstate commerce	\$2,714,990
11 Relief of interest	Unstated
12 Tax determined and protested	\$214,572.66
12 Interest	<u>158,343.78¹</u>
13 Total tax and interest	\$372,916.44
13 Payments	<u>- 372,916.44</u>
14 Balance Due	<u>\$ 00.00</u>

15 The Board heard this matter on November 15, 2012, and concluded that petitioner was the
 16 retailer with respect to the sales at issue, that petitioner's sales were not sales in interstate commerce,
 17 that relief was not warranted pursuant to Revenue and Taxation Code section 6596, that relief of
 18 interest is warranted for the period July 1, 2007, through September 30, 2008, and that relief of the
 19 amnesty interest penalty was warranted if petitioner met the payment conditions. Petitioner paid the
 20 tax and interest in full on December 26, 2012, and the amnesty interest penalty of \$24,187.65 has been
 21 relieved. Petitioner filed a timely petition for rehearing. The petition for rehearing was scheduled on
 22 the Consent calendar for November 2013 but was pulled from the Consent calendar at the request of
 23 Member Runner and rescheduled for consideration on the Adjudicatory Calendar.

24 UNRESOLVED ISSUE

25 **Issue 1:** Whether the petition for rehearing should be granted. We recommend that it be
 26 denied.

27 _____
 28 ¹ This interest amount is net of interest of \$28,967.37 for the period July 1, 2007, through September 30, 2008.

1 In the petition for rehearing, petitioner requests relief of interest due to unreasonable error or
2 delay on the part of a Board employee from the date its returns were first due for the audit period
3 July 1, 2001, through December 31, 2002, to the date the Department issued the Notice of
4 Determination (NOD) to petitioner on September 29, 2008.

5 Petitioner has not provided new evidence or contentions to establish cause for granting further
6 relief from interest. While petitioner did not specifically address the issue of interest relief at the
7 Board hearing, the Board did consider whether relief was warranted. The Board found that the
8 Department's delay in issuing the NOD from July 1, 2007, through September 30, 2008, was
9 unreasonable, and it granted relief of interest for that period.

10 We find that the Board correctly decided this matter, and petitioner has not presented any new
11 argument or evidence, or any other basis for a rehearing. We thus recommend that the petition for
12 rehearing be denied.

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