



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

JEROME E. HORTON
Fourth District, Los Angeles

JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento**

PRELIMINARY RECORD OF BOARD ACTION

Tuesday, October 6, 2009

The following is a preliminary record of Board actions taken at the October 6, 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 Rose Smith at (916) 323-9656 or e-mail: Rose.Smith@boe.ca.gov Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

Board Committee Meetings – Please see Page 10, O., Adoption of Board Committee Reports and Approval of Committee Actions, for voting results.

Election of the Vice Chair

- The Board will vote to elect a Vice Chair.

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Elected Mr. Horton Vice Chair	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

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

B. Corporate Franchise and Personal Income Tax Appeals Hearings

B1. Barbara Bladen Porter, 424104

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

B2. ~~Noli J. Lozada and Maria Impang-Lozada, 297237~~**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

G1. Legal Appeals Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes – except not participating in sub-item 4
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes – except not participating in sub-item 1

- 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 Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Ms. Yee	Yes
No final determination on sub items 2 and 17.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

➤ 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 Matters

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

- 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 Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes – except not participating in sub-item 2
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- 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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes – except not participating in sub-item 8

- 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

- H1. Legal Appeals Matters
 - 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 Matters

➤ Decisions

1. Royce A. Barrett, 414668

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

2. Patricia A. McKasy, 449289

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied. Staff is to inform appellant of the Offer in Compromise Program.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

➤ Petitions for Rehearing

3. Haik Arakelian and Alice Arakelian, 442173

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition for rehearing granted.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

4. Vidco Express, Inc., 378528

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

- Hearing Notice Sent – Appearance Waived
- 5. Ana M. Moore and Mitchell Moore, 281619

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

H3. Homeowner and Renter Property Tax Assistance Matters

- Decision
- 1. Guip V. Nguyen, 431698

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

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
 - 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

- I1. Property Taxes Matters
 - There are no items for this matter.

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
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

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*

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

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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Absent and Not Participating

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.

C. Sales and Use Tax Appeals Hearings

C1a. Ali K. Amidy, Rita M. Belus and Fred James Belus, 309684 (CH)

C1b. Ali K. Amidy, 309681 (CH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Partner Rita M. Belus' petition partially granted/denied.	Ms. Yee	Yes
	Mr. Leonard	No
Remaining taxpayers' petition denied.	Ms. Steel	No
	Mr. Horton	Yes
Approved staff's revised recommendation.	Mr. Chiang/ Ms. Mandel	Yes

Administrative Session**N. Consent Agenda**

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

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

N4. 2009-10 Emergency Telephone Users Surcharge Rate

N5. Sales Tax Prepayment Rate on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel

O. Adoption of Board Committee Reports and Approval of Committee Actions**O1. Property Tax Committee**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein.	Ms. Yee	Yes
	Mr. Leonard	Yes
For details see:	Ms. Steel	Yes
http://www.boe.ca.gov/proptaxes/p/cwplan09.htm	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

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*.

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation to begin the rulemaking process.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

O2. Customer Service and Administrative Efficiency Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein.	Ms. Yee	Yes
	Mr. Leonard	Yes
For details see:	Ms. Steel	Yes
http://www.boe.ca.gov/meetings/cu/stsrv/custsrv09.htm	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

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

1. Cigarette Tax Stamp Project

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

c. Administration

1. Facilities Update and Direction

a. Headquarters Facilities

b. Update on the Stantec Infrastructure Study

c. Update on the Site Selection

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

2. 2009/10 Budget Update, Furlough Plan and Layoffs

3. 2010/11 Budget Change Proposal (BCP) Update

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved the BCP but tie it to the implementation of AB 151.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

d. Technology Services

1. Three Year Technology Plan, Fiscal Years 2008 – 2012

Q. Closed Session