



STATE BOARD OF EQUALIZATION
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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
NOTICE AND AGENDA**

PRELIMINARY RECORD OF BOARD ACTION

Tuesday, June 9, 2009

The following is a preliminary record of Board actions taken at the June 9, 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 Meeting – Please see Page 9, 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. Christine Diane Peterson, 416186, 422998

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Ms. Yee	Yes
The Board ordered that the appeal be submitted for decision, granting the appellant 60 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the appellant's supporting documents, the Department's response and provide its recommendation to the Board.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B. Corporate Franchise and Personal Income Tax Hearings

B1. Taiheiyo Cement USA, Inc., 332855

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination. The Board deferred the matter to the June Culver City meeting.	Ms. Yee Mr. Leonard Ms. Steel Dr. Chu Mr. Chiang/ Ms. Mandel	

B2. Rodney Sloss, 440362

B3. David Smith, 446006

<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

C. Sales and Use Tax Appeals Hearings

These items are scheduled for the afternoon session.

D. Special Taxes Appeals Hearing

These items are scheduled for the afternoon session.

E. Property Tax Appeals Hearings
There are no items for this matter.**F. Public Hearing**

This item is scheduled for the afternoon session.

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
No Final Determination on sub-items 1 and 2.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Hearing Notice Sent – No Response
 1. ~~Fouad Mohammed Zamzami, 425054 (CH)~~
- Hearing Notice Sent – Appearance Waived
 2. ~~Arco Terminal Services Corporation, 310137 (MT)~~

- Petitions for Release of Seized Property
 3. Anton Halteh, 484207 (ET)
 4. Ladiwalla Corporation, 474014 (ET)
 5. Sayani Corporation, 474046 (ET)
 6. GST Liquor, LLC, 479078 (ET)

G2. Franchise and Income Tax 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. Jose Alvarez, Jr., 424440
 2. Jeffery T. Aubert and Vicki T. Aubert, 400128
 3. Manny De La Cruz, 378330
 4. Larry T. Heale and Juanita J. Heale, 388650
 5. Laura Himes, 440945
 6. Lanea D. Hysong, 424654
 7. Milton E. Pedrazzi, 393409
 8. Rita Ann Rapp, 347433
 9. Roland Leroy Reese, 393407
 10. Jeremiah S. Ryder, 399886
 11. Yolanda Salazar, 377388
 12. Nancy E. Torge, 430700
 13. Qyana Wallace, 397831

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. Quitin Cheeseborough, 425371
 2. Lois L. Clarkson, 437905
 3. Bong Hwa Lee, 431547
 4. Nam Soo Park, 426925
 5. Issa H. Parsia, 422647
 6. Henry Poydras, 422855
 7. Maria A. Sanchez, 422875

G4. Sales and Use 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	Yes, except not participating in sub-items 9 and 10.

- Redeterminations
 1. Praxair, Inc., 447214 (OH)
 2. SMC Corporation of America, 415959 (OH)
 3. Bank of the West, 397468 (UT)
 4. Whittier Golf, LLC, 436848 (OH)
 5. Victoria Golf, LLC, 436849 (OH)
 6. Arnold Palmer Golf Management, LLC, 436850 (OH)
 7. Gateway Companies, Inc., 333344 (OH)
 8. Cardinal Health 108, Inc., 400360 (OH)
- Relief of Penalty/Interest
 9. Walmart.com USA, LLC, 483101 (EH)
 10. American Bridge Company—Fluor Enterprises, Inc., A Joint Venture, 483590 (CH)
- Denial of Claim for Refund
 11. Ikon Office Solutions Technology Services, Inc., 378629 (OH)

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. Bel Air Wood Flooring, Inc., 476976 (AC)
 2. Global Surf Industries, Inc., 482611 (GH)
 3. Hollywood Wings, LLC, 483638 (AS)
 4. Commercial Scaffolding of California, Inc., 421716 (AS)
- Refunds
 5. Art Center College of Design, 442671 (AP)
 6. Plant Equipment, Inc., 447891 (EH)
 7. Insync Media, 300198 (AS)
 8. ECCO Equipment Corporation, 480195 (EA)
 9. Sharp Chula Vista Medical Center, 473957 (FH)
 10. Krones, Inc., 449992 (OH)
 11. Ashton Abeck Design, LLC, 434310 (BH)
 12. John F. Lazear, 316085 (AC)
 13. That Corporation, 434363 (OH)
 14. John Zink Company, LLC, 459076 (OH)

15. Owens & Minor Distribution, Inc., 415033 (OH)
16. Longs Drug Stores California, Inc., 480047 (CH)
17. Westcom Credit Union, 473164 (AP)
18. SAP America, Inc., 346056 (OH)
19. Transouth Financial Corporation, 432795 (OH)
20. Burbank Wings, LLC, 469683 (AC)
21. Meriwest Credit Union, 416038 (GH)
22. Quality Financial, Inc., 358366 (AC)
23. Intergraph Corporation, 468903 (OH)

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

➤ Case Heard But Not Decided

1. Hardial Singh Pannu and Davinder K. Pannu, 390331 (GH)

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

➤ Local Tax Reallocation Hearings

2. County of Los Angeles, 469243

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

3. City of Los Angeles, 472907

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

H2. Franchise and Income Tax Matters

➤ Hearing Notice Sent – Appearance Waived

1. Jacek Kostyrko and Zofia Kostyrko, 443905

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

There are 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

➤ Credit and Cancellation

1. Oracle Corporation, 460489 (BH)

<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

➤ Refund

2. Oracle Corporation, 219810 (BH)

<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

➤ Audit

1. SLO Cellular, Inc., (2687) – 'CF'

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

I2. Offers-in-Compromise Recommendations

<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

1. Hyunok O. Kim

2. Lynnda A. Fair

Chief Counsel Matters

There are no items for the following matters:

- J. Rulemaking
- K. Business Taxes
- L. Property Taxes

M. Other Chief Counsel Matters

This item is scheduled for the afternoon session.

Administrative Session

These items are scheduled for the afternoon session:

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

C. Sales and Use Tax Appeals Hearings

C1. Main Street California, Inc., 224746 (OH)

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

C2. Richard A. Trifiro, 434167 (UT)

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

D. Special Taxes Appeals HearingsD1a. ~~NB Trucking, Inc., 284086 (MT)~~D1b. ~~Nijjar Brothers Trucking, Inc., 258549 (MT)~~**Seized Property Appeal Hearing**

D2. Liston B. Bevard, 484215 (ET)

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

F. Public Hearing

F1. Timber Harvest Values

<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

Chief Counsel Matters**M. Other Chief Counsel Matters**

M1. Procedures Related to Revenue and Taxation Code section 7056

Administrative Session**N. Consent Agenda**

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

N1. Retirement Resolution

- Sandy Settles

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

O1. Legislative Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein.	Ms. Yee	Yes
For details see:	Mr. Leonard	Yes
http://www.boe.ca.gov/legdiv/legmeetings09.htm	Ms. Steel	Yes
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

2009 Legislative Proposals

I. Administration

- 5-4 Add Chapter 11 (commencing with section 30491) to Part 13 of Division 2 of section 30491 to the Revenue and Taxation Code to limit litigation costs, including attorneys' fees, under the Cigarette and Tobacco Products Tax Law in the same manner that litigation costs are limited under the Sales and Use Tax Law. This same provision would be added to the property tax law, the Franchise and Income Tax Law, and all of the Board-administered special tax and fee programs. In addition, section 7156 of the Sales and Use Tax Law would be moved to its own chapter.

<u>POSITION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Adopted, as recommended by staff, but amended to (1) Provide the amount of attorney's fees shall be the same as R&T Code, section 19717, for the FTB and (2) Remove the retroactive application.	Ms. Yee	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Dr. Chu	Yes
	Mr. Chiang/ Ms. Mandel	Yes

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

- a. Report on time extensions to El Dorado, Shasta and Yuba Counties to complete and submit 2009-10 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155.

P2. Chief Counsel's Report

There are no items for this matter.

P3. Deputy Director's Report

There are no items for the following matters:

- a. Sales and Use Tax
- b. Property and Special Taxes
- c. Administration
 1. Contracts Over \$1 Million

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

- Department of Toxic Substances Control (DTSC) contracts with BOE to collect hazardous waste control and related fees on their behalf.
2. Facilities Update and Direction
 - Update on the on-going projects at 450 N Street.
 - Water Intrusion Report Presentation by LaCroix Davis.
 3. 2009/10 Budget Update, Furlough Plan and Layoffs
- d. Technology Services

There are no items for this matter.

Q. Closed Session