Docusign Envelope ID: 98A8D3BC-67C5-44A1-A0A9-4F0BDBDA1CB6

2025-OTA-648
Nonprecedential

OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **EXCEL FOOD SERVICES, INC.,** **dba The Mediterranean**	OTA Case No.: 221111940 CDTFA Case IDs: 450-730, 1-148-474

OPINION

Representing the Parties:

For Appellant: Nader Shahatit, Representative

For Respondent: Nalan Samarawickrema, Hearing Representative
Jason Parker, Chief of Headquarters Ops.
Christopher Brooks, Attorney

For Office of Tax Appeals: Craig Okihara, Business Taxes Specialist

N. RALSTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 6561, Excel Food Services , Inc. (appellant) appeals a decision issued by the California Department of Tax and Fee Administration (respondent)[1] denying appellant's timely petitions for redetermination of two Notices of Determination (NODs). The first NOD dated January 3, 2019, is for tax of $117,068.00, plus applicable interest, and a penalty of $11,706.80, for the period April 1, 2015, through September 30, 2018 (first liability period).[2] The second NOD dated April 17, 2019, is for tax of $5,553.00, plus applicable interest, and a penalty of $555.32, for the period October 1, 2018, through November 14, 2018 (second liability period).

Office of Tax Appeals (OTA) Panel Members Natasha Ralston, Suzanne B. Brown, and Steven Kim held a virtual oral hearing for this matter on June 26, 2025. At the conclusion of the

[1] Sales and use taxes were formerly administered by the State Board of Equalization (board). In 2017, functions of the board relevant to this case were transferred to respondent. (Gov. Code, § 15570.22.) For ease of reference, when this Opinion refers to events that occurred before July 1, 2017, "CDTFA" or "respondent" shall refer to the board.

[2] The first NOD was timely issued because on May 24, 2018, appellant signed a waiver of the otherwise applicable three-year statute of limitations for the period April 1, 2015, through September 30, 2015, which allowed respondent until February 28, 2019, to issue an NOD. (R&TC, §§ 6487(a), 6488.)

oral hearing, the record was closed and this matter was submitted on the oral hearing record pursuant to California Code of Regulations, title 18, section 30209(b).

ISSUES

1. Whether any adjustments to the amount of unreported taxable sales are warranted.
2. Whether any adjustments to the amount of unreported fixed asset sales during the second liability period are warranted.
3. Whether appellant was negligent.
4. Whether relief of interest is warranted.

FACTUAL FINDINGS

1. During the liability periods, appellant, a corporation, operated a restaurant in Concord, California, selling Mediterranean-style food. Appellant was open from 11:00 a.m. to 9:00 p.m. on Monday through Saturday and from 11:00 a.m. to 7:00 p.m. on Sunday. Appellant had seating for 20 customers. Appellant was issued its seller's permit with an effective start date of March 22, 2014. Appellant's seller's permit was closed out with an effective end date of November 15, 2018, when the business was sold.
2. For the first liability period, appellant reported on its sales and use tax returns (SUTRs) total sales of $330,789 and claimed deductions of $27,002 for sales tax reimbursement included in reported taxable sales of $303,787. For audit appellant provided cash register z-tapes,[3] and credit card settlement reports for September 11, 2018, September 12, 2018, and September 14, 2018. Appellant did not provide general ledgers, sales journals, purchase journals, SUTR worksheets, or cash register z-tapes for other than the aforementioned three days in September 2018.
3. Appellant stated sales were reported using the cash register tapes and bank statements. However, respondent was unable to verify appellant's reporting methods because appellant did not provide the requested books and records for audit.
4. Based on information about appellant's business from Yelp.com and a review of the menu, respondent concluded that appellant's food sales met the 80-80 rule; thus, all

[3] A cash register z-tape is the portion of the cash register tape that summarizes sales by category for a certain time period (e.g., a day or a shift).

sales of food would be subject to sales tax unless appellant kept a separate accounting of its cold food sales to-go.[4]

5. Based on taxable sales reported on the SUTRs for the first liability period, respondent computed average daily taxable sales of $281. Appellant was open 10 hours per day on Monday through Saturday and 8 hours on Sunday. Based on its experience in audits of similarly sized businesses in appellant's area, respondent believed the average daily taxable sales were low, indicating that reported taxable sales were understated.

6. Respondent verified taxable sales using the credit-card-sales-ratio method. Respondent requested that appellant maintain two weeks of detailed sales records, but appellant did not provide the requested detailed sales records. Respondent also scheduled an observation test for December 11, 12, and 15, 2018. However, on December 10, 2018, appellant notified respondent that it had sold the business and closed out its seller's permit effective November 15, 2018. The new business owner refused to allow respondent to conduct the observation test. Although appellant provided z-tapes for three days in September, appellant did not provide supporting source documentation to verify whether sales were recorded properly; therefore, respondent concluded that the z-tapes were unreliable.

7. Respondent obtained Form 1099-K[5] data for 2015, 2016, and 2017. Respondent compiled credit card sales of $891,979.00 for April 1, 2015, through December 31, 2017. Respondent multiplied credit card sales by an estimated credit card tip ratio of 5 percent. Respondent subtracted credit card tips from credit card sales, and for each quarterly period, respondent divided the result by 1 plus the applicable sales tax rate to compute credit card sales (excluding sales tax reimbursement and tips) of $778,023.00 for April 1, 2015, through December 31, 2017. Respondent compared credit card sales (excluding sales tax reimbursement and tips) to reported taxable sales and computed a credit card sales ratio of 320.38 percent. Appellant stated that sales reported on the

---

[4] The general rule is that a sale of cold food to-go is exempt from tax. (Cal. Code Regs., tit. 18, § 1603(c)(1)(B).) However, there is a special "80-80" rule under which a sale of cold food to-go in a form suitable for consumption on the retailer's premises (e.g., a cold sandwich) is subject to tax. This rule applies when more than 80 percent of a retailer's gross receipts are from sales of food products, and over 80 percent of the retailer's sales of food are otherwise subject to tax. (R&TC, § 6359(d)(6); Cal. Code Regs., tit. 18, § 1603(c)(1)(A), (c)(3).)

[5] Form 1099-K is an IRS form titled, "Payment Card and Third Party Network Transactions," which shows the monthly and annual amounts paid to a merchant by a bank, credit card company, or third party network, during a given time period. Form 1099-K includes payments made by any electronic means, including, but not limited to, credit cards, debit cards, and PayPal.

SUTRs excluded nontaxable sales but provided no documentation to support any nontaxable sales. Respondent subtracted credit card tips from credit card sales and divided the result by an estimated credit card sales ratio of 60 percent to compute taxable sales.

8. Because respondent had to abandon the observation test and appellant did not provide the requested detailed sales records, respondent estimated the credit card tip ratio and credit card sales ratio based on its experience in audits of similar businesses in appellant's area. Respondent multiplied credit card sales of $891,979.00 for April 1, 2015, through December 31, 2017, by an estimated credit card tip ratio of 5 percent. Respondent subtracted credit card tips from credit card sales and divided the result by an estimated credit card sales ratio of 60 percent to compute taxable sales. For each quarterly period, respondent divided taxable sales by 1 plus the applicable sales tax rate to compute taxable sales (excluding sales tax reimbursement and tips) of $1,296,705 for April 1, 2015, through December 31, 2017. Respondent compared audited taxable sales to reported taxable sales and computed a difference of $1,053,860, and an error ratio[6] for each quarter and an overall ratio of 433.96 percent for the period April 1, 2015, through December 31, 2017.

9. Respondent multiplied reported taxable sales by the corresponding quarterly error ratio for April 1, 2015, through December 31, 2017, and by 433.96 percent for January 1, 2018, through September 30, 2018, and computed unreported taxable sales of $1,318,325 (rounded) for the first liability period.

10. Respondent prepared a table turnover analysis as follows.[7] Based on its experience in audits of similar businesses in appellant's area, respondent estimated that appellant would be able to turn over the available seating an average of 5 times per day. In other words, appellant would be able to serve 100 customers (20 seats × 5) per day. Based on the menu prices, respondent estimated that appellant would have an average sale of $13 per customer which would result in estimated daily sales of $1,300 (100 customers × $13) and $1,638,000 over the first liability period. When compared to reported taxable sales, respondent calculated a difference of $1,334,213 for the first liability period which supported the reasonableness of the credit-card-sales-ratio method results.

11. Respondent prepared an audit report dated December 18, 2018.

---

[6] The "error ratio" is the percentage of unreported taxable sales to reported taxable sales.

[7] A table turnover analysis evaluates how quickly tables are occupied and vacated by customers during a specific period.

12. Respondent issued the first NOD to appellant on January 4, 2019, based on the audit, with a tax liability of $117,068 plus applicable interest and a negligence penalty of $11,706.80.
13. Appellant filed a timely petition for redetermination dated January 22, 2019, protesting the NOD in its entirety.
14. As noted previously, on December 10, 2018, appellant notified respondent that it had sold the business and closed out its seller's permit effective November 15, 2018. Respondent extended its audit to include this period. However, appellant declined to sign a waiver extension for the period April 1, 2015, through December 31, 2015, for issuing an NOD; thus, respondent issued the NOD for the first liability period and prepared a field billing order (FBO)[8] for the second liability period, October 1, 2018, through November 15, 2018.
15. Appellant did not provide any books and records for the second liability period. Thus, respondent decided to establish unreported taxable sales using the overall error ratio for the period April 1, 2015, through December 31, 2017, as explained above. Respondent multiplied reported taxable sales of $10,015 for the second liability period by the error ratio of 433.96 percent and computed unreported taxable sales of $43,461.
16. Appellant did not report the sale of fixed assets on the SUTR for the period October 1, 2018, through November 15, 2018, or provide respondent documentation to support the sales price. Thus, based on its experience in audits of similar businesses in appellant's area, respondent estimated the sales price of the fixed assets to be $20,000.
17. Respondent prepared an FBO report dated March 28, 2019.
18. Respondent issued the second NOD to appellant on April 18, 2019, based on the FBO, with a tax liability of $5,553 plus applicable interest, and a negligence penalty of $555.32.
19. Appellant filed a timely petition for redetermination dated April 26, 2019, protesting the second NOD in its entirety.
20. Respondent held an appeals conference with appellant, and subsequently issued a Decision on October 26, 2022, denying the petitions.
21. Appellant timely appealed to OTA.

[8] An FBO is prepared to recommend an additional tax liability or refund using procedures other than those used in a regular audit. An FBO is not an audit report and does not change the audit status of the account. (Respondent's Audit Manual § 0201.09.)

DISCUSSION

California imposes sales tax on a retailer's retail sales of tangible personal property sold in this state measured by the retailer's gross receipts, unless the sale is specifically exempt or excluded from taxation by statute. (R&TC, §§ 6012, 6051.) For the purpose of the proper administration of the Sales and Use Tax Law and to prevent the evasion of the sales tax, the law presumes that all gross receipts are subject to tax until the contrary is established. (R&TC, § 6091.) It is the retailer's responsibility to maintain complete and accurate records to support reported amounts and to make them available for examination. (R&TC, §§ 7053, 7054; Cal. Code Regs., tit. 18, § 1698(b)(1).)

If respondent is not satisfied with the amount of tax reported by the taxpayer, or in the case of a failure to file a return, respondent may determine the amount required to be paid on the basis of any information which is in its possession or may come into its possession. (R&TC, §§ 6481, 6511.) In the case of an appeal, respondent has a minimal, initial burden of showing that its determination was reasonable and rational. (*Appeal of Talavera*, 2020-OTA-022P.) Once respondent has met its initial burden, the burden of proof shifts to the taxpayer to establish that a result differing from respondent's determination is warranted. (*Ibid.*) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. (*Ibid.*)

<u>Issue 1: Whether any adjustments to the amount of unreported taxable sales are warranted.</u>

In general, sales of food are exempt from tax. (R&TC, § 6359.) However, certain sales of food are excluded from the exemption (and are thus subject to tax). As relevant here, sales of food are subject to tax if the food is sold for consumption at facilities provided by the retailer (R&TC, § 6359(d)(2)) or if the food is sold as hot prepared food products (R&TC, § 6359(d)(7)).

When more than 80 percent of a retailer's gross receipts are from sales of food products, and over 80 percent of its retail sales of food are subject to tax, then cold food sold in a form suitable for consumption on the retailer's premises is subject to tax even if it is purchased "to go." (R&TC, § 6359(d)(6); Cal. Code Regs., tit. 18, § 1603(c)(1)(A).) When a retailer's sales fit within this provision, known as the "80-80 rule," the retailer may avoid its application by keeping a separate accounting of its sales to-go of cold food in a form suitable for consumption on the retailer's premises. Tax does not apply to sales of food products which are furnished in a form not suitable for consumption on the seller's premises. (R&TC, § 6359(f); Cal. Code Regs., tit. 18, § 1603(c)(1)(A).) Food products do not include carbonated or effervescent bottled waters, spirituous, malt or vinous liquors, or carbonated beverages. (R&TC, § 6359(b)(3); Cal. Code Regs., tit. 18, § 1602(a)(2).)

Here, appellant did not provide all cash register receipts, sales tickets, or other records from which respondent could verify appellant's claimed deductions for exempt food sales. Accordingly, respondent reviewed appellant's menu and reviews of appellant's business from Yelp.com to conclude that appellant's restaurant satisfied the 80-80 rule so that all of appellant's sales of food suitable for consumption on its premises were subject to tax. Specifically, respondent determined that 80 percent of all the food products appellant sold were taxable because they were hot prepared foods or because of the tables and chairs appellant provided for consumption on its premises. Based on this conclusion, respondent determined that sales of food would be subject to sales tax because appellant did not keep a separate accounting of its cold food sales to-go.

Regarding the first criterion of the 80-80 rule, it is undisputed that, during the audit period, over 80 percent of appellant's gross receipts were from sales of food products. The record corroborates that appellant mainly sold food products; the only products appellant sold that would not qualify as "food products" are carbonated beverages (i.e., sodas and carbonated water). Appellant has not provided any evidence that sales of these items constituted 20 percent or more of its gross receipts. Thus, respondent's conclusion that appellant satisfied the first criterion of the 80-80 rule is reasonable and rational. Next, regarding the second criterion of the 80-80 rule, it is undisputed that appellant sold food items that were subject to tax. Appellant sold hot prepared food products and food items furnished, prepared or served for consumption at the tables and chairs provided for customers. In determining that appellant's business fell under the 80-80 rule, respondent reviewed appellant's menu and reviews from Yelp.com. Appellant has not provided evidence to show that its sales did not qualify under the 80-80 rule. Accordingly, OTA finds that it was reasonable and rational for respondent to conclude that over 80 percent of appellant's retail sales of food products during the audit period were subject to tax and that appellant satisfied both criteria of the 80-80 rule.

Appellant asserts that 50 percent of its sales were nontaxable cold food to-go. In support, appellant provided two photographs of the interior of its restaurant, each of which shows a display refrigerator holding several items which appellant asserts are cold to-go food items.

While appellant asserts that 50 percent of its sales were nontaxable cold food to-go, it has not provided a separate accounting or other evidence to support its sales of cold food to-go. The photographs appellant provided are not sufficient on their own to establish that more than 20 percent of appellant's sales were nontaxable cold foods to-go. It is impossible to tell from the photographs whether the food items shown are hot or cold or whether they were served to or

consumed by customers on appellant's premises. Accordingly, OTA finds no basis to recommend adjustments to either liability period for this argument.

Further, appellant's books and records provided for audit were incomplete and inadequate for sales and use tax audit purposes; thus, respondent was unable to verify sales reported on appellant's SUTRs for the liability periods using a direct audit method. Respondent's preliminary analysis found low reported average daily taxable sales and unusually high credit card sales ratios. These were indications that reported taxable sales may have been understated; thus, OTA finds that it was reasonable for respondent to question reported taxable sales and use an indirect audit method to compute appellant's sales. Respondent's use of the credit-card-sales-ratio method as the basis for its determination is a recognized and standard accounting procedure. (See *Appeal of Amaya*, 2021-OTA-328P (citing *Riley B's, Inc. v. State Bd. of Equalization* (1976) 61 Cal.App.3d 610, 612-613).) OTA also finds that the Form 1099-K data, which is evidence from a third party (merchant card processors) of appellant's sales paid by credit card, are reliable sources of data from which to establish audited sales. The credit card sales alone exceeded reported taxable sales. Accordingly, OTA concludes that respondent has established that its determination is reasonable and rational, and accordingly the burden shifts to appellant to provide evidence from which a more accurate determination may be made.

Appellant contends its books and records were available, and respondent's method is not reasonable. Appellant states that it filed its SUTRs on time and paid the sales tax due. Appellant asserts that it is a small business with only two employees and one cash register and therefore could not have made the amount of sales that respondent calculated in the audit. Appellant also asserts that respondent's audit is based on estimates and is therefore incorrect.

Respondent is not required to accept as conclusive evidence the taxpayer's books and records, even if these were in agreement with each other, where respondent, using recognized and standard accounting procedures, established in an audit that the books and records did not disclose the correct amount of tax liability. (*Riley B's, Inc. v. State Bd. of Equalization*, *supra*.) Respondent has established that its determination was reasonable and rational, and accordingly, the burden shifted to appellant to show errors in the audit. Therefore, appellant must provide evidence sufficient to establish that a result differing from respondent's determination is warranted. (*Appeal of Talavera*, *supra*.) To satisfy its burden of proof, a taxpayer must prove both: (1) that the tax assessment is incorrect and (2) the proper amount of the tax. (*Appeal of AMG Care Collective*, 2020-OTA-173P.)

Regarding appellant's contentions about respondent's audit method and the calculation of sales, appellant did not submit any supporting documentation and did not identify any errors in the audit method. In light of all evidence, OTA finds no basis to recommend adjustments to either liability period for these arguments.

Appellant's alleged filing of its SUTRs on time along with payment of the calculated sales tax due and assertions that it only had two employees and one cash register is not a basis for adjustment.

Issue 2: Whether any adjustments to the amount of unreported fixed asset sales during the second liability period are warranted.

As noted above, California imposes sales tax on a retailer's retail sales of tangible personal property sold in this state measured by the retailer's gross receipts, unless the sale is specifically exempt or excluded from taxation by statute. (R&TC, §§ 6012, 6051.) It is the retailer's responsibility to maintain complete and accurate records to support reported amounts and to make them available for examination. (R&TC, §§ 7053, 7054; Cal. Code Regs., tit. 18, § 1698(b)(1).)

Respondent has a minimal, initial burden of showing that its determination was reasonable and rational. (*Appeal of Talavera*, *supra*.) Once respondent has met its initial burden, the burden of proof shifts to the taxpayer to establish that a result differing from respondent's determination is warranted. (*Ibid.*) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. (*Ibid.*) To satisfy its burden of proof, a taxpayer must prove both: (1) that the tax assessment is incorrect and (2) the proper amount of the tax. (*Appeal of AMG Care Collective*, *supra*.)

Appellant has provided two photographs of the interior of its restaurant to support the selling price of its fixed assets. The photographs show the counter area, cash register and drink refrigerator. It is not clear from the photographs what the value of the assets is or what amount they were sold for. Due to the lack of documentation, OTA finds it was reasonable and rational for respondent to estimate the fixed asset sales price based on its experience in audits of similar businesses in appellant's area.

Appellant argues that the assets were in a used condition and respondent's estimation of the sales price of the assets is very high. However, the photographs appellant provided are insufficient to establish the sales price of the fixed assets, and appellant has not provided any other evidence to support a different sales price. Accordingly, OTA finds no basis to recommend adjustments to the audited sales price of fixed assets.

Issue 3: Whether appellant was negligent.

R&TC section 6484 provides that, if any part of a deficiency for which a deficiency determination is made is due to negligence or intentional disregard of the law or authorized rules and regulations, a penalty of 10 percent of the amount of the determination shall be added thereto. Negligence is generally defined as a failure to exercise such care that a reasonable and prudent person would exercise under similar circumstances. (*Warner v. Santa Catalina Island Co.* (1955) 44 Cal.2d. 310, 317; see also *People v. Superior Court (Sokolich)* (2016) 248 Cal. App. 4th 434, 447.) Generally, a penalty for negligence or intentional disregard should not be added to deficiency determinations associated with the first audit of a taxpayer in the absence of evidence establishing that any bookkeeping and reporting errors cannot be attributed to the taxpayer's good faith and reasonable belief that its bookkeeping and reporting practice were in substantial compliance with the requirements of the Sales and Use Tax Law or authorized regulations. (Cal. Code Regs., tit. 18, § 1703(c)(3)(A); see also *Independent Iron Works, Inc. v. State Bd. of Equalization* (1959) 167 Cal.App.2d 318, 321-324.)

A taxpayer shall maintain and make available for examination on request by respondent, all records necessary to determine the correct tax liability under the Sales and Use Tax Law and all records necessary for the proper completion of the SUTR. (R&TC, §§ 7053 7054; Cal. Code Regs., tit. 18, § 1698(b).) All records required to be retained under this regulation must be preserved for a period of not less than four years. (Cal. Code Regs., tit. 18, § 1698(i).) Failure to maintain and keep complete and accurate records will be considered evidence of negligence or intent to evade the tax and may result in penalties or other appropriate administrative action. (Cal. Code Regs., tit. 18, § 1698(k).)

Respondent imposed the negligence penalties because appellant failed to maintain and provide its books and records for audit and the audit disclosed a substantial understatement of taxable sales.

Unreported taxable sales of $1,318,325 compared to reported taxable sales of $303,787 for the first liability period results in an error rate of 433.96 percent. Credit card sales alone exceeded reported taxable sales; thus, appellant knew or should have known that reported taxable sales on its SUTRs were understated. During the audit, appellant stated that it excluded nontaxable sales from sales reported on the SUTRs but did not provide any documentation to support nontaxable sales. Thus, OTA finds that the large understatement along with the large error ratio are evidence of negligence.

In light of the above, OTA finds that appellant did not have a good faith and reasonable belief that its bookkeeping and reporting practices were in substantial compliance with the

requirements of the Sales and Use Tax Law. OTA also finds that appellant did not exercise the care that a reasonable and prudent person would exercise under similar circumstances, particularly since a reasonable and prudent person would maintain records when claiming that more than 50 percent of its sales were nontaxable.

Although this is appellant's first audit, OTA finds that the negligence penalties were properly imposed.

Issue 4: Whether relief of interest is warranted.

There is no statutory right to interest relief. The law allows respondent, in its discretion, to grant relief of all or any part of the interest imposed on a person under the Sales and Use Tax Law in certain circumstances, including where the failure to pay the tax was due to a disaster, where the failure to pay the tax was due in whole or in part to an unreasonable error or delay by an employee of respondent acting in their official capacity, and where the failure to pay the tax was due to erroneous advice received from respondent. (R&TC, §§ 20, 6593, 6593.5(a)(1), 6596.) Any person requesting interest relief must include a statement under penalty of perjury setting forth the facts on which the request is based. (R&TC, §§ 6593(b), 6593.5(c), 6596(c)(2).)

Where a taxpayer requests interest relief due to an unreasonable error or delay by respondent's employee, relief is appropriate only when no significant aspect of the error or delay can be attributed to an act or failure to act by the taxpayer. (R&TC, § 6593.5(b).) OTA's review of a denial of a request for interest relief by respondent is an abuse of discretion standard. (*Appeal of Micelle Laboratories, Inc.,* 2020-OTA-290P.) To show an abuse of discretion, a taxpayer must establish that, in refusing to relieve interest, respondent exercised its discretion arbitrarily, capriciously, or without sound basis in fact or law. (*Appeal of Eichler*, 2022-OTA-029P.)

Respondent reviewed the audits and prepared a timeline which shows the actions taken during, and amounts of time taken for, the audits, appeals, and settlement processes. Respondent has agreed to grant relief of interest for October 2019. In addition, respondent also granted automatic interest relief for the period for March 2020 through June 2020 due to the COVID-19 pandemic.

Appellant argues that it is entitled to relief from interest on the basis that respondent waited more than three years after appellant filed its returns to conduct its audit and inform appellant of the understatement. Appellant also requests relief because the audit is based on estimations. Appellant has not identified a particular period for which it is entitled to relief, but

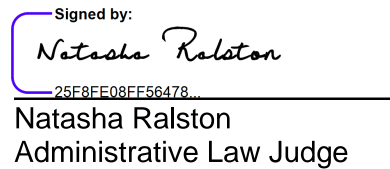
instead generally argues that the audit took too long. Appellant does not allege or offer any evidence to prove an unreasonable error or delay by an employee of respondent acting in their official capacity or that any other basis exists to relieve interest. Therefore, OTA finds that appellant is not entitled to additional relief of interest.

HOLDINGS

1. No adjustments to the amount of unreported taxable sales are warranted.
2. No adjustments to the amount of unreported fixed asset sales during the second liability period are warranted.
3. Appellant was negligent and the penalties were properly imposed.
4. Respondent's action granting relief of interest for the month of October 2019, and for March 2020 through June 2020 is sustained. No additional relief of interest is warranted.

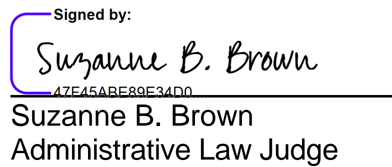
DISPOSITION

Respondent's action granting relief of interest for the month of October 2019, and for March 2020 through June 2020, but otherwise denying the petitions is sustained.

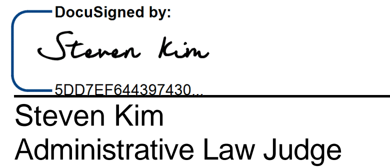


Natasha Ralston
Administrative Law Judge

We concur:



Suzanne B. Brown
Administrative Law Judge



Steven Kim
Administrative Law Judge

Date Issued: 8/28/2025