



STATE BOARD OF EQUALIZATION
450 N STREET, SACRAMENTO, CALIFORNIA
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www.boe.ca.gov

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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
September 16-17, 2008
NOTICE AND AGENDA
Meeting Agenda (as of 9:15 a.m., 09/17/08)

Agenda Changes

Tuesday, September 16, 2008

9:30 a.m. Board Committee Meeting Convenes*
Board Meeting Convenes upon Adjournment of the Board Committee Meeting**

Agenda items occur in the order in which they appear on the agenda. When circumstances warrant, the Board's Chair, Dr. Chu, may modify the order of the items on the agenda. Items may be postponed to a subsequent day; however, items will not be moved to an earlier day.

Board Committee Meetings*

Business Taxes Committee.....Ms. Yee, Committee Chairwoman

- 1. Sales and Use Tax Regulations 1506, Miscellaneous Service Enterprises, and 1524, Manufacturers of Personal Property
Request approval of proposed regulatory changes to clarify the application of tax to alteration charges.
2. Sales and Use Tax Regulation 1705, Relief from Liability
Request approval of proposed regulatory changes regarding a franchisee's relief from the liability to pay tax based on erroneous advice provided to franchisor.

Property Tax CommitteeMs. Steel, Committee Chair

- 1. Personal Property and Fixtures Valuation
Proposed guidelines and petition procedures for future valuation factor studies for specific industries. and equipment, and proposed inclusion of economic lives in Assessors' Handbook Section 581.

Board Meeting**

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

B. Corporate Franchise and Personal Income Tax Hearings
(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

B1a. Thomas P. Bengard and Kim C. Bengard, 422294

B1b. Bengard Group, Inc., 424221

For Appellant: Charles L. Germany, Representative
Wendell R. Bird, Attorney

For Franchise Tax Board: Renel Sapiandante, Tax Counsel

~~B2. Kevin B. Turner and Sally C. Turner, 396393~~

~~For Appellant: Nicholas L. Stameroff, CPA~~

~~For Franchise Tax Board: Maria Brosterhous, Tax Counsel~~

~~B3. Stephen D. Coffman, 431487~~

~~For Appellant: Stephen D. Coffman, Taxpayer
Joyce Coffman, Witness~~

~~For Franchise Tax Board: L. Red Gobuty, Tax Counsel~~

~~B4a. Federal Express Corporation, 402428~~

~~B4b. Fedex Corporation & Subsidiaries, 402431~~

~~For Appellant: Jon A. Sperring, Representative
Kathleen P. Dill, Representative
Andrew Wagner, Witness~~

~~Sherri Swindle, Witness~~

~~For Franchise Tax Board: Brian C. Miller, Tax Counsel~~

C. Sales and Use Tax Appeals Hearings

This item is scheduled for the afternoon session.

There are no items for these matters:

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

F. Public Hearings

This item is scheduled for Wednesday, September 17, 2008.

G. Tax Program Nonappearance Matters – Consent

(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

G1. Legal Appeals Matters.....Mr. Levine

- Petition for Rehearing
 1. Home Care Information Systems, Inc., 89002426820 (OH)
- Hearing Notices Sent – No Response
 2. Promotion Products, Inc., 336535, 338891 (OH)
 3. Shahbaz Zarghampour, 358123 (AR)

G2. Franchise and Income Tax MattersMs. Kelly

- Decisions
 1. Richard A. Lucich, 387301
 2. Nazar E. Najor and Lauren Najor, 358691
 - 3a. James L. Smith, 344810
 - 3b. Sandra Smith, 360531
- Petitions for Rehearing
 4. Kenneth Banks, 327922
 5. Rick Burningham, 395921
 6. Swift Transportation Company, Inc., and Swift Transportation Corporation, 266318
- Hearing Notices Sent – No Response
 7. Roman Garcia, 416435
 8. Larry Mazur, 377123
 9. Debra K. Pace, 328284
 10. George Saffas, 396089

G3. Homeowner and Renter Property Tax Assistance Matters.....Ms. Kelly

- Decision
 1. Sri Mesing, 382022
- Hearing Notice Sent – No Response
 2. Michelle D. Bell, 426291

G4. Sales and Use Taxes Matters.....Ms. Henry

- Redeterminations
 1. Computer Sciences Corporation, 387048 (AS)
 2. Golden State Lumber, Inc., 362701 (JH)
 3. Anthony Schools Corporation, 342569 (EA)
 4. Fresno Auto West, Inc., 360213 (AR)
 5. The Reynolds & Reynolds Company, 417535 (OH)
 6. Sprint/United Management Company, 401793 (OH)
 7. Café Pacific Beach, Inc., 265930 (FH)
 8. Laeroc Barnabeys 2002, LLC, 433707 (AS)

- Relief of Penalty/Interest
 9. Nortel Communications Systems, Inc., 445236 (OH)
 10. Downtown Ford Sales, 449447 (KH)
 11. U.S. Foodservice, Inc., 449445 (OH)
 12. Arbonne International, LLC, 449448 (EA)
- Denials of Claims for Refund
 13. United Parcel Service, Inc., 301622 (EA)
 14. Laboratory Corporation of America, 450029 (OH)
 15. AT&T Communications of California, 239818 (OH)
 16. Harry R. Sawl, 441869 (UT)
 17. SC Aviation, LLC 425693 (UT)
 18. TP & SG, Inc., 405622 (AC)
 19. Mecom Equipment, LLC, 377867 (KH)

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

- Credits and Cancellations
 1. D’Anna Yacht Center, Inc., 449657 (CH)
 2. Trekstor USA, Inc., 445493 (CH)
 3. Gateway Business, LLC, 449681 (OH)
 4. Fresh Start Bakeries, Inc., 449975 (EA)
 5. A-1 M & M Enterprise, Inc., 448330 (AS)
- Refunds
 6. City of Lompoc, 444311 (GH)
 7. Kenneth Elliott Bradley, 445285 (GH)
 8. Washington Township District Hospital, 436268 (CH)
 9. United Parcel Service, Inc., 449849 (CH)
 10. United Parcel Service, Inc., 301622 (EA)
 11. United Parcel Service, Inc., 450166 (EA)
 12. Laboratory Corporation of America, 378553 (OH)
 13. Golden State Lumber, Inc., 450592 (JH)
 14. United Parcel Service, Inc., 303264 (OH)
 15. The Golden 1 Credit Union, 445173 (KH)
 16. The Boeing Company, 373477 (OH)
 17. FEI Company, 441082 (OH)
 18. Mercedes-Benz USA, LLC, 441611 (KH)
 19. Kailey’s Break Place, Inc., 430386 (KH)
 20. Wachovia Dealer Services, Inc., 435533 (EA)
 21. Saint-Gobain Containers, Inc., 447054 (OH)
 22. California State Automobile Association, 367254 (BH)
 23. Petco Animal Supplies Stores, Inc. 397925 (FH)
 24. Andre Bonini Barbosa, 444946 (EA)
 25. Applied Telcomm Corporation, 446844 (AR)
 26. Johnson & Johnson Health Care Systems, Inc., 400809 (OH)
 27. Americredit Financial Service, Inc., 444792 (OH)
 28. Lobel Financial Corporation, 444790 (EA)
 29. Mumm Napa Estates, Inc., 403747 (JH)

30. Groupware Technology, Inc., 444750 (GH)
31. United Auto Credit Corporation, 445178 (EA)
32. Monster, LLC, 448167 (BH)
33. Inovant, LLC, 448525 (BH)
34. Zara USA, Inc., 402359 (OH)
35. Challenge Financial Services, Inc., 443777 (EA)
36. Global Power Supply, LLC, 443781 (GH)
37. Ortho Biotech Products, LP, 379584 (OH)
38. Transportation Technology Center, Inc., 398881 (OH)
39. Medcal Sales, LLC, 448792 (EH)
40. South Western Federal Credit Union, 438020 (EA)
41. Eagle Community Credit Union, 442668 (EA)

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

G7. Special Taxes Matters – Credits, Cancellations, and Refunds Mr. Gau
 ➤ Refunds
 1. Tesoro Refining and Marketing Company, 443126 (MT)
 2. McLane/Suneast, Inc., 433733 (ET)

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
 (Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

- H1. Legal Appeals Matters.....Mr. Levine
 ➤ Hearing Notice Sent – No Response
 1. Donald R. Loya, 358842 (AC)
 ➤ Case Heard But Not Decided
 2. Michael Richard Luna, 356507 (KH)
- H2. Franchise and Income Tax MattersMs. Kelly
 ➤ Decision
 1. David W. Penney, 341465
 ➤ Petition for Rehearing
 2. Melody L. Beattie, 359059
- H3. Homeowner and Renter Property Tax Assistance Matters.....Ms. Kelly
 ➤ Decision
 1. Diane J. Reed, 333196

- H4. Sales and Use Taxes Matters..... Ms. Henry
- Redetermination
 1. James Bruce Tananbaum, 432510 (BH)
 - Relief of Penalty/Interest
 2. United Rentals Northwest, Inc., 436595 (OH)
 3. T-Mobile Resources Corporation, 441946 (OH)
 - Denials of Claims for Refund
 4. John Raymond Collins, 399683 (UT)
 5. Robert L. Reynolds, 424795 (KH)
- H5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds..... Ms. Henry
- Refund
 1. Water & Power Community Credit Union, 334165 (AS)
- H6. Special Taxes Matters Mr. Gau
- Redetermination
 1. Hotel Airport Shuttle.com, LLC, 358672 (MT)

There are 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

(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

- I1. Property Taxes Matters Mr. Gau
- Audit
 1. Pacific Bell Telephone Company (279) – “CF”
- I2. Offers-in-Compromise Recommendations
 There are no items for this matter.

Chief Counsel Matters

- J. Rulemaking
 This item is scheduled for Wednesday, September 17, 2008.

There are no items for the following matters:

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

Administrative Session

The following items are scheduled for Wednesday, September 17, 2008:

- 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 Wednesday, September 17, 2008.

1:30 p.m. Board Meeting Reconvenes****C. Sales and Use Tax Appeals Hearings**

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

- C1. AMC Petroleum, Inc., 305202 (AS)
 - For Petitioner: Waived Appearance
 - For Department: Kevin Hanks, Hearing Representative

- C2. William H. Callaway and Gregory F. Lay, 417789 (KH)
 - For Claimant: William H. Callaway, Taxpayer
 - For Department: Carla Caruso, Tax Counsel

Adjourn - The meeting will reconvene on Wednesday, September 17, 2008, at 9:30 a.m.

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The hearing location is accessible to people with disabilities. Please contact Claudia Madrigal at (916) 324-8261, or e-mail Claudia.Madrigal@boe.ca.gov if you require special assistance.

Diane G. Olson, Chief
Board Proceedings Division

- * Public comment on any committee agenda item will be accepted at the beginning of the committee meeting.
- ** Public comment on any agenda item, other than a Closed Session item or an item which has already been considered by a Board Committee, will be accepted at that meeting.
- + Material is available for this Item.
- ++ Material will be available at a later date.
- "CF" Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code section 7.9.



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Board Meeting**

C. Sales and Use Tax Appeals Hearings

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

- C3. Juan Carlos Morales, 389924 (KH)
For Petitioner: Juan C. Morales, Taxpayer
For Department: Stephen Smith, Tax Counsel
- C4. Pine Meadows Partners, Inc., 358977 (KH)
For Petitioner: William F. Hancock, Jr., Attorney
Ron Henderson, Attorney
Robert Hix, Witness
For Department: Cary Huxsoll, Tax Counsel
- C5a. Jewelry by Michael Alan, Inc., 290752, 316317, 380958 (KH)
- C5b. Michael Alan Morales, 293200, 316479, 395457 (KH)
- C5c. Teresa A. Morales, 293201, 317278 (KH)
For Petitioner/Claimant: Waived Appearance
For Department: Kevin Hanks, Hearing Representative
- C6. EPAC Technologies, Inc., 396039 (CH)
For Petitioner: Waived Appearance
For Department: Christine Bisauta, Tax Counsel

F. Public Hearing

- F1. [Proposed Amendments to Sales and Use Tax Regulations 1591, Medicines and Medical Devices and 1602, Food Products+](#) Mr. Tucker

Adoption of the proposed amendments to clarify that when a dietary supplement or adjunct product does not qualify as a food product, it may qualify as medicine if furnished by a physician as part of a medically supervised weight loss program to treat obesity.

Chief Counsel Matters

J. Rulemaking

Section 100 Changes to Regulation

- J1. [Proposed Amendments to Sales and Use Tax Regulation 1702.5, Responsible Person Liability+](#) Mr. Treichel

Approval of the proposed amendments incorporate the provisions of AB 1895 (Ch. 24, Stat. of 2008) regarding the statute of limitations for issuing deficiency determinations to corporate officers or other responsible persons.

Administrative Session

N. Consent Agenda Ms. Olson

- N1. [Retirement Resolutions+](#)

Request Board approval of employee retirement resolutions.

- LouVena Alexander
- Paul Bacchi
- Linda Dwyer
- Bonnie Jeanene Geller
- Bonnie Peach
- Joyce Vincenty

- N2. Approval of Board Meeting Minutes

Request Board approval of the Board meeting minutes.

- [August 5-7, 2008+](#)

- N3. [Approval of 2009 Diesel Fuel Tax Rate for Interstate Users+](#)

Request approval of a Diesel Fuel Tax Rate for Interstate Users of \$0.437 per gallon for calendar year 2009.

N4. [Approval of 2009 Hazardous Substances Program Fees and Occupational Lead Poisoning Prevention Fee+](#)

Staff recommendation for the proposed Hazardous Substances Program Fees and the Occupational Lead Poisoning Prevention Fee for the 2009 calendar year, which are adjusted each year by the incremental change in the Consumer Price Index.

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

- O1. Business Taxes Committee
- O2. Property Tax Committee

P. Other Administrative Matters

There are no items for these matters:

- P1. Executive Director's Report
- P2. Chief Counsel Report

P3. Deputy Director's Report

- a. Sales and Use Tax..... Ms. Henry

- 1. [Collection Enhancement Task Force Update+](#)

Update on the recent activities and accomplishments for the Enhancing Collections Task Force and a revised action plan for the Task Force.

- b. Property and Special Taxes Mr. Gau

- 1. [Approval of Contract over \\$1 Million – SICPA Product Security Contract+](#)

Extension of the vendor contract, for a one year term, with SICPA Products Security for the production of the State's Cigarette Tax Stamp.

- c. Administration Ms. Houser

- 1. BOE's Green Day

Representatives from BOE's charitable organizations, Charitable Activities Council, Inc., and Capitol Area Child Care Consortium, Inc., will present information on a recycle day to be held at the BOE.

- 2. [Facilities Update+](#)

Staff will provide an update on the space assessment project and status of on-going headquarters repair projects.

- 3. Fiscal Year 2008/09 Budget Update

Current status of the 2008/09 Budget including the Proposed Amnesty Program and the 1% Sales Tax Increase.

4. Fiscal Year 2009/10 Draft Budget Change Proposals+

Presentation of the 2009/10 proposed draft budget change proposals for the Board’s approval.

Sales and Use Tax

- U.S. Customs Program+
- Out-of-State Audits and Registration+

Property and Special Taxes

- Environmental Stewardship Program+
- Natural Gas Public Purpose Programs Surcharge+
- Flavored Malt Beverages+
- Cigarette and Tobacco Enforcement+

Legal/Executive/Administration

- Administrative Appeals+
- Tax Refund Litigation+
- Facilities – Headquarters+

d. Technology Services..... Ms. Brannen

1. Digital Board of Equalization – Our Initial Roadmap to Becoming Digital+

A paper presenting initial findings and recommendations enabling taxpayers and staff to access BOE information any way, any time, any place.

Announcement of Closed Session Ms. Olson

Q. Closed Session

Q1. Pending litigation: *Jonathan Harris v. Claude Parrish*, Los Angeles County Superior Court Case No. NC039710, and *Jonathan Harris v. Claude Parrish and the State Board of Equalization*, Los Angeles County Superior Court Case No. NC050640

Q2. Pending litigation: *Schroeder, et al. v. Board of Equalization, et al.* Sacramento Superior Court Case #34-2008-00004467-CU-MT-GDS (Gov. Code § 11126(e)(2)(B)(i)); *Frankot, et al. v. Board of Equalization, et al.*, Sacramento Superior Court Case #34-2008-00012174-CU-PO-GDS (Gov. Code § 11126(e)(2)(B)(i)); and *Allen, et al. v. Board of Equalization, et al.*, Sacramento Superior Court Case #34-2008-00017014-CU-TT-GDS (Gov. Code § 11126(e)(2)(B)(i))

Q3. Discussion and action on personnel matters (Gov. Code § 11126(a))

Announcement of Open Session Ms. Olson

Adjourn

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