



STATE BOARD OF EQUALIZATION
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State Controller

RAMON J. HIRSIG
Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
October 6, 2009
NOTICE AND AGENDA - REVISED
Meeting Agenda (as of 9:00 a.m., 10/06/09)

Agenda Changes

Tuesday, October 6, 2009

10:30 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 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*

Property Tax CommitteeMs. Steel, Committee Chair

- 1. Consideration of Proposed Amendments to Property Tax Rule 192, Mandatory Audits, Property Tax Rule 193, Scope of Audit, and Property Tax Rule 371, Significant Assessment Problems.

Customer Services and Administrative Efficiency Committee..... Mr. Leonard, Committee Chair

- 1. Report on In-Person Seminars and Online Educational and Learning Products
Information regarding the Board of Equalization in-person seminars and options for transitioning to online seminars. The report includes the most common BOE seminars, costs, options for transitioning and a marketing plan for the online products.

Board Meeting**

Election of the Vice Chair

- The Board will vote to elect a Vice Chair.

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

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

B1. [Barbara Bladen Porter, 424104 +](#)

For Appellant: William E. Taggart, Jr., Attorney
For Franchise Tax Board: Mark McEvilly, Tax Counsel
Kathleen Cooke, Tax Counsel

~~B2. [Noli J. Lozada and Maria Impang-Lozada, 297237 +](#)~~

~~For Appellant: Maria Impang-Lozada, Taxpayer
Noli J. Lozada, Taxpayer
Rick Evia, Representative
For Franchise Tax Board: Diane Ewing, Tax Counsel
Bruce Langston, Tax Counsel~~

C. Sales and Use Tax Appeals Hearings

These items are scheduled for the afternoon session.

There are no items for the following matters:

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

G. Tax Program Nonappearance Matters – Consent

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

G1. Legal Appeals MattersMr. Levine

- Hearing Notices Sent – No Response
 1. Bed Bath & Beyond of California, 383885 (OH)
 2. Mariano T. Garcia, Jr., 380589 (CH)
 3. Thomas Leon Smith, 417529 (KH)
- Hearing Notice Sent – Appearance Waived
 4. S & F Southwest Partners, Inc., 353096 (OH)
- Petitions for Release of Seized Property
 5. Howell's Liquor, Inc., 491676 (ET)
 6. Lovely Enterprises, Inc., 488784 (ET)
 7. Frank H. Bliss, 488831 (ET)
 8. Joe Aprim, Adam Aprim, and Albert Aprim, 496354 (ET)
 9. Patrick In Oh, 491660 (ET)

- G2. Franchise and Income Tax MattersMs. Kelly
- Decisions
 1. Ruth L. Briggs, 478623
 2. Michael D. Charles, 439490, 440947
 3. Michelangelo Curiel-Mendoza, 449291
 4. Timothy Gallagher, 435045, 441101
 5. Stephen A. Hewko, 431671, 440747
 6. Alireza Khoshkholgh, 405940
 7. Ercely Laram, 447786
 8. Richard J. Lindholtz, 468080
 9. Terry W. Oesau, 429327
 10. OPS Research and Development, 461571
 11. Charles D. Restivo, 440389
 12. Sue A. Sabenorio and Allan R. Sabenorio, 445997
 13. Linda Stewart, 417989
 14. Douglas A. Tate, 461169
 15. Marc H. Williamson, 439484
 16. John Aaron Zornes, Jr., 417984
 - Petition for Rehearing
 17. Roland Leroy Reese, 393407
 - Hearing Notices Sent – No Response
 18. Pamela Burton, 464472
 19. Sandra Anderson Rosco, 432995
 - Hearing Notice Sent – Appearance Waived
 20. Stanislaw Czaja, 460689
- G3. Homeowner and Renter Property Tax Assistance MattersMs. Kelly
- Decisions
 1. David Baptist, 449812
 2. Annette Bradley, 433753
 3. David Chey, 447852
 4. Jimmy Horn, 426098
 5. Bert Morgan, 443261
 6. Betty Ogletree, 443103
 7. Brenda Smith-Buani (Deceased), 423706
 8. Jasmine Thompson, 443062
 9. Elda Triantafilio, 445821
 - Petition for Rehearing
 10. Issa H. Parsia, 422647
- G4. Sales and Use Taxes MattersMs. Henry
- Relief of Penalty/Interest
 1. Oracle USA, Inc., 495092 (CH)
 2. Convenience Retailers, LLC, 495098 (OH)
 - Denial of Claim for Refund
 3. Teradata US, Inc., 441087 (OH)
 - Denial of Relief of Penalty/Interest
 4. Alpha Shirt Company, 495104 (OH)

- G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds Ms. Henry
- Credits and Cancellations
 1. Concord Kitchens, Inc., 494763 (OH)
 - Refunds
 2. San Lorenzo Floor Covering, Inc., 469762 (GH)
 3. Los Robles Regional Med Center, 468145 (AR)
 4. Accelrys, Inc., 459611 (FH)
 5. Riverside Community Hospital, 468148 (EH)
 6. Rohr, Inc., 493295 (OH)
 7. Alpha Dyno Nobel, 475935 (KH)
 8. Sony Electronics, Inc., 446970 (OH)
 9. Sprint Spectrum, LP, 424231 (OH)
 10. Bystronic, Inc., 493322 (OH)
 11. Comverse, Inc., 474782 (OH)
 12. Perot Systems Hltcr Serv Corp, 443782 (OH)
 13. Wachovia Dealer Services, Inc., 479371 (EA)
 14. Southern Leasing, LLC, 492684 (OH)
 15. Owens & Minor Distribution, Inc., 470266 (OH)
 16. Robertshaw Controls Company, 433711 (OH)
 17. Trader Joe's Company, 444965 (AP)
 18. Point Loma Credit Union, 480616 (FH)
 19. Rent-A-Center West, Inc., 460520 (OH)
 20. Triad Financial Corporation, 494567 (EA)
 21. Lockheed Employ. Services, Inc., 403418 (AC)
 22. Teradata US, Inc., 441087 (OH)
 23. Teradata Operations, Inc., 442488 (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

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

- H1. Legal Appeals Matters Mr. Levine
- Cases Heard But Not Decided
 - 1a. ~~[Woodland Hills Car Wash, Inc., 299486 \(AC\) +](#)~~
 - 1b. ~~[Bhupinder Singh Mac, 299487 \(AC\) +](#)~~
 2. ~~[Sukhwant S. Sekhon and Amarjit K. Sekhon, 491719 \(ET\) +](#)~~

- H2. Franchise and Income Tax MattersMs. Kelly
- Decisions
 1. Royce A. Barrett, 414668
 2. Patricia A. McKasy, 449289
 - Petitions for Rehearing
 3. Haik Arakelian and Alice Arakelian, 442173
 4. Vidco Express, Inc., 378528
 - Hearing Notice Sent – Appearance Waived
 5. Ana M. Moore and Mitchell Moore, 281619
- H3. Homeowner and Renter Property Tax Assistance MattersMs. Kelly
- Decision
 1. Guip V. Nguyen, 431698

There are no items for the following matters:

- H4. Sales and Use Taxes Matters
 H5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

- H6. Special Taxes Matters Mr. Gau
- Denial of Relief of Penalty
 1. ~~Big West of California, LLC, 460290 (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
 There are no items for this matter.
- I2. Offers-in-Compromise Recommendations..... Ms. Ograd/ Ms. Swanson
1. James E. Jackson
 2. Bahram Behmanesh and Darlene H. Behmanesh
 3. Juan Cobian Ruesga/Ruesga, Inc.

Chief Counsel Matters

J. Rulemaking

- J1. [Adoption of Proposed Amendments to Rules for Tax Appeals Regulation 5237, BOARD APPROVAL REQUIRED FOR REFUNDS OVER \\$50,000 and Rules for Tax Appeals Regulation 5266, APPEALS STAFF RECOMMENDATIONS; REQUESTS FOR RECONSIDERATION; REQUESTS FOR ORAL HEARINGS +](#)Mr. Heller

The revised versions of the proposed amendments make Regulations 5237 and 5266 consistent with the current delegation of authority to staff to grant or deny refunds.

Discussion and possible Board direction regarding the public record requirement.

There are no items for the following matters:

- K. Business Taxes
- L. Property Taxes

M. Other Chief Counsel Matters

- M1. [Loeffler v. Target Corp., California Supreme Court Case No. S173972 +](#)Mr. Lambert/ Mr. Waid

Request for approval to file amicus brief in Supreme Court review.

Administrative Session

The following items are scheduled for afternoon session.

- 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 the afternoon session.

1:30 p.m. Board Meeting Reconvenes**

C. Sales and Use Tax Appeals Hearings

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

- C1a. [Ali K. Amidy, Rita M. Belus and Fred James Belus, 309684 \(CH\) +](#)
- C1b. [Ali K. Amidy, 309681 \(CH\) +](#)

For Petitioner:	Ali Amidy, Taxpayer Fred Belus, Taxpayer Thomas Neal, Representative Steven J. Packey, Attorney
For Department:	Scott Lambert, Hearing Representative

Administrative Session**N. Consent Agenda** Ms. Olson
(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)N1. [Retirement Resolutions +](#)

- Miguel (Mike) R. Cordero
- Willard Lee Smith
- Bernard (Tom) Stickler

N2. Approval of Board Meeting Minutes

- [June 9, 2009 +](#)
- [June 30-July 1, 2009 +](#)

N3. [Approval of 2010 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 2010 calendar year.

N4. [2009-10 Emergency Telephone Users Surcharge Rate +](#)

Staff recommendation for setting the Emergency Telephone Users Surcharge rate, effective November 1, 2009.

N5. [Sales Tax Prepayment Rate on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel +](#)

Staff recommendation for setting the rate, effective April 1, 2010, at which prepayment of sales tax is to be made for sales of motor vehicle fuel, diesel fuel, and jet fuel.

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

O1. Property Tax Committee

O2. Customer Service and Administrative Efficiency Committee

P. Other Administrative Matters

There are no items for the following matters:

P1. Executive Director's Report

P2. Chief Counsel Report

P3. Deputy Director's Report

a. Sales and Use Tax

There are no items for this matter.

- b. Property and Special Taxes Mr. Gau
 - 1. [Cigarette Tax Stamp Project +](#)
Cigarette tax stamp contract procurement efforts, and a request for Board concurrence of a NCB (Non-Competitively Bid Contract) with SICPA Product Security, LLC to continue providing their services for a specified period beyond December 31, 2009.
- c. [Administration +](#) Ms. Houser
 - 1. Facilities Update and Direction
 - a. Headquarters Facilities
An update on the Headquarters Remediation Project including the activated swing space moves within the building.
 - b. Update on the Stantec Infrastructure Study
A Department of General Services representative will present findings from the Stantec Infrastructure Study and the planned course of action.
 - c. Update on the Site Selection
A Department of General Services representative will be asking for Board approval to proceed with the finalization of the lease for the selected sites of International Fuel Tax Agreement and Headquarters annex location.
 - 2. 2009/10 Budget Update, Furlough Plan and Layoffs
Information will be provided to the Board regarding the Governor's 2009/10 Budget, Governor's Executive Order S-16-08 State Employee Furlough, and statewide layoffs. Possible Board action or direction may be requested regarding the Governor's Budget and the Governor's Executive Order.
 - 3. 2010/11 Budget Change Proposal (BCP) Update
A draft BCP will be presented for possible Board action or direction. Department of General Services submitted a BCP to request a budget augmentation to correct the Stantec Infrastructure Study priority one building deficiencies at the 450 N Street Building. Board of Equalization will present a corresponding BCP to address the potential of a rent increase.
- d. Technology Services Ms. Brannen
 - 1. [Three Year Technology Plan, Fiscal Years 2008 – 2012 +](#)
An overview of the Board of Equalization's Three Year Technology Plan which supports the Board's long term strategic technology vision.

Announcement of Closed Session Ms. Olson

Q. Closed Session

- Q1. Discussion and approval of staff recommendations regarding settlement tax and fee matters in dispute (Rev. & Tax. Code §§ 7093.5, 9271, 30459.1, 32471, 40211, 41171, 43522, 45867, 46622, 50156.11, 55332, and 60636)
- Q2. Pending litigation: *CASE v. Department of Personnel Administration*, Superior Court for City and County of San Francisco Case No. CPF-09-509827
- Q3. Pending litigation: *Wimatex, Inc. v. State Board of Equalization*, Sacramento County Superior Court Case No. 34-2008-00001968-CU-MC-GDS
- Q4. Pending litigation: *Schroeder, et al. v. Board of Equalization, et al.* Sacramento Superior Court Case No. 34-2008-00004467-CU-MT-GDS; *Frankot, et al. v. Board of Equalization, et al.*, Sacramento Superior Court Case No. 34-2008-00012174-CU-PO-GDS; and, *Allen, et al. v. Board of Equalization, et al.*, Sacramento Superior Court, Case No. 34-2008-00017014-CU-TT-GDS (Gov. Code § 11126(e)(2)(B)(i))
- Q5. Discussion and action on personnel matters (Gov. Code § 11126(a))

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

Adjourn

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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.