



STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
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(916) 322-2270 • FAX (916) 324-3984
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BETTY T. YEE
First District, San Francisco

BILL LEONARD
Second District, Ontario/Sacramento

MICHELLE STEEL
Third District, Rolling Hills Estates

JUDY CHU, Ph.D.
Fourth District, Los Angeles

JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
January 21-22, 2009

PRELIMINARY RECORD OF BOARD ACTION

Wednesday, January 21, 2009

The following is a preliminary record of Board actions taken at the January 21-22, 2009 Board Meeting. This is not an official record and is subject to correction or modification. The official record of the Board's actions is the minutes of the Board, which will be adopted at a subsequent meeting.

The Board's decision reflects only the issues resolved by the Board at the meeting. Issues resolved prior to the meeting are not reflected in this document.

If you would like specific information regarding items on this Preliminary Record of Board Action, please telephone Joann Richmond at (916) 322-1931 or e-mail: Joann.Richmond@boe.ca.gov. Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

Board Committee Meetings– Please see Page 17, O. Adoption of Board Committee Reports and Approval of Committee Actions, for voting results.

Board Meeting

Organization of the Board*

- The Board will vote to elect a Chair and Vice Chair

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--|------------------------|-------------------|
| Appointed Ms. Yee, Chairwoman and Dr. Chu, Ph.D., Vice Chair | Dr. Chu | Yes |
| | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

- A. Homeowner and Renter Property Tax Assistance Hearings
There are no items for this matter.

B. Corporate Franchise and Personal Income Tax Hearings**B1. Argonaut Group, Inc., 287738**

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|----------------------------|--|---|
| Taxpayers' Appeal Granted. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | Absent Yes Yes No Not Participating |

B2. Mahnaz Judson, 424321

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---------------------------|--|------------------------------------|
| Taxpayers' Appeal Denied. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | Absent Yes Yes Yes Yes |

B3. John D. Bogdanoff and Janora G. Bogdanoff, 440634

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|-------------------------|--|-------------------|
| No Final Determination. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | |

B4. Jacek Kostyrko and Zofia Kostyrko, 443905**C. Sales and Use Tax Appeals Hearings****C1. Southcorp Packaging USA, Inc., 224867 (EH)**

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|-----------------------------|--|------------------------------------|
| Taxpayers' Petition Denied. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | Absent Yes Yes Yes Yes |

C2. Convenience Acquisition Co. LLC, 236133 (KH) – Appearance Waived

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|-----------------------------|------------------------|-------------------|
| Taxpayers' Petition Denied. | Dr. Chu | Yes |
| | Mr. Leonard | No |
| | Ms. Steel | No |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

D. Special Taxes Appeals Hearings

These items are scheduled for Thursday, January 22, 2009.

There are no items for the following matters:

- E. Property Tax Appeals Hearings
- F. Public Hearings

G. Tax Program Nonappearance Matters – Consent

G1. Legal Appeals Matters

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---------------------------------|------------------------|-------------------|
| Approved Staff Recommendations. | Dr. Chu | Absent |
| | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

- Hearing Notices Sent – No Response
 1. Harinderpal S. Ahluwalia, 350150 (KH)
 2. Universal Dental Studio, Inc., 339701 (GH)
- Hearing Notice Sent – Appearance Waived
 3. Rizalde V. Sandoval, 332206 (EH)
- Petitions for Release of Seized Property
 4. Amar Singh, 459750 (ET)
 5. Youssef A. Salah, 466071 (ET)
 6. Khoury and Azar, Inc., 423828 (ET)
 7. Gigis Liquor #2, Inc., 466069 (ET)
 8. Nirbhai Singh and Parmjeet Kaur, 466075 (ET)

G2. Franchise and Income Tax Matters

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--|------------------------|-------------------|
| Approved Staff Recommendations. | Dr. Chu | Absent |
| No final determination on sub-items 10, 19 and 24. | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

➤ Decisions

1. Steven C. Agid, 397339
2. Terri R. Amuwa, 357021
3. Winston Bear Child and Teresita P. Bear Child, 400991
4. Debra J. Berini, 395919
5. Butch Berry, 361529
6. John Buergel, 388878
7. Miguel R. Dacones, 362356
8. Jan M. Dixon, 400994
9. Daniel Ebenezer and Padmini Ebenezer, 340164
- ~~10. Maria Theresa Gonzales, 404649~~
11. George Jaresko, 349404
12. Sucheta Kapuria, 288980
13. Amy C. Ku, 384772
14. Donna J. Lawell, 381474
15. LSI Logic Corporation & Subsidiaries, 402104
16. Nancy Lucero, 405939
17. Constance L. Maples, 382846
18. Mazen M. Mardini and Hafiah Mardini, 393429
- ~~19. Michael Maurer and Anna G. Maurer, 351807~~
20. MD Biotech Corp., 398016
21. Masoud Molaei and Lesli Molaei, 377126
22. Gregory Teeters, 406026
23. Pedro J. Ugarte and Patricia V. Ugarte, 402854
- ~~24. Jose Arnel Viray, 361472~~

➤ Petitions for Rehearing

25. Alison Buergel, 333132
26. Jon Maple, 398911
27. Shawn Mills, 395824
28. Victor Roy, 395839
29. Donald B. Russell, 347413
30. Ruth Vinson, 384140
31. Ruth Vinson, 384249

G3. Homeowner and Renter Property Tax Assistance Matters

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---------------------------------|------------------------|-------------------|
| Approved Staff Recommendations. | Dr. Chu | Absent |
| | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

➤ Decisions

1. Johnnie Anthony, 391713
2. Janyne A. Auston, 399398
3. Tanya Black, 387314
4. Percy A. Carper, 372957
5. Paul Anthony Dombroski, 379878
6. Michael N. Flores, 378244
7. Sheila Hamilton, 394325
8. Annissha M. Hargrove, 357430
9. O. D. Harris, 387264
10. Angel Louise Hatfield, 382415
11. Rebecca Heredia, 386697
12. Ching K. Jee, 378567
13. Zandra Victoria Johnson, 389591
14. Charles Thomas Jones, 384593
15. Steven G. Lee, 387881
16. Joseph Lopez, 388328
17. Gladys Mastain, 380526
18. Shirley Robinson Matthews, 394111
19. Doris F. Miller (Deceased), 401189
20. Dawn O'Neal, 383516
21. John Si Jong Paik, 390546
22. Jacob Ramsey, 387824
23. Nancy Schuster, 394497
24. Jeannie Smith, 394090
25. Leagan Tang, 383475
26. Bounma Young, 377254
27. Shavool Zarbakhsh, 374560

G4. Sales and Use Taxes Matters

➤ Redeterminations

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---------------------------------|--|--|
| Approved Staff Recommendations. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | Absent Yes Yes Yes Yes, except not participating in sub-item 11. |

1. Lithographix, Inc., 373226 (AS)
2. Inland Paperboard & Packaging, Inc., 397940 (OH)
3. Starbucks Corporation, 459050 (OH)
4. American School of Aviation, 446983 (UT)
5. Edison Security Corp., 342575 (AP)
- Relief of Penalty/Interest
6. Lamps Plus, Inc., 467870 (AC)
7. Round Table Development Co., 468139 (CH)
8. Jeromes Furniture Warehouse, Inc., 467205 (FH)
9. Cardinal Health Solutions, Inc., 467208 (FH)
- Denials of Claims for Refund
10. Converse, Inc., 405479 (OH)
11. NEC Business Network Solutions, Inc., 304869 (OH)
12. Edison Security Corp., 303287 (AP)
13. Onquest Engineering, Inc., 418113 (AP)
14. Capital One Auto Finance, Inc., 418110 (OH)
15. Capital One Auto Finance, Inc., 367336 (OH)
16. First Data Technologies, Inc., 424694 (OH)
17. Union Leasing Trust, 444322 (OH)

G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--|--|--|
| Approved Staff Recommendations. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | Absent Yes Yes Yes Yes – except not participating in sub-item 6. |
| No final determination on sub-item 34. | | |

- Credits and Cancellations
1. Plasticorp, 470195 (AS)
2. Moss Motors, LTD, 468327 (GH)
3. Chance USA, LLC, 377736 (UT)
4. WMK Office San Diego, LLC, 468484 (FH)
5. Neotek Properties of Florida, Inc., 465992 (AS)

➤ Refunds

6. Nissan North America, Inc., 457489 (OH)
7. Los Angeles Harbor Department, 466255 (EA)
8. California Institute of Technology, 315350 (AP)
9. McJunkin Corporation, 246365 (OH)
10. Levi-Strauss & Co., 331372 (BH)
11. Burlingame Industries, Inc., 464784 (EH)
12. Rotolo Chevrolet , Inc., 444516 (EH)
13. Traffic Control Service, Inc., 438007 (OH)
14. Garden State International Trucks, Inc., 444520 (GH)
15. United Aviation Fuels Corporation, 433455 (OH)
16. Mercedes-Benz USA, LLC, 451253 (KH)
17. Tivo, Inc., 445331 (GH)
18. Miramax Film Corporation, 465981 (OH)
19. Merge Emed, Inc., 423623 (OH)
20. Wachovia Dealer Services, Inc., 461704 (EA)
21. Bmar & Associates, Inc., 359343 (OH)
22. Harbor Distributing, LLC, 459072 (EA)
23. Aspen Technology, Inc., 465978 (OH)
24. University of San Francisco, 465983 (BH)
25. General Petroleum Corporation, 432406 (AA)
26. Wright Graphics, Inc., 399854 (AC)
27. Visa International Services Association, 425404 (BH)
28. IXOS Software, Inc., 464521 (BH)
29. Bill Cahan & Associates, A California Corporation, 444362 (BH)
30. Peyton Cramer Infiniti, 462377 (AS)
31. Onquest Engineering, Inc., 418113(AP)
32. Capital One Auto Finance, Inc., 418110 (OH)
33. Capital One Auto Finance, Inc., 367336 (OH)
- ~~34. Affymetrix, Inc., 462490 (GH)~~
35. Affymetrix, Inc., 441877 (GH)
36. Rancho Santa Fe Thrift & Loan, 462375 (FH)
37. Intrans Group, Inc., 466322 (OH)
38. Joel Edward Shapiro, 419953 (KH)
39. Triton Acceptance Corporation, 461706 (EA)
40. Shasta Regional Medical Center, 426876 (KH)
41. Bluelinx Corporation, 445930 (OH)
42. Drive Financial Services, LP, 340709 (OH)
43. First Data Technologies, Inc., 466693 (OH)
44. Kerman AG Resources, Inc., 435150 (KH)
45. Volo Holdings Hayward, LLC, 446966 (CH)

G6. Special Taxes Matters

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---------------------------------------|------------------------|-------------------|
| Approved Staff Recommendations. | Dr. Chu | Absent |
| No final determination on sub-item 2. | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Not participating |

- Relief of Penalty
 1. Petro-Diamond Incorporated, 467745 (MT) 'CF'
- Denials of Relief of Penalty
 2. Big West of California, LLC, 460290 (MT)

G7. Special Taxes Matters – Credits, Cancellations, and Refunds

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---------------------------------|------------------------|---|
| Approved Staff Recommendations. | Dr. Chu | Absent |
| | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes – Except not participating in sub-item 2. |

- Refunds
 1. Eisenhower Medical Center, 446764 (EF)
 2. Republic Services Vasco Road, LLC, 446853 (ER)

There are no items for these matters:

G8. Property Tax Matters

G9. Cigarette License Fee Matters

G10. Legal Appeals Property Tax Matters

H. Tax Program Nonappearance Matters – Adjudicatory

H1. Legal Appeals Matters

- Hearing Notice Sent – No Response
 1. Cindy A. Saito, 339713 (KH)

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|-----------------------------|------------------------|-------------------|
| Taxpayers' Petition Denied. | Dr. Chu | Absent |
| | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

- Case Heard But Not Decided
2 City of Anaheim, 254561

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|------------------------------|--|-----------------------------------|
| Taxpayers' Petition Granted. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | Absent No Yes Yes Yes |

- Local Tax Reallocation Hearings
3. City of Los Angeles, 472907

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--|--|---|
| Taxpayer's Petition for Hearing Granted. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | Absent Yes Yes Yes Abstaining |

4. City of Stockton, 472908

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--|--|---|
| Taxpayer's Petition for Hearing Granted. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | Absent Yes Yes Yes Abstaining |

5. Cities of Los Angeles, San Jose, and Irvine, 472925

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--|--|---|
| Taxpayer's Petition for Hearing Granted. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | Absent Yes Yes Yes Abstaining |

6. Cities of Irvine, San Diego, and Santa Ana, 472928

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--------------------------------|--|-------------------|
| Taxpayer's Petition Withdrawn. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | |

7. City of Sacramento, 472921

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--|--|---|
| Taxpayer's Petition for Hearing Granted. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | Absent Yes Yes Yes Abstaining |

H2. Franchise and Income Tax Matters

➤ Opinions

1. ~~C. V. Starr & Co., 382904~~
2. ~~Medianews Group, Inc., 377121~~

➤ Decision

3. John Stroup, 354089

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---|--|------------------------------------|
| Taxpayer's Appeal Partially Granted/Denied. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | Absent Yes Yes Yes Yes |

H3. Homeowner and Renter Property Tax Assistance Matters

➤ Decision

1. David Silverman, 379230

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|----------------------------|------------------------|-------------------|
| Taxpayers' Appeal Granted. | Dr. Chu | Absent |
| | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

H4. Sales and Use Taxes Matters

There are no items for this matter.

H5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

➤ Refunds

1. Fruitridge Printing Lithograph, Inc., 472382

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--|------------------------|-------------------|
| Taxpayer's Claim Partially Granted/ Denied. | Dr. Chu | Absent |
| | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

H6. Special Taxes Matters

➤ Relief of Interest

1. Chevron U.S.A., Inc., 461867 (MT)

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---|------------------------|-------------------|
| Taxpayer's Petition Partially Granted/ Denied. | Dr. Chu | Absent |
| | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

There are no items for these matters:

H7. Special Taxes Matters – Credits, Cancellations, and Refunds

H8. Property Tax Matters

H9. Cigarette License Fee Matters

H10. Legal Appeals Property Tax Matters

I. Tax Program Nonappearance Matters**I1. Property Taxes Matters**➤ **Audit****1. Plumas-Sierra Rural Electric Cooperative (176) - 'CF'**

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---------------------------------|--|--|
| Approved Staff Recommendations. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | Absent Yes Yes Yes Not participating |

➤ **Board Roll Changes****2. 2005, 2006, 2007 and 2008 Board Rolls of State-Assessed Property - 'CF'**

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---------------------------------|--|--|
| Approved Staff Recommendations. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | Absent Yes Yes Yes Not participating |

I2. Offers-in-Compromise Recommendations**1. Alfun, Micale, & Associates, Inc.**

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--------------------------------|--|------------------------------------|
| Approved Staff Recommendation. | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | Absent Yes Yes Yes Yes |

Chief Counsel Matters

There are no items for the following matters:

- J. Rulemaking
- K. Business Taxes
- L. Property Taxes
- M. Other Chief Counsel Matters

Administrative Session

The following items are scheduled for Thursday, January 22, 2009.

- N. Consent Agenda
- O. Adoption of Board Committee Reports and Approval of Committee Actions
- P. Other Administrative Matters

Q. Closed Session

This item is scheduled for Thursday, January 22, 2009.

UNOFFICIAL



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**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
January 21-22, 2009
NOTICE AND AGENDA**

PRELIMINARY RECORD OF BOARD ACTION

Thursday, January 22, 2009

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B. Corporate Franchise and Personal Income Tax Hearing

B5. Standard Register Company, 417837

C. Sales and Use Tax Appeals Hearing

C3. Zenaida Laxamana, Manuel Gurion, Ester Gurion, Linda Gurion
389908 (BH)

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--|------------------------|-------------------|
| Taxpayer's Petition Partially Granted/ Denied. | Dr. Chu | Absent |
| | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

C4. John F. Steele and Gayle Jeannie Steele, 333230 (UT)

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--|------------------------|-------------------|
| No Final Board Determination. | Dr. Chu | Absent |
| The Board ordered that the petition be submitted for decision, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the petitioner's supporting documents, the Department's response and provide its recommendation to the Board. Additionally, the Board relieved three months of interest. | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

C5. Hardial Singh Pannu and Davinder Kaur Pannu, 390331 (GH)

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---|------------------------|-------------------|
| No Final Board Determination. | Dr. Chu | Absent |
| The Board ordered that the petition be submitted for decision, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the petitioner's supporting documents, the Department's response and provide its recommendation to the Board. | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

C6. A.B.C Lumber Jack's, Inc., 351536 (EH) – Appearance Waived

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--|------------------------|-------------------|
| Taxpayer's Petition Partially Granted/ Denied. | Dr. Chu | Absent |
| Approved Staff Recommendation. | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

D. Special Taxes Appeals Hearings

D1. Fassel M. Elder and Amal Elder, 272656 (MT)

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|-------------------------------------|------------------------|-------------------|
| HHHHHHHHTaxpayers' Petition Denied. | Dr. Chu | Absent |
| | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

Seized Property Appeal Hearing

D2. Avis Corporation, 457948 (ET)

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|-------------------------------------|------------------------|-------------------|
| HHHHHHHHTaxpayers' Petition Denied. | Dr. Chu | Absent |
| | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

Administrative Session

N. Consent Agenda

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---------------------------------|------------------------|-------------------|
| Approved Staff Recommendations. | Dr. Chu | Absent |
| | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

N1. Board Employee Retirement Resolutions

- Blanca M. Breeze
- Cynthia Bresnan
- Maria Cabrera-Sahagian
- Leon W. Clark III
- Craig J. Clauson
- Richard L. DaPrato
- Lucian J. Khan
- Patricia G. Lucero
- Reynaldo D. Obligacion
- Jerry S. Pero
- Terry E. Skeen

N2. Approval of Board Meeting Minutes

- November 12 – 13, 2008
- November 18, 2008

O. Adoption of Board Committee Reports and Approval of Committee Actions

O1. Legislative Committee

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--|--|-------------------|
| Approval of the 1/21/09 Legislative Committee minutes will be scheduled on 2/03/09 | Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel | |

2009 Legislative Proposals

Business Taxes

- ~~2-2 Add section 524 to the Evidence Code to specify that the burden of proof is with the Board in any assertion of penalties for intent to evade or fraud and require a clear and convincing evidence standard for such assertions, as specified.~~
- ~~2-3 Add section 525 to the Evidence Code to specify that in a court of law any assertion of penalties (other than intent to evade or fraud) requires a preponderance of the evidence standard for such penalties and the burden of proof is placed on the Board in its assertion of such penalties.~~
- ~~2-4 Add Part 10.1 (commencing with section 15706) to Division 3 of Title 2 of the Government Code to specify that the Board and the Franchise Tax Board (FTB) shall have the burden of proof in any court or administrative tax proceeding, with respect to a factual issue related to ascertaining the tax liability of a taxpayer that has established that it is a cooperating taxpayer, as defined.~~

Business Taxes – Sales and Use Taxes

- ~~3-7 Amend Revenue and Taxation Code sections 6011 and 6012 to eliminate the sales and use tax exclusion for separately stated charges for transportation.~~
- 3-8 Amend Revenue and Taxation Code section 6018.6 to provide that specified garment cleaning establishments shall be regarded as consumers, rather than retailers, of tangible personal property they sell, provided those sales do not exceed one-half of one percent of their total gross receipts for the preceding calendar year.

Business Taxes – Special Taxes

- ~~4-1 Amend Revenue and Taxation Code section 30141 to revise the minimum amount of security required from a cigarette distributor from \$1,000 per licensed location to an amount determined by the Board and add security release requirements consistent with other Board-administered programs. Also amend section 30142 to remove provisions not related to the security requirements for purchasing cigarette tax stamps on credit.~~
- 4-2 Amend Revenue and Taxation Code sections 7339 and 60003 of the Motor Vehicle Fuel and Diesel Fuel Tax Laws, respectively, to redefine a terminal to include a fuel production facility with storage so that facilities outside the bulk transfer system have the same licensing and reporting requirements as terminals supplied by pipeline or vessel.
- 4-3 Amend Revenue and Taxation Code sections 60501 and 60508, and repeal sections 60508.1, 60508.2, 60508.4, and 60509, to allow a supplier of diesel fuel to file a claim for refund or claim a credit on their supplier return on behalf of retailers for qualified sales to consulate officers or consulate employees, or to the United States and its agencies and instrumentalities.
- 4-4 Amend Revenue and Taxation Code sections 60022 and 60023 to clarify that the definition of “diesel fuel” includes biodiesel, other biomass-based diesel fuel, and blends. Also add sections 60022.1, 60022.2, 60022.3, 60022.4 and 60023.1 to define biodiesel, biomass, biomass-based diesel, petroleum-based diesel, and raw vegetable oil, respectively.
- 4-5 Add section 55041.1 to the Revenue and Taxation Code to require annual fee payers under programs administered pursuant to the Fee Collection Procedures Law to file a closing return when they close or sell their business.

Administration

- 5-2 Amend Vehicle Code section 1808.4 to add the Board’s limited peace officers to the list of public employees and officials whose home addresses are granted enhanced confidentiality by the Department of Motor Vehicles.

O2. Customer Service and Administrative Efficiency Committee

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---|------------------------|-------------------|
| Adopted committee report. | Dr. Chu | Absent |
| For details see: | Mr. Leonard | Yes |
| http://www.boe.ca.gov/meetings/custsrv/custsrv09.htm | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

P. Other Administrative Matters

There are no items for the following matters:

P1. Executive Director's Report

P2. Chief Counsel Report

P3. Deputy Director's Report

a. Sales and Use Tax

There are no items for this matter.

b. Property and Special Taxes

1. Fiscal Year 2009/10 Tobacco Products Rate Setting

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|-------------------------------|------------------------|-------------------|
| No Final Board Determination. | Dr. Chu | |
| | Mr. Leonard | |
| | Ms. Steel | |
| | Ms. Yee | |
| | Mr. Chiang/ Ms. Mandel | |

2. Supplemental Reporting Requirements for Nonprofit Hospitals

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---|------------------------|-------------------|
| The Board referred this matter to an interested parties process for further input and to refine the form. The Board would also like to see the supplemental reporting requirements implemented this year. | Dr. Chu | Absent |
| | Mr. Leonard | Yes |
| | Ms. Steel | Yes |
| | Ms. Yee | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

c. Administration

1. Facilities Update

A status report on issues related to the Headquarters building.

2. Budget Update 2008/09
Update on the Legislative Special Session to address the current budget situation.
 3. Budget Update 2009/10
Update on the Governor's 2009/10 budget as it relates to the Board of Equalization.
- d. Technology Services
1. Update on Digital Board of Equalization
Status report on Board of Equalization efforts to implement the roadmap to becoming digital.

Q. Closed Session

*This matter occurred on January 22, 2009.

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