OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **RANGPUR, INC.,** **dba Jacks Jug Liquor**	OTA Case No.: 251023572 CDTFA Case ID: 5-337-832

OPINION

Representing the Parties:

For Appellant: Brad Chowdhury, CPA

For Respondent: Jason Parker, Chief of Headquarters Ops.

S. RIDENOUR, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 6561, Rangpur, Inc., dba Jacks Jug Liquor (appellant) appeals a decision issued by respondent California Department of Tax and Fee Administration (CDTFA) ordering a reaudit but otherwise denying appellant's timely petition for redetermination of a Notice of Determination (NOD) issued on September 26, 2023.[1] The NOD is for tax of $57,476, plus applicable interest, for the period April 1, 2019, through March 31, 2022 (liability period).[2]

Appellant waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals (OTA) on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Whether appellant has established that additional adjustments are warranted to the unreported taxable sales.

FACTUAL FINDINGS

1. Appellant, a corporation, operates a liquor store in Paramount, California, selling liquor, beer, carbonated beverages, cigarettes, as well as nontaxable snacks and beverages.

[1] The NOD was timely issued because appellant signed a series of waivers of the otherwise applicable three-year statute of limitations, which allowed CDTFA until October 31, 2023, to issue an NOD. (R&TC, §§ 6487(a), 6488.)

[2] As discussed below, a reaudit reduced the determined tax by $8,362, from $57,476 to $49,114.

2. For the liability period, appellant reported total sales of $1,884,092 and claimed deductions totaling $851,317 ($750,103 for exempt food sales and $101,214 for sales tax reimbursement), for a total of $1,032,775 in reported taxable sales.
3. Appellant utilized a cash register to track daily sales and would provide its accountant with quarterly sales amounts without supporting documentation for sales and use tax return (SUTR) reporting purposes.
4. For audit, appellant provided CDTFA with the following records: federal income tax returns (FITRs) for the 2019 through 2021 tax years; bank statements from April 2019 through December 2021; profit and loss statements, as well as purchase journals, for tax years 2019 and 2020; and purchase invoices for second quarter 2021 (2Q21) and January 2023. CDTFA also obtained merchandise purchase information from some of appellant's known vendors.
5. CDTFA compared the gross receipts, excluding sales tax reimbursement, that appellant reported on its SUTRs and FITRs for tax years 2019 through 2021, and found no material differences. Thereafter, CDTFA compared reported total sales (excluding sales tax reimbursement) of $1,782,878 to reported taxable sales of $1,032,775 and calculated a reported taxable ratio of 57.93 percent for the liability period. However, since CDTFA noticed that the merchandise purchases recorded in the purchase journals were not segregated into taxable and nontaxable categories, CDTFA determined that appellant's books and records were not sufficiently complete to verify appellant's reported taxable sales. As such, CDTFA decided to use the markup method[3] to verify appellant's taxable sales.
6. CDTFA contacted vendors known to sell taxable merchandise to appellant, requesting appellant's purchase history during the liability period. Based on the information, CDTFA calculated audited taxable purchases totaling $1,217,026 for the liability period.[4] CDTFA compared appellant's reported taxable sales to the audited taxable purchases and calculated reported taxable markups of -11.13 percent for April 1, 2019, through

[3] "Markup" is the amount by which the cost of merchandise is increased to set the retail price. For example, if the retailer's cost is $.70 and it charges customers $1.00, the markup is $0.30. The formula for determining the markup percentage is markup amount ÷ cost. In this example, the markup percentage is 42.86 percent (.30 ÷ .70 = 0.42857).

[4] Throughout the Opinion, there may be minor numerical differences due to rounding.

December 31, 2019, -17.41 percent for 2020, and -16.41 percent for 2021.[5] CDTFA found that the negative book markups constituted evidence that appellant's reported taxable sales were understated and decided to prepare a markup analysis to establish audited taxable sales.

7. CDTFA conducted a shelf test[6] based on January 2023 purchase invoices and selling prices provided by appellant and computed an audited weighted markup of 32.39 percent. CDTFA reduced the audited taxable purchases of $1,217,026 by 1 percent for self-consumption and 1 percent for shrinkage,[7] to compute net audited taxable purchases of $1,192,807. CDTFA then added the 32.39 percent markup to the net audited taxable purchases of $1,192,807, calculating audited taxable sales of $1,579,157, which, when compared to the reported taxable sales of $1,032,775, established unreported sales of $546,382 for the liability period.

8. On September 26, 2023, CDTFA issued appellant the NOD and on October 24, 2023, appellant filed a timely petition for redetermination.

9. On July 3, 2025, CDTFA issued a decision which, based on documentation appellant provided upon appeal, ordered a reaudit to recompute audited taxable sales after removing duplicate purchases and reducing the audited weighted markup from 32.39 percent to 27.92 percent. CDTFA otherwise denied appellant's petition for redetermination.

10. CDTFA performed a reaudit, which reduced the aggregate determined measure of tax by $86,323 (from $558,572 to $472,249) and the tax liability by $8,362 (from $57,476 to $49,114). CDTFA informed appellant of the reaudit results by letter dated September 22, 2025.[8]

11. Appellant timely appealed to OTA.

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[5] A negative book markup is computed when costs exceed reported sales. If the negative book markups were correct, it would mean that appellant's products were being sold for less than their purchase price.

[6] A shelf test is an accounting comparison of costs and selling prices used to compute markups.

[7] "Shrinkage" refers to unaccounted for losses due to spoilage, breakage, pilferage, etc. (Cal. Code Regs., tit. 18, § 1602.5(d).)

[8] CDTFA found that the 27.92 percent audited weighted markup per the decision did not include the audited taxable liquor and wine markup of 6.52 percent. CDTFA corrected the error and computed an audited weighted markup of 34.44 percent (27.92 percent + 6.52 percent).

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 CDTFA is not satisfied with the amount of tax reported by the taxpayer, CDTFA 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.) In the case of an appeal, CDTFA has a minimal, initial burden of showing that its determination was reasonable and rational. (*Appeal of Talavera*, 2020-OTA-022P.) Once CDTFA has met its initial burden, the burden of proof shifts to the taxpayer to establish that a result differing from CDTFA's determination is warranted. (*Ibid*.) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. (*Ibid*.)

Here, since appellant did not provide reliable and complete records (e.g., cash register z-tapes, sales journals, complete purchase invoices, or purchase journals for the liability period), CDTFA could not verify the accuracy of appellant's reported taxable sales using a direct audit method. While appellant provided bank statements, CDTFA found that the quarterly bank deposit amounts exceeded reported total sales in several periods and thus were not reliable. Therefore, it was appropriate for CDTFA to compute appellant's taxable sales using an indirect method, the markup method, which is a generally accepted method to determine audited sales. (*Appeal of Amaya*, 2021-OTA-328P.) Accordingly, CDTFA has met its initial burden to show that its determination was reasonable and rational, and the burden of proof shifts to appellant to show that adjustments are warranted.

On appeal, appellant does not dispute the reasonableness of the audited markups. Rather, appellant argues that the audited allowance of 1 percent for shrinkage should be increased due to appellant being in a high theft area. Specifically, appellant contends that during the liability period, groups of individuals would enter its location and flee with stolen goods, resulting in "massive" robberies of appellant's merchandise, and, therefore, the allowance for shrinkage should instead be around 8 percent to 10 percent.

The evidence establishes that CDTFA followed its guidelines found in CDTFA's Audit Manual section 0407.10, which provides that an allowance of up to 1 percent for shrinkage may be allowed without specific documentation.[9] Section 0407.10 of CDTFA's Audit Manual provides that when a taxpayer claims shrinkage of more than 1 percent the taxpayer must provide evidence substantiating the claimed amount (e.g., police reports, reports from regularly employed security guards, private detective agencies or similar service firms, insurance claims, as well as losses computed through sales and inventory reconciliations). In support of its contention that it is entitled to an increased shrinkage allowance, appellant provides: (1) a County of Los Angeles Sheriff's Department Supplementary Loss Report dated April 20, 2024, indicating a reported loss of $59,600; and (2) the front page of four separate Report Information and Victims' Bill of Rights pamphlets (Information pamphlets) provided by the County of Los Angeles Sheriff's Department.[10] OTA notes that the Supplementary Loss Report and three of the Information pamphlets are dated outside of the liability period. As for the October 30, 2021 Information pamphlet, it does not state the items burglarized or the loss amount; rather, it merely indicates the occurrence of a burglary. Appellant has not provided actual police reports or insurance claims to support its claim for a higher shrinkage allowance. As such, OTA finds that no further adjustments for shrinkage are warranted.

[9] CDTFA's Audit Manual is an advisory publication providing direction to CDTFA staff administering the Sales and Use Tax Law and Regulations and has no precedential value in an appeal before OTA. (See *Appeal of Micelle Laboratories, Inc.*, 2020-OTA-290P.)

[10] The Information pamphlets are dated October 30, 2021, August 9, 2022, October 23, 2023, and November 26, 2023, and indicate an incident classification of burglary, petty theft, theft, and unstated, respectively.

HOLDING

Appellant has not established that additional adjustments are warranted to the unreported taxable sales.

DISPOSITION

Sustain CDTFA's decision to reduce the tax liability from $57,476 to $49,114, and to otherwise deny appellant's petition for redetermination.

DocuSigned by:
Susana Seyller
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Sheriene Anne Ridenour
Administrative Law Judge

We concur:

Signed by:
Kim Wilson
4E8E740EDB984CD...

Kim Wilson
Hearing Officer

Signed by:
Carol Williams
6163EEBC3DA94BF... For

Teresa A. Stanley
Administrative Law Judge

Date Issued: 6/4/2026