



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
 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

PRELIMINARY RECORD OF BOARD ACTIONS

Tuesday, September 20, 2011

The following is a preliminary record of Board actions taken at the September 20, 2011 Sacramento 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 email: Joann.Richmond@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

- A. Homeowner and Renter Property Tax Assistance Hearings
 There are no items for this matter.
- B. **Corporate Franchise and Personal Income Tax Hearings**
 - B1. Pacific Bell Telephone Company and Affiliates, 521312

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied with respect to issue 2.	Mr. Horton	Yes
	Ms. Steel	No
	Mr. Runner	No
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal granted with respect to issue 1.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B2. Jerry Jones, 547938—Waived Appearance

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

B3. ~~Diane Green, 539627~~

C. Sales and Use Tax Appeals Hearings

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

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

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

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

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 Hearings
F2. Property Taxpayers' Bill of Rights Hearings

G. Tax Program Nonappearance Matters – Consent

G1. Legal Appeals Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
No final determination on sub-items 4 and 6.	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- 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 Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
No final determination on sub-items 11 and 12.	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- 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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes– except not participating in sub-item 3.
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- 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 Refunds

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes – except not participating in sub-item 1.

➤ 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. Macess 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 Matter

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

➤ 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

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

- 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

H1. Legal Appeals Matters

- Petition for Rehearing

1. Victor S. Baglio, Jr., 473489 (UT)

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

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

I1. Property Taxes Matters

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

➤ Audit

1. Pac-West Telecomm, Inc. (2043) – ‘CF’

I2. Offer in Compromise Recommendations

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

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

There are no items for the following matters:

- J. Rulemaking
- K. Business Taxes

L. Property Taxes

- L1. Welfare Exemption for Nonprofits

M. Other Chief Counsel Matters

~~M1. Educational Outreach Events and Partnerships~~

~~M2. 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

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**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
September 20-21, 2011**

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Wednesday, September 21, 2011

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Board Meeting

C. Sales and Use Tax Appeals Hearings

C3. Outlook United, 469679 (BH)

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

C4. Cherie Rose, Incorporated, 466880 (GH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Mr. Horton	Yes
The Board directed staff to conduct a reaudit.	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition partially granted/denied.	Mr. Horton	Yes
	Ms. Steel	No
	Mr. Runner	No
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C6. Family Leisure Products, Inc., 491614 (OH)—No Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
Approved staff recommendation.	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C7. Jacob Zachariah, 437728 (JH)

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

D. Special Taxes Appeals Hearing

D1. Atik Aman and Rangina Aman, 468086 (MT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's claim partially granted/denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	No
	Mr. Chiang/ Ms. Mandel	Abstaining

Administrative Session**N. Consent Agenda**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- 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
- N5. Approval of 2012 Diesel Fuel Tax Rate for Interstate Users
- N6. Approval of 2012 Hazardous Substances Program Fees and Occupational Lead Poisoning Prevention Fee
- N7. Prepayment Rate for Sales Tax on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel

O. Adoption of Board Committee Report and Approval of Committee Actions**O1. Business Taxes Committee**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein.	Mr. Horton	Yes
	Ms. Steel	Yes
For details see:	Mr. Runner	Yes
http://www.boe.ca.gov/meetings/btc2011.htm	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

P. Other Administrative Matters

- P1. Executive Director's Report
1. CROS Project Update and Actions

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

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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
The Board deferred consideration to the October Board meeting.	Mr. Horton Ms. Steel Mr. Runner Ms. Yee Mr. Chiang/ Ms. Mandel	

b. ABx1 29 Fire Prevention Fee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton Ms. Steel Mr. Runner Ms. Yee Mr. Chiang/ Ms. Mandel	Yes No No Yes Yes

c. Tax Gap 2

(1) Use Tax Educational Outreach Campaign

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

(2) Registered Taxpayers – Desk Audit Program

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Steel	No
	Mr. Runner	No
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

(3) Registered Taxpayers – Bankruptcy Expansion

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

P6. Technology Deputy Director's Report
There are no items for this matter.

P7. External Affairs Deputy Director's Report

1. Use Tax Survey/Statewide Poll

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation as amended.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

Q. Closed Session