



STATE BOARD OF EQUALIZATION  
450 N STREET, SACRAMENTO, CALIFORNIA  
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(916) 322-2270 • FAX (916) 324-3984  
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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  
Executive Director

**STATE BOARD OF EQUALIZATION MEETING**  
**450 N Street, Room 121, Sacramento**  
**November 15-16, 2011**  
**NOTICE AND AGENDA**  
**Meeting Agenda (as of 1:00 p.m., 11/16/11)**

[Agenda Changes](#)

**Tuesday, November 15, 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 Meetings\***

[Legislative Committee](#).....Mr. Horton, Committee Chairman

Set forth below are suggestions for Business Taxes legislation to be sponsored by the BOE in the 2011-12 Legislative Session.

**2012 Legislative Proposals: Business Taxes**

- 2-1 Amend section 6591.5 of the Revenue and Taxation Code to revise the interest calculation provisions in the tax and fee programs the BOE administers so that the rate of interest allowed on refunds of tax and fee overpayments is the same as that calculated on late payments.
- 2-2 Amend Revenue and Taxation Code, section 6757 of the Sales and Use Tax Law, and amend comparable statutes in BOE special tax and fee programs, to authorize the BOE to withdraw a lien after a taxpayer, feepayer, or surcharge payer pays the delinquent liability for which the lien was filed under the applicable tax, fee, and surcharge programs the BOE administers.

- 2-3 Amend Revenue and Taxation Code, section 7093.6 of the Sales and Use Tax Law, and amend comparable statutes in BOE special tax and fee programs, to make permanent the BOE's ability to compromise certain final tax liabilities of (1) businesses that are not discontinued or transferred if the final tax liability arises from transactions in which the taxpayer did not receive sales tax reimbursement or use tax, (2) persons liable as successors, and (3) consumers who incurred a use tax liability. These provisions are set to expire January 1, 2013.
- 2-4 Amend Revenue and Taxation Code, sections 6480.1 and 60116 of the Sales and Use Tax Law and Diesel Fuel Tax Law, respectively, to make technical and administrative changes related to the fuel tax swap legislation. Both the prepayment rate of the sales tax and the Interstate User rate for diesel fuel have adjustment dates that would be changed to coincide with the annual diesel and gasoline fuel excise tax rate adjustment, as specified in the fuel tax swap bills. (Housekeeping.)

### **2012 Legislative Proposals: Business Taxes: Sales and Use Taxes**

- 3-1 Add Revenue and Taxation Code, section 6593.7 to the Sales and Use Tax Law to authorize the Members of the BOE, meeting as a public body, to relieve all or any part of interest imposed, not to exceed \$50,000 during a 12-month period, on a late payment if the Members find, in their discretion, that a person's late payment was due to extraordinary circumstances and that it is inequitable to compute interest as the law requires.
- ~~3-2 Amend sections 5027 and 22255 of the Business and Profession Code to require certified public accountants and tax preparers that complete income and/or sales tax returns to complete required continuing education in the Sales and Use Tax Law.~~
- ~~3-3 Amend Revenue and Taxation Code, section 6452.1 of the Sales and Use Tax Law to require taxpayers that do not hold a permit or license with the BOE to report use tax on their income tax return.~~
- 3-4 Add section 22175 to the Public Contract Code to require local governments to contract for the purchase of tangible personal property with vendors or contractors that have a valid seller's permit or certificate of registration – use tax.
- 3-5 Add Revenue and Taxation Code, section 7093.8 to the Sales and Use Tax Law to provide for a penalty and interest reprieve program for high risk collection accounts.
- 3-6 Amend Revenue and Taxation Code, sections 7261 and 7262 of the Transactions and Use Tax Law to change the transactions and use tax rate to 0.125, or multiples of 0.125 percent (formerly 0.25 or multiples of 0.25 percent) to make it consistent with specified sections contained in the Transactions and Use Tax Law that were recently amended by Assembly Bill 686. (Technical.)

- 3-7 Amend Revenue and Taxation Code, section 6355 of the Sales and Use Tax Law to change the date in which the BOE is required to calculate the bulk sales threshold for coins and bullion. (Technical.)

## 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. Paul N. Winkler, 539074 +~~  
~~For Appellant: Paul N. Winkler, Taxpayer~~  
~~For Franchise Tax Board: Raul Escatel, Tax Counsel~~  
~~Bill Hilson, Tax Counsel~~
- B2. Kent H. Baker, 551816 +  
For Appellant: Kent Baker, Taxpayer  
Poonam Dayalji, Representative  
For Franchise Tax Board: Byron Wong, Tax Counsel  
Ciro Immordino, Tax Counsel
- C. Sales and Use Tax Appeals Hearings**  
(Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)
- C1. William M. Buchanan, 458690 (OH) +  
For Taxpayer: William Buchanan, Taxpayer  
For Department: Erin Dendorfer, Tax Counsel
- C2a. GMRI, Inc., 433701 (OH) +  
C2b. GMRI, Inc., 434928 (OH) +  
For Petitioner: Trudy Blakeman, Representative  
Patrick K. Harrigan, Representative  
Craig B. Fields, Attorney  
Carley A. Roberts, Attorney  
For Department: Cary Huxsoll, Tax Counsel
- C3. Pretty-Pretty Props, Inc., 487570 (BH) +  
For Petitioner: Appearance Waived  
For Department: Scott Lambert, Hearing Representative
- D. Special Taxes Appeals Hearings  
There are no items for this matter.

**E. Property Tax Appeals Hearings**

These items are scheduled for Wednesday, November 16, 2011.

**F. Public Hearings**

- F1. *Proposed Adoption of Amendments to Regulation 1616, Federal Areas +* .....Mr. Heller

Public hearing regarding the adoption of proposed amendments clarifying the types of transactions with governments of federally-recognized Indian tribes that are exempt under Revenue and Taxation Code, section 6352.

- F2. *Proposed Adoption of Amendments to Regulation 1807, Petitions for Reallocation of Local Tax, and, Regulation 1828, Petitions for Distribution or Redistribution of Transactions and Use Tax +* .....Mr. Heller

Public hearing regarding the adoption of proposed amendments to improve the Board's review of local sales and use tax and district transactions and use tax petitions.

**G. Tax Program Nonappearance Matters – Consent**

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

- G1. Legal Appeals Matters .....Mr. Levine
- Hearing Notices Sent – No Response
    1. Tirebusters, Inc., 390462 (CH)
    2. High Technology Packaging, Inc., 484487 (CH)
  - Hearing Notices Sent – Appearance Waived
    3. Huy Ngoc Huynh, 505920 (CH)
    4. Hung Van Pham, 486918 (BH)
    5. Kun Ok Yi, 347727 (GH)
  - Petitions for Rehearing
    6. Boris Khodzhoyan, 405900 (AP)
    7. Antique Portraiture, Inc., 351260, 374301 (AA)
    8. Karen Renee Cullinane, 470168 (EH)
    9. Jamshid Daryanabard, 467994 (GH)

- G2. Franchise and Income Tax Matters .....Mr. Ambrose
- Hearing Notices Sent – No Response
    1. Sherman Mazur and Michelle Mazur, 29519, 89002465770, 89002465780
    - 2a. Anthony Wiest, 526977
    - 2b. Rodney Walker, 546795
    - 2c. Benjamin Killen, 550137
    - 2d. Bonny Goselin, 550654
    - 2e. Rodney Walker, 550307
    - 2f. Judith Walther, 550310
    - 2g. Karl Eisenhammer, 553499
    - 2h. Steven Ertelt, 547169
  - Hearing Notice Sent – Appearance Waived
    3. Gary Rettig and Shawn Rettig, 554609
  - Decisions
    4. Art-Wave International, Inc., 489486
    5. Howard Bagley, 538581
    6. Richard Castaldi, 557010
    7. George Chavez, 548125
    8. Greg Erickson, 527803
    9. Richard J. Jackson and Deborah J. Cross, 532190
    10. Kera Enterprises, Inc., 523034
    11. Richard M. Nicholas and Penny K. Nicholas, 550270
  - Petitions for Rehearing
    12. Howard Brief, 530872
    13. Alison Buerger, 536228
    14. Estate of Eva M. Lindskog (Dec'd), 466455
    15. Elias Gallegos III, 547977
    16. David Jones and Jamie Jones, 525089
    17. Jack S. Kannry and Joyce F. Kannry, 490556
    18. Charles E. Kohlhase, Jr., 547973
    19. Patrick T. Mead and Melissa A. Mead, 520063
    20. Donald Stanners and Elizabeth Stanners, 495508
- 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. Brooks Automation, Inc., 562964 (OH)
    2. Heritage Door, Inc., 551890 (EH)
    3. SCP Auctions, Inc., 532135 (EA)
    4. Road Machinery, LLC, 546360 (OH)
    5. CG Holdings, Inc., 530945 (OH)
    6. ATS Systems Oregon, Inc., 415960 (OH)
  - Relief of Penalty/Interest
    7. Farmers Services, LLC, 579055 (AS)

- G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds .....Mr. McGuire
- Credits and Cancellations
    1. West Valley Technology, LLC, 585589 (EA)
    2. Marcus Cable Associates, L.P., 586181 (OH)
    3. Urigen Pharmaceuticals, Inc., 585501 (CH)
  - Refunds
    4. OCE Financial Services, Inc., 578600 (OH)
    5. Deluxe Laboratories, Inc., 351131 (AS)
    6. Technology Credit Union, 531153 (GH)
    7. BMW of North America, 579072 (OH)
    8. Lexus, Toyota Motor Sales, USA, Inc., 578152 (AS)
    9. Thomson Broadcast/Media Solutions, 522673 (KH)
    10. Wind River Sales Company, Inc., 577614 (CH)
    11. Brocade Communications Systems, Inc., 533170 (GH)
    12. Echostar Satellite, LLC, 578536 (OH)
    13. Atspid, Inc., 551283 (GH)
    14. Oshkosh Speciality Vehicles, Inc., 568871 (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 ..... Mr. Gau

- Petition for Penalty Abatement on Unitary Value
  1. Cox California Telecom, LLC (7640), 574413 ‘CF’
- Petitions for Reassessment of Unitary Value
  2. Pacific Bell Telephone Company (279), 576234 ‘CF’
  3. MetroPCS Communications, Inc. (2733), 577089 ‘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 Matters .....Mr. Levine

- Petitions for Rehearing
  1. Juan Manuel Gallardo, 466120 (BH) +
  2. Media Management Service, Inc., 294859, 391611 (EA) +
  3. Orasure Technologies, Inc., 334390 (OH) +

- H2. Franchise and Income Tax Matters .....Mr. Ambrose
- Decisions
    1. Reyad Sarraj and Nouzat Kanbar, 495511
    2. Stephen A. Schwarzman, 521940
    3. Terrie Williams and Richard E. Williams, 550352
  - Petition for Rehearing
    4. Gerald J. Marcil and Carol L. Marcil, 458832

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 .....Mr. McGuire
- Credit and Cancellation
    1. PB Municipal Funding, Inc., 576427 (OH)

There are no items for the following matters:

- 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 .....Mr. Ambrose
- Petition for Penalty Abatement on Unitary Value
    1. &TV Communications, Inc. (8115), 576434 'CF'

## I. Tax Program Nonappearance Matters

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

- I1. Property Taxes Matters..... Mr. Gau
- Private Railroad Car Roll Changes
    1. 2011 Private Railroad Roll 'CF'
- I2. Offers in Compromise Recommendations ..... Ms. Kelly/Mr. Anderson
1. Mehdi Behmard
  2. Michael Thomas Icaza
  3. Jarrouche Corporation
  4. Alice Tabera
- 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.

**J. Rulemaking**

**Section 100 Changes**

- J1. *Sales and Use Tax Regulations 1532, Teleproduction or Other Postproduction Service Equipment; 1533.1, Farm Equipment and Machinery; 1534, Timber Harvesting Equipment and Machinery; and, 1535, Racehorse Breeding Stock +* ..... Mr. Heller

Staff request for authorization to make Rule 100 changes to conform the regulations to the 1 percent state tax rate decrease that took effect July 1, 2011.

- J2. *Sales and Use Tax Regulation 1570, Charitable Organizations +* ..... Mr. Heller

Staff request for authorization to make Rule 100 changes to conform the regulation to the inventory exemption and delete the deadline for annually claiming the welfare exemption.

There are no items for the following matters:

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

**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 Resolutions +**

- Margaret C. Baum
- Barbara Beck
- Donald L. Jackson
- Daniel Jenkinson
- Geoffrey E. Lyle
- Connie A. Norton
- Betty Overrocker
- Linda Patrick-Myler
- Pamela Rochelle Samuel
- Victor W. Waddel

**N2. Approval of Board Meeting Minutes**

- August 23, 2011 +

**N3. Approval of Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors* +**

Request approval for publication of 2012 revision of Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors*.

**N4. Adoption of *Change in Ownership Statement*, form BOE-502-AH +**

Adoption of revised Change in Ownership Statement, form BOE-502-AH, to incorporate amendments made to Revenue and Taxation Code section 480.

**N5. Approval of the 2012 Timberland Production Zone Values +**

For the 2012 lien date, request approval for certification by the Board to county assessors of the current values of lands zoned for timberland production.

**N6. Approval of Effects of Proposition 10 on Cigarette and Tobacco Products Consumption +**

Section 130105(c) of the Health and Safety Code, as added by Proposition 10, requires the Board to determine the effect of Proposition 10 on the consumption of cigarettes and tobacco products and directs that a transfer of funds to Proposition 99 and Breast Cancer programs be made to backfill for revenue losses to those programs resulting from consumption changes triggered by Proposition 10. The intent of the backfill is to keep the funding levels of certain Proposition 99 and breast cancer programs from declining any more than they would have decreased without the Proposition 10 tax increase.

~~**N7. Proposed Collection Cost Recovery Fee for Calendar Year 2012 +**~~

~~Approval of the annual rates based on the Stratified Flat Fee approach approved by the Board in 2010.~~

**O. Adoption of Board Committee Report and Approval of Committee Actions****O1. Legislative Committee****P. Other Administrative Matters****P1. Executive Director's Report ..... Ms. Cazadd****1. California's Underground Economy Centralized Intelligence Partnership Concept +**

The proposed California Centralized Intelligence Partnership (CIP) is based on the concept of a central collaborative structure to comprehensively address the underground economy and capitalize on each agency's enforcement efforts and

investigative resources. A key element of this effort is to authorize intelligence sharing among government agencies to ensure appropriate and timely action is taken on all viable leads.

2. CROS Project Update and Actions .....Mr. Steen  
Progress on the CROS project to replace BOE's two current tax legacy technology systems.
- P2. Chief Counsel Report  
There are no items for this matter.
- P3. Sales and Use Tax Deputy Director's Report .....Mr. McGuire
  1. Guidelines on the Standard of Proof regarding Sales and Use Tax Matters + ..... Mr. McGuire/Mr. Gilman  
Discussion of suggestion to provide guidelines on the standard of proof regarding sales and use tax matters.
- P4. Property and Special Taxes Deputy Director's Report  
There are no items for this matter.
- P5. Administration Deputy Director's Report + ..... Ms. Houser
  1. ~~Facilities Update +~~  
~~450 N Street Building Update – Representatives from the Department of General Services will be present to discuss: policy of encapsulating mold; monitoring and future remediation of mold in the HVAC system; building design issues; systems/areas of the building that need to be examined/investigated; how to best address any future issues and continuing to be proactive to protect the safety of BOE employees. Information also will be provided on costs.~~
  2. 2011/12 Budget Update and Governor's Executive Orders  
Information on the Governor's 2011/12 Budget, pending 2012/13 Budget Change proposals and Governor's Executive Orders.
  3. Administrative Department Efficiency Projects  
An update on two efficiency projects: 1) the Check 21/ Cashier Project to modernize and streamline the tax return cashiering function; and 2) the Taxpayer Records Unit Scanning project to transition all existing files from paper to digital format.  
Information on plans to transition employees during this change.

There are no items for the following matters:

- P6. Technology Deputy Director's Report
- P7. External Affairs Deputy Director's Report

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, 50156.11).
- Q2. Pending litigation: *Mohan, et al. v. Dell, Inc. et al. v. California State Board of Equalization*; San Francisco County Superior Court Case No. CGC 03 419192; San Francisco County Judicial Council - Coordination Proceeding No. 4442 (Gov. Code, § 11126(e)).
- ~~Q3. Pending litigation: *People v. Abolghassem Alizadeh*, Placer County Superior Court, Case No. 62-104141 (Gov. Code, § 11126(e)).~~
- Q4. 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, formerly *Governor Arnold Schwarzenegger, et al. v. State Controller John Chiang, et al.*, Sacramento County Superior Court, Case No. 34-2009-80000158 (Gov. Code, § 11126(e)).
- Q5. 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)).
- Q6. Discussion and action on personnel matters (Gov. Code, § 11126(a)).

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

**Recess** - The meeting will reconvene on Wednesday, November 16, 2011, at 9:30 a.m.

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Diane G. Olson, Chief  
Board Proceedings Division

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- \*\*\* Municipalities are exempt from Contribution Disclosure requirements, for further information please telephone Richard Bennion, Regulations Coordinator at (916) 445-2130 or email: [Richard.Bennion@boe.ca.gov](mailto:Richard.Bennion@boe.ca.gov).
- + Material is available for this Item.
- 'CF' Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code, section 7.9.



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November 15-16, 2011
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C. Sales and Use Tax Appeals Hearings

Local Tax Reallocation Hearings

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

C4. Cities of Santa Fe Springs and Fillmore, 468761 +

For Petitioner: Janis Varney, Representative
Eric Myers, Representative
Jose Gomez, Representative

For Petitioner: Joseph A. Vinatieri, Attorney
Jeffrey S. Baird, Attorney
Theodore J. Schneider, Attorney

For Department: Cary C. Huxsoll, Tax Counsel

C5. City of Fillmore, 466375 +

For Petitioner: Joseph A. Vinatieri, Attorney
Jeffrey S. Baird, Attorney
Theodore J. Schneider, Attorney

For Notified Jurisdiction: Robin Sturdivant, Representative
City of Burbank

For Notified Jurisdiction: Janis Varney, Representative
Eric Myers, Representative
City of Fresno

For Department: Cary C. Huxsoll, Tax Counsel

**Sales and Use Tax Appeals Hearings**

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

C6a. Blowfish, LLC, 484932 (BH) +

C6b. Blowfish SR., LLC, 479540 (GH) +

For Petitioners: Dan Engle, Representative  
Jesse McClellan, Representative  
For Department: Scott Lambert, Hearing Representative

~~C7. Jasvir Singh Shahi, 303529 (CH) +~~

~~For Petitioner: Michan Evonc, Representative  
For Department: Scott Lambert, Hearing Representative~~

C8. Data Physics Corporation, 425711, 473226 (GH) +

For Petitioner: Ken Fowler, Representative  
Sabine Castagnet, Representative  
David Herzl, Representative  
For Department: Andrew Kwee, Tax Counsel

C9. Star Cellular, Inc., 520976 (GH) +

For Petitioner: PJ Chawla, Taxpayer  
Karan Chawla, Representative  
For Department: Scott Claremon, Tax Counsel

~~C10. A-Plus Storage Containers, Inc., 511088, 511095 (KH) +~~

~~For Petitioner: Nick J. Koretoff, Taxpayer  
Robert S. Swanton, Representative  
For Department: Andrew Kwee, Tax Counsel~~

C11. Timothy Scot Bohl and Wendy Lee Bohl, 396620 (KH) +

For Petitioner: Appearance Waived  
For Department: Scott Lambert, Hearing Representative

C12. Robert Chang Soung, 462258 (GH) +

For Petitioner: Robert Chang Soung, Taxpayer  
For Department: Scott Claremon, Tax Counsel

**E. Property Tax Appeals Hearings**

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

**Petition for Abatement of Penalty****E1. [Trans Bay Cable LLC \(119\), 577086 'CF' +](#)**

For Petitioner: Donna Burke, Representative  
Kimberly Mazzoni, Representative  
Michael Hornstein, Attorney

For Department: Mary Anne Tooke, Tax Counsel

**Petition for Reassessment of Unitary Value****~~E2. [Gill Ranch Storage, LLC \(121\), 577341 'CF' +](#)~~**

~~For Petitioner: Mark LoRusso, Representative  
Joe Molina, Representative~~

~~For Department: Matthew Burke, Tax Counsel~~

**Adjourn**

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Diane G. Olson, Chief  
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