

# Memorandum

To : Honorable Brad Sherman  
Honorable Ernest J. Dronenburg, Jr.  
Honorable William M. Bennett  
Honorable Matthew K. Fong  
Honorable Gray Davis

Date : July 29, 1991

From : E. L. Sorensen, Jr.  
Chief Counsel

Subject : CONTRIBUTION DISCLOSURE OPINION 91-22  
BOARD NON-APPEARANCE MATTERS ARE CONSENT CALENDAR MATTERS  
NOT SUBJECT TO DISCLOSURE/DISQUALIFICATION REQUIREMENTS

At the June 6, 1991 Board meeting, the question arose whether Corporation Franchise and Personal Income Tax Opinions and Decisions Submitted on Memo Schedules (non-appearance calendar) were adjudicatory matters under Government Code Section 15626. The Board determined that they were not adjudicatory matters, thereby reversing their decision on March 13, 1991 which was reflected in Contribution Disclosure Memorandum 91-4. The Board further asked that the legal staff review prior opinions on the subject of non-appearance calendars.

The legal staff reviewed the matter and reaffirmed their opinion in Contribution Disclosure Memorandum 91-4, which stated the conclusion that items on these non-appearance calendars are consent calendar matters within the meaning of subdivision (h)(5) of Section 15626, and are not subject to the disclosure/disqualification requirements found in subdivisions (b) and (c) of Section 15626.

The Sales and Use Tax and Special Taxes non-appearance matters, including refunds, redeterminations, and requests for relief from penalties, are of the same nature as the Franchise and Income Tax memo matters, and the same conclusion applies to these matters.

Accordingly, when they are first scheduled for Board action, items listed on the agenda as Sales and Use Tax and Special Taxes matters for consideration, and as Franchise and Income Tax non-appearance matters (proposed opinions and proposed decisions submitted on memo) are not adjudicatory matters under Government Code Section 15626 and are not subject to the disclosure/disqualification requirement.

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If the Board defers consideration of any of these consent items, they are not adjudicatory when they are rescheduled. However, if the Board removes any of these consent items from the calendar for separate discussion and vote, the items must be rescheduled as an adjudicatory matter.

Contribution Disclosure Memorandum 91-6, which reflected the Board's previous (3/13/91) decision on this issue, is withdrawn.

A handwritten signature in black ink, appearing to read "E. J. Lawrence". The signature is written in a cursive style with a large initial "E" and a long, sweeping underline.

ELS:wk  
3251C

cc: Ms. Cindy Rambo  
Mr. Lawrence A. Augusta  
Ms. Janice Masterton  
Contribution Disclosure Binder Distribution List