



STATE BOARD OF EQUALIZATION
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0080
(916) 322-2270 • FAX (916) 324-3984
www.boe.ca.gov

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**

PRELIMINARY RECORD OF BOARD ACTION

Tuesday, April 8, 2008

The following is a preliminary record of Board actions taken at the April 8, 2008 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 Meetings—Please see Page 11, O., Adoption of Board Committee Reports and Approval of Committee Actions, for voting results.

Board Meeting

Oral Hearings

A. Homeowner and Renter Property Tax Assistance Hearing

A1. David Adelman, 394379

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

B. Corporate Franchise and Personal Income Tax Hearing

B1. Kenneth Banks, 327922

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

C. Sales and Use Tax Appeals Hearings

This item was heard in the afternoon session.

There were no items for the following matters:

- D. Special Taxes Appeals Hearings
- E. Property Tax Appeals Hearings

F. Public Hearing**F1. Property Taxes – State Assessee Presentations on the Valuation of State-Assessed Properties****G. Tax Program Nonappearance Matters – Consent****G1. Legal Appeals Matters**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations No Final Determination on sub-items 2, 5 and 7	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Petition for Rehearing
 1. Hagop Vartanian, 255764 (KHO)
- Hearing Notice Sent No Response
 2. ~~Rajinder Singh Garcha, 30060 (KH)~~
- Petitions for Release of Seized Property
 3. Tieng Duc Nguyen, 432533 (ET)
 4. Tuan Le, 430348 (ET)
 5. ~~Bay Briar Shoppe, Inc., 405478 (ET)~~
 6. Hamidullah Nawabi, 418254 (ET)
 7. ~~M & B Corporation, 417080 (ET)~~

G2. Franchise and Income Tax Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Dr. Chu	Yes
No Final Determination on sub-items 7 and 9	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

➤ Decisions

1. Anthony R. Doyle and Ilona N. Koti-Doyle, 349001
2. Patrick Flocchini, 361406
3. Fred Jackmovich and Adele Jackmovich, 380411
4. Fred Jackmovich, 381169
5. Roger Romero, 382838
6. Jeffrey T. Stinchcomb, 394004
7. ~~Kayla L. Williams, 397041~~

➤ Decisions on Petitions for Rehearing

8. John Buerger, 353717
9. ~~John Cirino and Sepideh Cirino, 361476~~
10. Walter J. Kubon, Jr., 337056
11. Nathalie M. Lohrli, 329170

G3. Homeowner and Renter Property Tax Assistance Matters

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

➤ Decisions

1. Gloria Burns, 394079
2. Yolanda Alexander Dozier, 339298
3. Patricia A. Lee, 386729
4. Karen R. Murphy, 378378
5. Lawrence Richard Brown, 389602
6. Joe P. Rios, 377238
7. Bobbie Scott, 348658

G4. Sales and Use Taxes Matters

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

- Redeterminations
 1. L'Oreal USA Sales, Inc., 209556 (OHB)
 2. L'Oreal USA Sales, Inc., 218317 (OHB)
 3. Tesoro Refining & Marketing Company, 391125 (OHC)
 4. Century-TCI CA Communications, LP, 378524 (OHB)
 5. Crystal Decisions, Inc., 379039 (GH)
 6. Hon Hai Precision Industry Company, Ltd., 404549 (EA)
 7. Van Unen/Miersma Propane, Inc., 298294 (KH)
 8. L'Oreal USA S/D, Inc., 255772 (OHB)
- Relief of Penalty/Interest
 9. 99 Cents Only Stores, 434016 (AA)
 10. Barney's, Inc., 433833 (OHB)
 11. Bobst Group North America, Inc., 433838 (OHB)
 12. CIT Technology Financing Services I, LLC, 433837 (OHB)
- Denial of Claim for Refund
 13. William Lyon Homes, Inc., 330495 (EAA)

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	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Credits and Cancellations
 1. Sheila Grover, 421692 (KH)
 2. SKA Consulting, LLC, 418407 (UT)
 3. Jeong Soon Yi, 433143 (FH)
- Refunds
 4. Methodist Hospital Southern California, 400671 (AP)
 5. California Casualty Management CO, 350100 (OH)
 6. The Golden 1 Credit Union, 424229 (KH)
 7. The Boeing Company, 213345 (OHA)
 8. Greyhound Lines, Inc., 390089 (OHC)
 9. Mercedes-Benz USA, LLC, 422400 (KH)
 10. Claudia J. Martinic, 437894 (UT)
 11. Align Technology, Inc., 433116 (GH)

12. Gambro Renal Products, Inc., 332066 (OH)
13. Lobel Financial Corporation, 422581 (EA)
14. Modern Finance Company, 325438 (AC)
15. Penryn Enterprises, Inc., 396110 (KH)
16. Fred Pierce Enterprises, Inc., 432885 (KHO)
17. Long Beach Acceptance Corporation, 427371 (EA)
18. ABC Window Company, Inc., 318322 (EH)
19. Central Coast Cinemas, Inc., 431935 (GH)

G6. Special Taxes Matters
There were no items for this matter.

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

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

- Refund
 1. Classic Distributing & Beverage Group, Inc, 432958 (ET) “CF”

There were no items for the following 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

- Petitions for Rehearing
 - 1a. Atlantic Richfield Company, 158211, 167993, 348075 (MT)
 - 1b. BP West Coast Products, LLC, 216210, 264250, 307637, 349423 (MT)
 - 1c. BP Products North America, Inc., 306843 (MT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer’s Petition Denied	Dr. Chu	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

2. Chevron U.S.A., Inc., 165308, 215016, 260466, 260468, 306293, 346981 (MT)

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

3. Onnik Mooradian and Mariette Mooradian, 220157, 220158, 292978, 293031 (MT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Denied And delete remaining penalties at issue subject to payment of fees within 30 days of the notice of determination.	Dr. Chu	No
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	No
	Mr. Chiang/Ms. Mandel	Yes

- Hearing Notices Sent – No Response

4. Phillip N. Cutler, 377150 (AC)

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

5. Doris Lydia Cutler, 380705, 381147 (AC)

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

➤ Cases Heard But Not Decided

6a. Eulipia, Inc., 300130 (GH)

6b. Los Gatos Restaurants, Inc., 299490 (GH)

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

7. Stephen Charles Borkenhagen, 302079 (GH)

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

8. Laurencio Gutierrez, Sergio Gutierrez, and Ruben Gutierrez Alvarez, 312859 (FH)

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

H2. Franchise and Income Tax Matters

➤ Decisions

1. Lisa M. Fagundes, 317594

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

2. Ramona Romero, 343076

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal dismissed for lack of jurisdiction.	Dr. Chu	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

There were no items for the following matters:

H3. Homeowner and Renter Property Tax Assistance Matters

H4. Sales and Use Taxes Matters

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

➤ Credits and Cancellations

1. Saddleback Recreational Vehicles, 432967 (EH)

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

2. PC Technologies, Inc., 432756 (AC)

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

H6. Special Taxes Matters

➤ Denial of Relief of Penalty

1. Republic Indemnity Company of California, 298649 (ET) "CF"

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No Final Board Determination	Dr. Chu	Not Participating
	Mr. Leonard	
	Ms. Steel	
	Ms. Yee	
	Mr. Chiang/Ms. Mandel	

There were no items for the following 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	Dr. Chu	Yes, except not participating in sub-item 2a
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Not Participating

- Audit
 1. Sierra Pacific Power Company (146) “CF”
- Unitary Land Escaped Assessments
 - 2a. Pacific Gas and Electric Company (135) “CF”
 - 2b. Sprint PCS (2720) “CF”
 - 2c. Edge Wireless, LLC (2753) “CF”
- Board Roll Changes
 3. 2005, 2006 and 2007 Board Rolls of State-Assessed Property “CF”

- I2. Offers-in-Compromise Recommendations
There were no items for this matter.

Chief Counsel Matters

J. Rulemaking

- J1. Alcohol Beverage Tax Flavored Malt Beverages: Regulation 2558, *Distilled Spirits*, Regulation 2559, *Presumption-Distilled Spirits*, Regulation 2559.1, *Rebuttable Presumption-Distilled Spirits*, Regulation 2559.3, *Internet List*, and Regulation 2559.5, *Correct Classification*

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted revised text as recommended by staff.	Dr. Chu	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

J2. Proposed Amendments to *Board of Equalization Rules for Tax (Cal. Code Regs., tit. 18, § 5000 et seq.) Appeals*—Postponed

K. Business Taxes
There were no items for this matter.

L. Property Taxes

L1. Assessment of Cable Television Taxable Possessory Interests

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

L2. State Assessee Property Tax Appeals Procedures

<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	

M. Other Chief Counsel Matters
There were no items for this matter.

1:30 p.m. Board Meeting Reconvenes

C. Sales and Use Tax Appeals Hearing

C1. Aladdin Persian Rug, LLC, 374411 (CH)

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

N1. Retirement Resolutions

- Ellen M. Juka
- Joseph D. Young
- Marla K. Blumenthal
- Victoria T. Winter

N2. Approval of Board Meeting Minutes

- January 31-February 1, 2008
- February 26-28, 2008

N3. 2008 Timber Advisory Committee Membership

N4. 2008-09 Tobacco Products Tax Rate

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

O1. Legislative Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report with correction, and approved the actions therein.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes
For details see: http://www.boe.ca.gov/legdiv/legmeetings08.htm		

I. 2008 Legislative Proposals-Business Taxes (Sales and Use Taxes)

- 3-7 Repeal Section 7076.5 of the Sales and Use Tax Law to delete the January 1, 2009 sunset date of the Managed Audit Program and thereby extend the program indefinitely.

<u>POSITION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Adopted as recommended by staff.	Dr. Chu	Yes
(Consent)	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

O2. Customer Service and Administrative Efficiency Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report as amended and approved the actions therein. For details see: http://www.boe.ca.gov/meetings/custsrv/custsrv08.htm	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

P. Other Administrative Matters**P1. Executive Director's Report**

a. Headquarters Building Remediation Update

P2. Chief Counsel Report

There were no items for this matter.

P3. Deputy Director's Report

There were no items for the following matters:

- a. Sales and Use Tax
- b. Property and Special Taxes

c. Administration

1. Contracts Over \$1 Million

- Interagency Agreement with California Department of Transportation

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

- Standard Agreement with International Network Consulting, Inc.
(a Master Service Agreement vendor)

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

2. Update on Proposed fiscal Year 2008-2009 Budget
 - Feedback on Senate Sub-Committee 4 Hearing held April 7, 2008
 - Assembly Sub-Committee 4 Hearing (currently set for April 15, 2008)

Q. Closed Session

UNOFFICIAL