



STATE BOARD OF EQUALIZATION
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0080
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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
MARCH 16-17, 2009**

PRELIMINARY RECORD OF BOARD ACTION

Monday, March 16, 2009

The following is a preliminary record of Board actions taken at the March 16-17, 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 Rose Smith at (916) 323-9656 or e-mail: Rose.Smith@boe.ca.gov Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

Board Committee Meeting – Please see Page 13, O., Adoption of Board Committee Report and Approval of Committee Actions, for voting results.

Board Meeting

A. Homeowner and Renter Property Tax Assistance Hearing

A1. Shirley Williams, 436262

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B. Corporate Franchise and Personal Income Tax Hearings

B1. Marlene D. Canter, 421269

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination. Deferred consideration to April.	Ms. Yee Mr. Leonard Ms. Steel Dr. Chu Mr. Chiang/ Ms. Mandel	

B2. Donald A. Ramirez and Caroline A. Ramirez, 360881

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' appeal denied.	Ms. Yee Mr. Leonard Ms. Steel Dr. Chu Mr. Chiang/ Ms. Mandel	Yes Yes No Yes Yes

B3. Mervin L. George, Sr. and Laura Lee George, 443087

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' appeal partially granted/denied.	Ms. Yee Mr. Leonard Ms. Steel Dr. Chu Mr. Chiang/ Ms. Mandel	Yes No No Yes Yes

B4. A. G. Arellano, 436279

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee Mr. Leonard Ms. Steel Dr. Chu Mr. Chiang/ Ms. Mandel	Yes Yes Yes Yes Yes

B5. ~~Peter M. Bucklin and Joan Bucklin, 450416~~**C. Sales and Use Tax Appeals Hearings**

These items are scheduled for the afternoon session and Tuesday, March 17, 2009.

D. Special Taxes Appeals Hearings

These items are scheduled for Tuesday, March 17, 2009.

E. Property Tax Appeals Hearings

There are no items for this matter.

F. Public Hearing

These items are scheduled for the afternoon session and Tuesday, March 17, 2009.

G. Tax Program Nonappearance Matters – Consent**G1. Legal Appeals Matters**

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

- Hearing Notices Sent – No Response
 1. Fidel Pena Islas and Mirtha Silva Islas, 334802 (MT)
 2. Diane Ramey, 406676, (UT)
 3. Janice E. Lawrence, 422967 (KH)
 4. The W.A. Butler Company, 401803 (OH)
 5. Atisha Shanti Paulson, 390598 (GH)
- Petition for Release of Seized Property
 6. Daya Singh and Sukhjeet Kaur, 466080 (ET)

G2. Franchise and Income Tax Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations.	Ms. Yee	Yes
No Final Determination on sub items 4 and 5	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Decisions
 1. Happy Harbor Marina, Inc., 414932
 2. Jaime H. Lopez and Irma P. Lopez, 405924
 - 3a. Natalie Leesmann, 362705
 - 3b. Floyd Fritz Leesmann, 382536
 4. ~~Estate of Georgianna Ward (Deceased), 325827, 397042, 416568~~
- Hearing Notice Sent – Appearance Waived
 5. ~~Jacek Kostyrko and Zofia Kostyrko, 443905~~

G3. Homeowner and Renter Property Tax Assistance Matters

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

- Decisions
 1. Joyce Canady, 387490
 2. Rainess Holmes, 425149
 3. Riando Lewis, 423639
 4. Anita Penaflor, 414940
 5. Rubyann F. Perez, 425373
 6. Fumiko Saito, 422997
 7. Trudy Unger, 426806
- Hearing Notice Sent – Appearance Waived
 8. Vincent J. Garofalo, 426809

G4. Sales and Use Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations. No Final Determination on sub item 8	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes – except not participating in sub-item 4
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Redeterminations
 1. Robert Leonard, 444095 (AS)
 2. Learjet, Inc., 424364 (OH)
 3. Color Communications, Inc., 402641 (OH)
- Relief of Penalty/Interest
 4. Circle K Stores, Inc., 474482 (OH)
- Denials of Claims for Refund
 5. Robert Ingram, 443313 (EH)
 6. Sprint Spectrum, L.P., 201892 (OH)
 7. Suburban Propane, L.P., 306074 (OH)
- Denials of Relief of Penalty/Interest
 8. Brentwood Motors, Inc., 445719 (CH)

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

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

- Credits and Cancellations
 1. Mark Sawaya, 418583 (FH)
 2. DFS SPV, LP, 472906 (OH)
 3. Academy Trading, Inc., 472250 (AS)
- Refunds
 4. Madison/Graham Color Graphics, Inc., 400794 (AA)
 5. Prince Mobile Homes, Inc., 470070 (EH)
 6. Fleet Card Fuels, 406641 (AR)
 7. The Dot Printer, Inc., 466328 (EA)
 8. Westamerica Bank, 464301 (JH)
 9. Cardinal Health 110, Inc., 344853 (OH)
 10. Medline Industries, Inc., 341178 (OH)
 11. Vitro Packaging, Inc., 402357 (OH)
 12. Bestco Electric, Inc., 447878 (KH)
 13. Mercedes-Benz USA, LLC, 461214 (KH)
 14. Sprint Spectrum, LP, 201892 (OH)
 15. Pacific Service Credit Union, 430895 (CH)
 16. Behroz Akbarpour, 435377 (BH)
 17. Triad Financial Corporation, 418387 (EA)
 18. Rafe Federal Credit Union, 443023 (EH)

There are no items for the following matters:

- G6. Special Taxes Matters
- G7. Special Taxes Matters – Credits, Cancellations, and Refunds
- 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 Notices Sent – No Response
 - 1a. Jamal A. Mahgoub, 356195 (CH)
 - 1b. AMT Solutions, Inc., 356197, 392072 (CH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' petition/claim denied.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	No
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Cases Heard But Not Decided
 - 2a. Artashes Ambartsumyan, 334788 (EH)
 - 2b. Artashes Ambartsumyan, 335123 (EH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petitions denied.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

3. Danny Kangsok Kim, 386898 (EA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition partially granted/denied.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Local Tax Reallocation Hearings

4. Cities of Newport Beach and San Jose, County of Sacramento, 478775

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Jurisdictions' petition for hearing denied.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

5. ~~City of Long Beach, 478776~~6. ~~City of Santa Fe Springs, 478777~~

7. City of San Mateo, 478814

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Jurisdiction's petition for hearing denied.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

8. ~~City of Larkspur, 478816~~

9. City of San Mateo, 478830

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Jurisdiction's petition for hearing denied.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	No
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

H2. Franchise and Income Tax Matters

➤ Decisions

1. Craig E. Jackson, 377160

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

2. Personal Selling Power, Inc., 380557

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

➤ Petition for Rehearing

3. John Cirino and Sepideh Cirino, 361476

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' petition for rehearing denied.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	No
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

H3. Homeowner and Renter Property Tax Assistance Matters

➤ Decision

1. Stephanie D. Brown, 345106

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

H4. Sales and Use Taxes Matters

➤ Relief of Penalty/Interest

1. L&W Supply Corporation, 4611498 (EA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition granted.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

2. Sally Beauty Supply, LLC, 461139 (OH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition granted.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

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

➤ Refund

1. UPS Oasis Supply Corporation, 340492 (OH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's claim granted.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

There are no items for the following matters:

- H6. Special Taxes 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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Not participating

- Audits
 1. Ducor Telephone Company (228) – “CF”
 2. Kerman Telephone Company (246) – “CF”
 3. Omnipoint Communications, Inc. (2748) – “CF”
- Private Railroad Car Tax Refunds
 - 4a. M & C Railcar Leasing, LLC (6223) – “CF”
 - 4b. Greenfield Logistics, LLC (6369) – “CF”

I2. Offers-in-Compromise Recommendations

1. Kenneth W. Park

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

Chief Counsel Matters

There are no items for the following matters:

- J. Rulemaking
- K. Business Taxes

L. Property Taxes

This item is scheduled for Tuesday, March 17, 2009.

- M. Other Chief Counsel Matters

There are no items for this matter.

Administrative Session

The following items are scheduled for Tuesday, March 17, 2009.

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

Q. Closed Session

These items are scheduled for Tuesday, March 17, 2009.

C. Sales and Use Tax Appeals Hearings

C1. Sandisk Corporation, 208950, 225448, 312943 (GH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C2. Shirley Everett-Dicko and Donald Ray White, 342570 (CH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination. Postponed hearing to the May Sacramento Meeting.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

F. Public Hearing

F1. Sales and Use Tax Regulation 1502, *Computers, Programs, and Data Processing*

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved amendments as recommended by staff.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes



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**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
MARCH 16-17, 2009**

PRELIMINARY RECORD OF BOARD ACTION

Tuesday, March 17, 2009

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C. Sales and Use Tax Appeals Hearing

C3. Richard Dean Jensen, 414211 (KH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition partially granted/denied.	Ms. Yee	Yes
Approved staff's revised recommendation.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

D. Special Taxes Appeals Hearings

D1. Azad Amiri and Nassrin Amiri, 313034 (MT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' administrative protest denied.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

D2. R & R Greene Living Trust, 221089 (MT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Ms. Yee	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

Chief Counsel Matters**L. Property Tax**

➤ Board Consideration of Findings and Decisions

L1. Golden State Water Company (101), 457748

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	No
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

L2. SureWest Telephone (294), 457483

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

Administrative Session**N. Consent Agenda**

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

- N1. Board Employee Retirement Resolutions
 - Michele H. (Mickie) Stuckey
 - Roberto (Bob) L. Thome
 - James B. Van Gundy
- N2. Approval of Board Meeting Minutes
 - December 16 - 17, 2008
 - January 21 - 22, 2009
- N3. Approval of Board Meeting Date Change--Change Board/Assessors' Meeting from October 14 (Shell Beach) to August 12 (Squaw Valley)
- N4. Approval of Proposed Revisions to Compliance Policy and Procedures Manual Chapter 8, Consumer Use Tax
- N5. Approval of Proposed Revisions to Audit Manual section 0611.15, Interstate Deliveries from California Stocks

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

O1. Customer Service and Administrative Efficiency Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report.	Ms. Yee	Yes
For details see:	Mr. Leonard	Yes
boe.ca.gov/meetings/custsrv/custsrv09.htm	Ms. Steel	Yes
	Dr. Chu	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. Flavored Malt Beverages Testing Plan

a. Flavored Malt Beverage Regulations implementation update, and proposed Product Testing Plan.

b. Approval of Finance Letter #3 to establish a limited-term position and funding for contract laboratory services to perform workload to implement Flavored Malt Beverage Regulations.

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Finance Letter #3 as recommended by staff.	Ms. Yee	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

~~2. Fiscal Year 2009/10 Tobacco Products Rate Setting~~

c. Administration

1. Facilities Update

- a. Update regarding the on-going projects at 450 N Street.
- b. Update on the site search to re-locate BOE employees

2. Budget Update 2008/09 and 2009/10

F. Public Hearings

F2. Business Taxpayers' Bill of Rights Hearings

F3. Property Taxpayers' Bill of Rights Hearings

Q. Closed Session

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