



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
SEN. GEORGE RUNNER (RET.)
Second District, Lancaster
MICHELLE STEEL
Third District, Rolling Hills Estates
JEROME E. HORTON
Fourth District, Los Angeles
JOHN CHIANG
State Controller
KRISTINE CAZADD
Interim Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
September 20-21, 2011
NOTICE AND AGENDA
Meeting Agenda (as of 10:30 a.m., 09/20/11)

[Agenda Changes](#)

Tuesday, September 20, 2011

10:00 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 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 Meeting*

[Business Taxes Committee](#)..... Ms. Yee, Committee Chairwoman

- 1. Engaged in Business in this State—Revenue and Taxation Code Section 6203
Provide a status update regarding the implementation of the expanded nexus provisions enacted by ABx1 28.

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.)

B1. Pacific Bell Telephone Company and Affiliates, 521312 +

For Appellant: John Stephens, Witness
Ligia Machado, Representative
Derick Brannan, Attorney
Jon Sperring, Attorney
For Franchise Tax Board: Kathleen Andleman, Tax Counsel
Carl Joseph, Tax Counsel

B2. Jerry Jones, 547938 +

For Appellant: Appearance Waived
For Franchise Tax Board: Brian Miller, Tax Counsel
Diane Ewing, Tax Counsel

~~**B3. Diane Green, 539627 +**~~

~~For Appellant: Joyce Rebhun, Attorney
For Franchise Tax Board: Susanne Coakley, Tax Counsel
Michael Cornez, Tax Counsel~~

C. Sales and Use Tax Appeals Hearings

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

C1. Dawit Dagne Tekelwold and Helen Yohannes, 491568 (CH) +

For Petitioners: Dawit Tekelwold, Taxpayer
Yenenneh Abagiro, Representative
For Department: Scott Lambert, Hearing Representative

C2. Santona Enterprises, Inc., 513819 (EH) +

For Petitioner: David Simson, Taxpayer
For Department: Scott Lambert, Hearing Representative

D. Special Taxes Appeals Hearing

This item is scheduled for Wednesday, September 21, 2011.

E. Property Tax Appeals Hearings
There are no items for this matter.

F. Public Hearings

F1. Business Taxpayers' Bill of Rights HearingsMr. Gilman

Individuals have the opportunity to present ideas, concerns, and recommendations regarding legislation, the quality of agency services, and issues related to the administration of tax programs, including sales and use taxes, environmental fees, fuel taxes, and

excise taxes, and any problems identified in the Taxpayers' Rights Advocate's [Annual Report](#).

F2. [Property Taxpayers' Bill of Rights Hearings](#)Mr. Gilman

Individuals have the opportunity to present ideas, concerns, and recommendations regarding legislation, the quality of agency services, and issues related to the administration of tax programs, including state and county property tax, and any problems identified in the Taxpayers' Rights Advocate's [Annual Report](#).

G. Tax Program Nonappearance Matters – Consent

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

G1. Legal Appeals MattersMr. Levine

- Petitions for Release of Seized Property
 1. Yong Jae Lee, 571554 (ET)
 2. Anugraha, Inc., 574583 (ET)
 3. Elias Khader Habibeh, 574582 (ET)
- Petitions for Rehearing
 4. Juan Manuel Gallardo, 466120 (BH)
 5. Edmond A. Heinbockel and Lydia Rose Heinbockel, 354404 (UT)
 6. Media Management Service, Inc., 294859, 391611(EA)
 7. Parminder Kaur Walia and Surenderpal Singh Walia, 489616 (CH)

G2. Franchise and Income Tax MattersMr. Ambrose

- Hearing Notice Sent – Appearance Waived
 1. David Anthon, 525488
- Decisions
 2. Carol A. Arevalo, 521606
 3. Arizona Colorado Enterprises, LLC, 534951
 4. Brian David Black and Carol A. Black, 529472
 5. Aimee Canepa and John Canepa, 536737
 6. Jian Chen, 523094
 7. Jennifer Churchill, 530724
 8. Billy J. Earnest and Glenda I. Earnest, 536959
 9. Elise T. Esquivel, 518199
 10. Jonathan Garner, 528743
 11. Sylvia Gutierrez, 551248
 12. Marsha E. Kakalia, 404650
 13. Xin-Zhong Lu, 511280
 14. Fred McClintock and Janice McClintock, 535144
 15. R.J. Milano and Jean M. Milano, 533938
 16. Claire A. Monfort, 527268
 17. Ki T. Myong, 536316
 18. Eric Paul, 531598
 19. Anne Powers, 527760
 20. Micaela Ramosmares, 524435

- 21. Gary Rowe, 523698
 - 22. Paul Schnell and Joanne Schnell, 528672
 - 23. William A. Shields and Juanita Gonzales Shields, 414324
 - 24. Adrienne B. Silver and Joel D. Silver, 528579
 - 25. Adalberto Valadez, 561822
 - 26. Loyd Wimberly, 551298
 - 27. Joseph Zhou, 508878
 - 28. Sam Zhou, 524407
 - Petition for Rehearing
 - 29. Roger W. Knipp and Soledad E. Knipp, 473256
- G3. Homeowner and Renter Property Tax Assistance Matters
There are no items for this matter.
- G4. Sales and Use Taxes Matters.....Mr. McGuire
- Redeterminations
 - 1. Hill Phoenix, Inc., 390468 (OH)
 - 2. Hill Phoenix, Inc., 425178 (OH)
 - 3. Sony Pictures Entertainment, Inc., 560604 (OH)
 - 4. F. Rodgers Insulation, Inc., 509880 (EH)
 - 5. Passion USA, Inc., 538308 (AA)
 - Relief of Penalty/Interest
 - 6. Blockbuster, Inc., 573959 (OH)
 - Denials of Claims for Refund
 - 7. Valero Refining Co.-California, 261644 (OH)
 - 8. Capital Power Credit Union, 340154 (KH)
- G5. Sales and Use Taxes Matters – Credits, Cancellations, and RefundsMr. McGuire
- Credits and Cancellations
 - 1. Bed Bath & Beyond of California, 526566 (OH)
 - 2. Scholastic, Inc., 528208 (OH)
 - 3. Thrifty Payless, Inc., 575090 (OH)
 - 4. Hansen & Hundebol, Inc., 558364 (OH)
 - 5. CNCP, Inc., 578837 (EA)
 - Refunds
 - 6. Lawrence Berkeley Laboratory, 573022 (CH)
 - 7. Pizza Hut, Inc., 553646 (OH)
 - 8. The Golden 1 Credit Union, 565980 (KH)
 - 9. Chrysler, LLC, 574579 (OH)
 - 10. DCFS Trust, 523038 (OH)
 - 11. Signature Graphics, Inc., 531482 (OH)
 - 12. Metropolitan Finance, LLC, 565981 (AP)
 - 13. G & C Equipment Corporation, 572188 (AS)
 - 14. Maccess Corporation, 551286 (OH)
 - 15. Calmat Co., 558559 (AA)
 - 16. Unilab Corporation, 504875 (OH)
 - 17. Tanimura & Antle, Inc., 572671 (GH)
 - 18. Americredit Financial Service, Inc., 566550 (OH)

19. The Trizetto Group, Inc., 572661 (EA)
 20. Gateway Manufacturing, LLC, 566241 (OH)
 21. WMC-SA, Inc., 535426 (EA)
 22. Operating Engineers Local Union #3, 515696 (CH)
 23. Chevron Mining, Inc., 518568 (OH)
 24. Mission Federal Credit Union, 445749 (FH)
 25. Fusion-io, Inc., 554769 (OH)
- G6. Special Taxes Matters Mr. Gau
- Relief of Penalty
 1. Pacific Groservice, Inc., 576784 (ET)
- G7. Special Taxes Matters – Credits, Cancellations, and Refunds
There are no items for this matter.
- G8. Property Tax Matters Mr. Gau
- Petitions for Penalty Abatement on Unitary Value
 1. Terra-Gen Dixie Valley, LLC (125), 574407 – ‘CF’
 2. Lodi Gas Storage, LLC (198), 575406 – ‘CF’
 - Petitions for Reassessment of Unitary Value
 3. Sierra Pacific Power Company (146), 576078 – ‘CF’
 4. Southwest Gas Corporation (152), 575401 – ‘CF’
 5. CALNEV Pipe Line, LLC (402), 577337 – ‘CF’

There are no items for the following 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 MattersMr. Levine
- Petition for Rehearing
 1. [Victor S. Baglio, Jr., 473489 \(UT\) +](#)

There are no items for the following matters:

- H2. Franchise and Income Tax 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
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(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

- I1. Property Taxes Matters..... Mr. Gau
 - Audit
 - 1. Pac-West Telecomm, Inc. (2043) – ‘CF’
- I2. Offer in Compromise Recommendations..... Ms. Kelly/Mr. Anderson
 - 1. Manuel Ricardo Amaya
 - 2. Raymond Baskett
 - 3. James H. Bess
 - 4. Walter Standly Franklin
- I3. Local Tax Reallocation Matters
There are no items for this matter.

Chief Counsel Matters

Items that appear under these matters provide information to the Members and may require Board action or direction.

There are no items for the following matters:

- J. Rulemaking
- K. Business Taxes

L. Property Taxes

- L1. [Welfare Exemption for Nonprofits +](#) Mr. Moon
Discussion of welfare exemption community benefit requirement for nonprofit organizations that perform charitable activities both within and outside California.

M. Other Chief Counsel Matters

- ~~M1. [Educational Outreach Events and Partnerships +](#) Ms. Cooke/Ms. Gore
Update and follow-up on BOE guidelines.~~
- ~~M2. [Statements of Economic Interest \(FPPC Form 700s\) and Travel Claim Schedules +](#) Ms. Cooke/Ms. Gore
Update and follow-up on public access to Board Member and staff Statements of Economic Interest (FPPC Form 700s) and travel claim schedules.~~

Administrative Session

The following items are scheduled for Wednesday, September 21, 2011

- 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 Wednesday, September 21, 2011.

Recess - The meeting will reconvene on Wednesday, September 21, 2011, at 9:30 a.m.

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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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9:30 a.m. Board Meeting Reconvenes**

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C. Sales and Use Tax Appeals Hearings

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

C3. Outlook United, 469679 (BH) +

For Petitioner: Gene Chi, Taxpayer
For Department: Scott Claremon, Tax Counsel

C4. Cherie Rose, Incorporated, 466880 (GH) +

For Petitioner: Cherie Rose, Taxpayer
Carleen Clarke, Representative
Dave Wheeler, Representative
For Department: Scott Lambert, Hearing Representative

C5. S.J. Toons, Inc., 493139 (GH) +

For Petitioner: Norman Koepernik, Taxpayer
Dann Thompson, Representative
For Department: Scott Lambert, Hearing Representative

C6. Family Leisure Products, Inc., 491614 (OH) +

For Petitioner: John Gentry, Taxpayer
For Department: Scott Lambert, Hearing Representative

- C7. [Jacob Zachariah, 437728 \(JH\) +](#)**
 For Petitioner: Jacob Zachariah, Taxpayer
 Leland H. Dibble, Attorney
 For Department: Scott Lambert, Hearing Representative

D. Special Taxes Appeals Hearing

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

- D1. [Atik Aman and Rangina Aman, 468086 \(MT\) +](#)**
 For Claimants: Atik Aman, Taxpayer
 Rangina Aman, Taxpayer
 Aemal Aman, Representative
 For Department: Carolee Johnstone, Tax Counsel

Administrative Session

Items that appear under these matters provide information to the Members and may require Board action or direction.

N. Consent Agenda Ms. Olson
 (Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

- N1. [Retirement Resolution +](#)**
 • Carole Melton
- N2. [Approval of Board Meeting Minutes](#)**
 • [June 21-24, 2011 +](#)
 • [July 26-27, 2011 +](#)
- N3. [Approval of Corrected Board Meeting Minutes](#)**
 • [April 13, 2010 +](#)
- N4. [Approval of the 2012 Board Workload Plan +](#)**
 The plan consists of the 2012 Board meeting calendar, annual property tax calendars, and significant dates considered in setting Board meeting dates.
- N5. [Approval of 2012 Diesel Fuel Tax Rate for Interstate Users +](#)**
 Staff recommendation for setting the 2012 calendar year Diesel Fuel Tax Rate for Interstate Users.
- N6. [Approval of 2012 Hazardous Substances Program Fees and Occupational Lead Poisoning Prevention Fee +](#)**
 Staff recommendation for setting the Hazardous Substances Program Fees and the Occupational Lead Poisoning Prevention Fee for the 2012 calendar year.

N7. Prepayment Rate for Sales Tax on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel +

Section 6480.1 of the Revenue and Taxation Code requires the Board to determine annually by November 1, the rate at which sales tax on motor vehicle fuel, diesel fuel, and jet fuel is to be collected at the time such fuel is first distributed in the state during the twelve-month period beginning the following April 1.

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

O1. Business Taxes Committee

P. Other Administrative Matters

P1. Executive Director's Report Ms. Cazadd

1. **CROS Project Update and Actions +** Mr. Gau
Progress on the CROS project to replace BOE's two current tax legacy technology systems.

There are no items for the following matters:

P2. Chief Counsel Report

P3. Sales and Use Tax Deputy Director's Report

P4. Property and Special Taxes Deputy Director's Report

P5. Administration Deputy Director's Report + Ms. Houser

1. Facilities Update
- a. A 450 N Street building update: the Department of General Services and BOE's Industrial Hygienist to discuss recent discoveries in the building and proposed plan.
 - b. An update on the pending bond sale for a possible rent increase for the Headquarters building located at 450 N Street.
 - c. An update on the lease for the San Diego District Office.
2. 2011/12 Budget Update and Governor's Executive Orders
- a. Information may be provided on the Governor's 2011/12 Budget and Governor's Executive Orders.
3. **2012/13 DRAFT Budget Change Proposals +**
- a. **ABx1 28 Use Tax Nexus – This proposal requests resources to implement the provisions of ABx1 28 in the event that current year funding is not provided for these efforts. +**
 - b. **ABx1 29 Fire Prevention Fee – This proposal requests resources to implement the provisions of ABx1 29 in the event that current year funding is not provided for these efforts. +**

- c. Tax Gap 2 – This proposal requests resources for Education and Outreach, a Desk Audit Program, and an Expanded Bankruptcy Program to address the Tax Gap. +

- P6. Technology Deputy Director's Report
There are no items for this matter.
- P7. External Affairs Deputy Director's ReportMs. Gore
 - 1. Use Tax Survey/Statewide Poll +
Information regarding a potential statewide survey/poll on the topic of Use Tax.

Announcement of Closed Session Ms. Olson

Q. Closed Session

- Q1. Discussion and approval of staff recommendations regarding settlement cases (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11).
- Q2. Pending litigation: *Governor Edmund G. Brown, Jr., et al. v. State Controller John Chiang, et al.*, Sacramento County Superior Court, Case No. 34-2009-80000158 (Gov. Code § 11126(e)).
- Q3. Pending litigation: *Schroeder, et al. v. State Board of Equalization, et al.* Sacramento Superior Court Case No. 34-2008-00004467-CU-MT-GDS; *Frankot, et al. v. State Board of Equalization, et al.*, Sacramento Superior Court Case No. 34-2008-00012174-CU-PO-GDS; and, *Allen, et al. v. State Board of Equalization, et al.*, Sacramento Superior Court, Case No. 34-2008-00017014-CU-TT-GDS (Gov. Code § 11126(e)(2)(B)(i)).
- Q4. Discussion and action on personnel matters (Gov. Code § 11126(a)).

Announcement of Open Session..... Ms. Olson

Adjourn

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