



STATE BOARD OF EQUALIZATION
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Second District, Ontario/Sacramento

MICHELLE STEEL
Third District, Rolling Hills Estates

JUDY CHU, Ph.D.
Fourth District, Los Angeles

JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

**STATE BOARD OF EQUALIZATION MEETING
5901 Green Valley Circle, Room 207, Culver City
October 28-29, 2008**

PRELIMINARY RECORD OF BOARD ACTION

Tuesday, October 28, 2008

The following is a preliminary record of Board actions taken at the October 28-29, 2008 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.

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

B. Corporate Franchise and Personal Income Tax Hearings

B1. ~~Viking Office Products, Inc., 313229, 339787~~

B2. ~~Douglas A. Shiepe, 421046~~

B3. Frances L. Cummings and Thomas Cummings, 423959

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' appeal withdrawn.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	

B4. Delbert Saubel and Elaine D. Saubel, 400896, 434825

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' appeals denied.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B5. Thomas C. DuBose, Jr. and Margaret I. DuBose, 423967

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' appeal denied, except abate the accuracy-related penalty.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	No
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B6. Anthony J. Ciabattoni, 400348

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

C. Sales and Use Tax Appeals Hearings

These items are scheduled for Wednesday, October 29, 2008.

D. Special Taxes Appeals Hearing

This item is scheduled for Wednesday, October 29, 2008.

There are no items for the following matters:

- E. Property Tax Appeals Hearings
- F. Public Hearings

G. Tax Program Nonappearance Matters – Consent

G1. Legal Appeals Matters

These items are scheduled for Wednesday, October 29, 2008.

G2. Franchise and Income Tax Matters

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

- Decisions
 1. Maria E. Alvarez, 383697
 2. Dominic Denha, 400250
 3. Doug Green, 381614
 4. David Grossman, 377155
 5. Kitty M. Hunsaker, 373248
 6. Carole Koelfgen, 395441
 7. Nancy W. Reckas, 362358
 8. May C. Strickland, 352481
 9. Chinin Tana, 377390
- Petitions for Rehearing
 10. Affiliated Funding Corporation, 317945
 11. Robert Fouts and Maureen Fouts, 383284
 12. Jerome Thomas Heckenkamp, 381120
 13. Eugene W. Lee, 349301
 14. Marc Pretscher, 393425
 15. Byron Reynolds, 382836
- Hearing Notices Sent – Appearance Waived
 16. Marc Pretscher, 414671
 17. Paul A. Ricci, 415357

G3. Homeowner and Renter Property Tax Assistance Matters

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

- Decisions
 1. Mary Arbuckle, 424063
 2. Diana Eisenbeiss, 387192
 3. Pamela Ann Vargo, 397105

G4. Sales and Use Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Dr. Chu	Yes
No final determination on sub-items 1 and 2.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Redeterminations
 1. ~~Richard W. Boothman, 348231 (OH)~~
 2. ~~Joyce M. Wooley, 348230 (OH)~~
 3. Chordiant Software, Inc., 387754 (GH)
 4. La Salsa Holding CO-A Delaware Corp., 431875 (EA)
 5. CKE Restaurants, Inc., 431867 (EA)
 6. Montblanc North America, LLC, 442300 (OH)
 7. Mindspeed Technologies, Inc., 435919 (EA)
- Denials of Claims for Refund
 8. Oak Power Corp. Ltd. Ptn., 341192 (AR)
 9. CD Poso I, Inc. Ltd. Ptn., 341180 (AR)
 10. CD Jasmin I, Inc. Ltd. Ptn., 341181 (AR)
 11. Ace Cogeneration Company, LP, 341179 (EH)
 12. Ace Cogeneration Company, LP, 437743 (EH)
 13. Garden City, Inc., 345308 (GH)
 14. MCM & Associates, Inc., 404733 (GH)
 15. Information Resources, Inc., 423620 (OH)
 16. Searles Valley Minerals Operations, Inc., 341746 (OH)

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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Dr. Chu	Yes
No final determination on sub-items 4, 5 and 12.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Credits and Cancellations
 1. Miller Brewing Company, 460669 (EA)
 2. The Artesia Companies, Inc., 282966 (KH)
 3. Cipriano Espino Salazar, 460872 (AC)
 4. ~~RJ Financial, Inc., 338827 (AA)~~
 5. ~~Oracle Corporation, 460489 (BH)~~
- Refunds
 6. Bowne of Los Angeles, Inc., 133520 (AS)
 7. CSC Outsourcing, Inc., 377107 (FH)
 8. Coastal International, Inc., 448981 (JH)
 9. Professional Hospital Supply, Inc., 436891 (EH)

10. American Material Management Alliance, Inc., 209398, (EH)
11. KLA-Tencor Corporation, 288546 (GH)
- ~~12. Oracle Corporation, 219810 (BH)~~
13. Information Resources, Inc., 423620 (OH)
14. Insurance Company of the West, 379407 (FH)
15. Wachovia Dealer Services, Inc., 447257 (EA)
16. Calpine Corporation, 444324 (GH)
17. Koch Membrane Systems, Inc., 430061 (OH)
18. Valero Marketing and Supply Company, 459653 (OH)
19. Sonic-Calabasas A, Inc., 449598 (AC)
20. Mullen Bros., Inc., 446517 (AC)
21. Foreman Financial, Inc., 450966 (AC)
22. Consumer Portfolio Services, Inc., 387494 (EA)
23. United Auto Credit Corporation, 446519 (EA)
24. California Coast Credit Union, 417683 (FH)
25. A-L Financial Corp, 415650 (EA)
26. A-L Financial Corp, 446522 (EA)
27. Kern Schools Federal Credit Union, 445928 (AR)
28. Acco Brands USA, LLC, 464344 (OH)
29. Kyoho Manufacturing California, 446216 (KH)
30. Household Retail Service, Inc., 449799 (OH)
31. Louis Dreyfus Corporation, 451412 (OH)

G6. Special Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes, except not participating in sub-items 2, 3, 4, 5 and 6

➤ Relief of Penalty

1. Chevron U.S.A., Inc., 450762 (MT)
2. Chevron U.S.A., Inc., 450763 (MT) **'CF'**
3. Amco Insurance Company, 460150 (ET) **'CF'**
4. Allied Property & Casualty Insurance Company, 460157 (ET) **'CF'**
5. Nationwide Mutual Insurance Company, 460160 (ET) **'CF'**
6. Victoria Fire & Casualty Company, 460180 (ET) **'CF'**

G7. Special Taxes Matters – Credits, Cancellations, and Refunds

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

➤ Refunds

1. PMI Mortgage Insurance Company, 354105 (ET) 'CF'
2. Allstate Life Insurance Company, 427395 (ET) 'CF'
3. Genworth Life and Annuity Insurance Company, 432843 (ET) 'CF'
4. Northwestern Mutual Life Insurance Company, 457465 (ET) 'CF'
5. Nationwide Mutual Insurance Company, 457466 (ET) 'CF'

There are no items for the following matters:

- 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

There are no items for this matter.

H2. Franchise and Income Tax Matters

➤ Petition for Rehearing

1. Daniel V, Inc., 342609

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition for rehearing granted as to the penalties only.	Dr. Chu	No
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	No
	Mr. Chiang/ Ms. Mandel	Yes

There are no items for the following 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

There are no items for these matters.

Chief Counsel Matters

There are no items for the following matters:

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

Administrative Session**N. Consent Agenda**

N1. Sales Tax Prepayment Rate on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Dr. Chu	Yes
Also, directed staff to provide the adjusted rate to the Board at its December meeting.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

There are no items for the following matters:

- O. Adoption of Board Committee Reports and Approval of Committee Actions
- P. Other Administrative Matters

Q. Closed Session—Canceled

B. Corporate Franchise and Personal Income Tax Hearings

B7. Thomas E. Philips and Christa Philips, 378023

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' appeal denied.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes
<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
The Board directed staff to send a letter to the California Victim Compensation and Government Claims Board recommending favorable consideration of the request for relief filed by the taxpayer.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Abstain

B8. Oscar E. Martinez, 402210

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

B9. Alex C. Bates, 406133—Appearance Waived

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied. A \$1,000.00 frivolous appeal penalty was ordered.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B10. ~~John Laszloffy, 416532~~



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PRELIMINARY RECORD OF BOARD ACTION

Wednesday, October 29, 2008

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C. Sales and Use Tax Appeals Hearings

C1. Anwar Ali Meherally, 333841 (FH)

Table with 3 columns: DECISION, MEMBER, BOARD VOTE. Row 1: Taxpayer's petition denied, except the Board relieved the amnesty interest penalty. Members: Dr. Chu, Mr. Leonard, Ms. Steel, Ms. Yee, Mr. Chiang/ Ms. Mandel. All votes: Yes.

C2. Anywhere Communications, LLC, 397944 (EA)

Table with 3 columns: DECISION, MEMBER, BOARD VOTE. Row 1: Taxpayer's petition denied. Members: Dr. Chu, Mr. Leonard, Ms. Steel, Ms. Yee, Mr. Chiang/ Ms. Mandel. All votes: Yes.

C3. Barbara Jean Lovitt, 378798 (AR)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied, except the Board relieved the failure-to-file penalty.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C4. Tal Rubin, 360275 (AC)

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

C5. Lloyd R. Jensen, Sr. and Wilma L. Jensen, 349155 (UT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' petition denied.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C6. San Clemente Auto Rental, 405669, 451146 (EA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition/claim denied.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C7. Orco Block Company, 334549, 341724 (EA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition/claim denied.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	No
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C8. 4100 Newport, Inc., 336851 (UT)

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

C9. One-Stop Auto Supply, 336169 (EH)

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

C10a. Artashes Ambartsumyan, 335123 (EH)

C10b. Artashes Ambartsumyan, 334788 (EH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination. The Board ordered that the petition be submitted for decision, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the petitioner's supporting documents, the Department's response and provide its recommendation to the Board.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

D. Special Taxes Appeals Hearing**D1. Adnan Hasan Bawanah, 314857 (ET)—No Appearance**

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

G. Tax Program Nonappearance Matters – Consent**G1. Legal Appeals Matters**

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

- Hearing Notices Sent – No Response
 1. Audrey Ovington Enterprises, Inc., 392190, 393720 (GH)
 2. Tobacco Trading, Inc., 347399 (ET)
 3. Charles A. Seiniger, 314425 (AS)
 4. Philip Press, Inc., 379140 (AS)
 5. Ghani Ebrahim Kothawala, 342923 (FH)
 6. Croce's, Inc., 397935 (FH)
 7. Seasilver USA, Inc., 348807 (FH)
 - 8a. Harbor Pipe & Steel, Inc., 354605 (EH)
 - 8b. Mal Wal of Southern California, Inc., 354604 (EH)
 9. Hesperia Truss, Inc., 400356 (EH)
 10. Corona Auction House, Inc., 377130 (EH)
- Hearing Notices Sent – Appearance Waived
 11. Yael Rubin, 360274 (AC)
 12. Sunrise Collections, Inc., 282023 (AC)