



STATE BOARD OF EQUALIZATION
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0080
(916) 322-2270 • FAX (916) 324-3984
www.boe.ca.gov

BETTY T. YEE
First District, San Francisco
SEN. GEORGE RUNNER (RET.)
Second District, Lancaster
MICHELLE STEEL
Third District, Orange County
JEROME E. HORTON
Fourth District, Los Angeles
JOHN CHIANG
State Controller
CYNTHIA BRIDGES
Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
November 19-20, 2013
NOTICE AND AGENDA
Meeting Agenda (as of 11/20/2013, 12:00 PM)

[Agenda Changes](#)

[Webcast on Tuesday, November 19, 2013](#)

Tuesday, November 19, 2013

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 Meeting*

[Business Taxes Committee](#)..... Ms. Yee, Committee Chairwoman

1. Proposed Amendment to Regulation 1699, *Permits*
Request approval and authorization to publish proposed amendments to clarify Revenue and Taxation Code section 6070.5, which provides the Board the authority to either refuse to issue or revoke a seller's permit under certain conditions.
2. Proposed Revisions to Regulation 1603, *Taxable Sales of Food Products*
Request approval and authorization to publish proposed regulatory change to provide that mobile food vendors' sales of items subject to tax are presumed to be made on a tax-included basis.

Board Meeting**

- A. Homeowner and Renter Property Tax Assistance Appeals 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. Todd Bentley and Kate Bentley, 593582 +
For Appellant: Robert J. Chicoine, Attorney
For Franchise Tax Board: Natasha Page, Tax Counsel
Fred Campbell-Craven, Tax Counsel

B2. Applied Companies, 526527 +
For Appellant: Betsy Klinger, Taxpayer
Marcus Frishman, Representative
Mike Dooley, Representative
Romeo Vinzon, Representative
For Franchise Tax Board: Eric Brown, Tax Counsel
Roman Johnston, Tax Counsel
Karen Smith, Tax Counsel

C. Sales and Use Tax Appeals Hearings
(Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)

~~C1a. Gregory Scott Smith, 532481 (GH) +~~
~~C1b. Amy Elaine Smith, 532485 (GH) +~~
~~For Petitioners: Gregory Smith, Taxpayer~~
~~_____ Amy Smith, Taxpayer~~
~~_____ Allan R. Frumkin, Attorney~~
~~For Department: Pamela Mash, Tax Counsel~~

C2. SMF Energy Corporation, 556419, 557544 (OH) +
For Petitioner/Claimant: Waived Appearance
For Department: Andrew Kwee, Tax Counsel

C3. Joginder Lal, 496075 (KH) +
For Petitioner: Joginder Lal, Taxpayer
George H. Fakhouri, Representative
For Department: Scott Lambert, Hearing Representative

There are no items for the following matters:

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

F. Public Hearing

F1. Proposed Adoption of Amendments to the Board of Equalization Rules for Tax Appeals (RTA) +Mr. Heller
Public hearing regarding the adoption of proposed amendments to incorporate, implement, and clarify Revenue and Taxation Code section 40, and address clean-up and housekeeping issues.

Chief Counsel Matters

Items that appear under these matters provide information to the Members and may require Board action or direction.

There are no items for the following matters:

- J. Rulemaking
- K. Business Taxes
- L. Property Taxes

M. Other Chief Counsel Matters

- M1. [Report on Taxpayer Relief Following the California Supreme Court Decision in *Elk Hills Power, LLC v. State Board of Equalization* +](#) Mr. Moon

Report on methods certain state-assessed taxpayers may seek for relief for costs of emissions reduction credits added to their replacement cost indicator of value.

- M2. [Request for Board Direction on Publication of Legal Annotation 880.0155.005, Low-Income Housing +](#) Mr. Moon

Request for Board's direction on annotation regarding payments (PILOT payments) made by low-income housing developers to local governments for costs associated with the low-income housing property.

G. Tax Program Nonappearance Matters – Consent

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

- G1. Legal Appeals Matters Mr. Angeja
- Hearing Notices Sent – No Response
 1. Abdelmajid M. Hamid, 463973, 463976 (STF)
 - 2a. Frank Kenneth Worth, 534789 (GH)
 - 2b. Helen Laura Worth, 534792 (GH)
 - Hearing Notices Sent – Appearance Waived
 3. Asish Singh, 490116 (JH)
 4. Mixserve, Inc., 491699, 597648 (AC)
 5. American Bio Medica Corporation, 470329, 470334 (OH)
 6. Cal-Door Enterprises of No. CA, 597964 (CH)
 7. ~~SacCity Blue, Inc., 553411, 603490 (KH)~~
 - Petitions for Rehearing
 - 8a. Nyoka Edy, 563276 (STF)
 - 8b. Nyoka Edy, 563277 (STF)
 9. ~~S & C Motors, 468140 (BH)~~

G2. Franchise and Income Tax Matters Mr. Epolite

➤ Decisions

1. Francisco Acosta, 612838
2. Kristy Afraimi and David Afraimi, 607572
3. Elizabeth Agan, 612482
4. Brad Beck and Glenda Beck, 574003
5. Carl E. Berg and Mary Ann Berg, 400129
6. Binford Road, LLC, 592029
7. Mordechai Dayan, 574437
8. Diamond B Capital, Inc. 623488
9. Aimee Marie Felker, 620573
10. Michael J. Gorun, 598170
11. Goya Foods of California, Inc., 613801
12. Mauro Frank Gutierrez and Nohemi Gutierrez, 606491
13. Gary Hansen, 598294
14. Kimberly K. House, 625181
15. Jo-Renee Hunter, 608111
16. Audrey B. Jacobsen, 620571
17. James Lamb and Wendy Lamb, 614065
18. Christian J. Lane, 613265
19. Richard A. Lopez, 575545,592208
20. Patricia McGraw, 597959
21. Candace Messer and Garth E. Messer, 605330
22. Luis A. Montes, 625006
23. P.L.P. Global, Inc., 614340
24. Robert P. Riggs and Rita Young, 606389
25. Chiquitha Marie Shaw, 607044
26. Anthony A. Touchette, 574780

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. Radioshack Corporation, 595706 (OH)
2. Scott Thomas Turner, 513953 (BH)
3. Superior Pool Products, LLC, 624596 (OH)
4. Treasures, 551443 (FH)
5. SPX Corporation, 628371 (OH)

➤ Relief of Penalty/Interest

6. Cisco Technology, Inc., 747305 (GH)

➤ Denial of Claim for Refund

7. State of California-California Lottery, 601925 (KH)

➤ Grant-One Day Interest Relief

8. Illumina, Inc., 743936 (FH)

- G5. Sales and Use Taxes Matters – Credits, Cancellations, and RefundsMr. McGuire
- Credits and Cancellations
 1. John Nick Petrillo, 747170 (AP)
 2. Bax Global, Inc., 729690 (OH)
 3. The Mobile Solution Corporation, 746347 (FH)
 4. The Mobile Solution Corporation, 746348 (FH)
 5. Ryjac Computer Solutions, Inc., 595904 (EA)
 - Refunds
 6. Guaranty RV, Inc., 591926 (EH)
 7. Nordstrom, Inc., 592159 (OH)
 8. American Material Mgt. Allianc, Inc., 563037 (EH)
 9. Idearc Media Corp., 738871 (OH)
 10. Boston Scientific corporation, 614413 (OH)
 11. Mercedes-Benz USA, LLC, 743140 (KH)
 12. Check Point Software Technologies, Inc., 722502 (BH)
 13. Taco Bell, 739819 (OH)
 14. The Glynhard Corporation, 588915 (AS)
 15. Nuvision Financial Federal Credit Union, 578456 (EA)
 16. Infinera Corporation, 714058 (GH)
 17. American Seating Company, 623753 (OH)
 18. ~~R. R. C., 595740 (JH)~~
 19. Enphase Energy, Inc., 703804 (JH)
 20. Seamicro, Inc., 729693 (GH)
- G6. Special Taxes Matters Mr. Gau
- Denial of Claim for Refund
 1. US Telecom, Inc., 304389, 548379 (STF)
- G7. Special Taxes Matters – Credits, Cancellations, and Refunds Mr. Gau
- Refund
 1. The Wine Group, LLC, 741827 (STF) ‘CF’
- G8. Property Tax Matters Mr. Gau
- Petitions for Reassessment of Unitary Value
 1. Golden State Water Company (101), 742934 ‘CF’
 2. Pacific Bell Telephone Company (279), 742888 ‘CF’
 3. Central California Traction Co. (818), 742893 ‘CF’
 4. Dynegy Moss Landing, LLC (1103), 743422 ‘CF’
 5. Cabrillo Power I, LLC (1106), 743435 ‘CF’
 6. GenOn Delta, LLC (1109), 743437 ‘CF’
 7. Reliant Energy Ormond Beach, LLC (1115), 743431 ‘CF’
 8. High Desert Power Trust 2000-A, LLC (1127), 742933 ‘CF’
 9. Delta Energy Center, LLC (1128), 742894 ‘CF’
 10. Pastoria Energy Facility, LLC (1131), 742895 ‘CF’
 11. Calpine Construction Finance Co., LP (1132), 742897 ‘CF’
 12. Metcalf Energy Center, LLC (1133), 742898 ‘CF’
 13. Otay Mesa Generating Company, LLC (1134), 742899 ‘CF’

14. Sunrise Power Company, LLC (1137), 742939 'CF'
15. Russell City Energy Company, LLC (1151), 742932 'CF'
16. GenOn Marsh Landing, LLC (1157), 743433 'CF'
17. El Segundo Energy Center, LLC (1158), 743429 'CF'
18. CPV Sentinel, LLC (1160), 743419 'CF'
19. Cricket Communications, Inc. (2762), 745875 'CF'
20. Zayo Group, LLC (7778), 742938 'CF'
21. Americom Government Services, Inc. (7912), 742833 'CF'
- Petition for Penalty Abatement on Unitary Value
22. Calaveras Telephone Company (210), 742794 'CF'
- Petition for Penalty Abatement on Unitary Escape Assessment
23. MetroPCS Communications, Inc. (2733), 747165 'CF'

G9. Cigarette License Fee Matters
There are no items for this matter.

- G10. Legal Appeals Property Tax MattersMr. Ambrose
- Petition for Penalty Abatement on Unitary Escape Assessment
 1. Global Tel*Link Corporation (7988), 747162 'CF'
 - Petition for Reassessment and Penalty Abatement on Unitary Escape Assessment
 2. NTCH-CA, Inc. (2764), 522064 'CF'

H. Tax Program Nonappearance Matters – Adjudicatory

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

- H1. Legal Appeals MattersMr. Angeja
- Hearing Notice Sent – Hearing Request Withdrawn
 1. [Safwat Tawadros Salib and Wafaa Salib, 534396 \(EH\) +](#)
 - Case Heard-Not Decided
 2. [Sonja M. Craighton, 558975 \(KH\) +](#)
 - Petition for Rehearing
 3. ~~—Mordehay Rabinowiz, 489446 (AC) +~~
 - Section 40 (AB 2323) Matters
 4. [East Coast Foods, Inc., 444779 \(AS\) +](#)
- H2. Franchise and Income Tax Matters Mr. Epolite
- Petitions for Rehearing
 1. Richard A. Hall, 533898
 2. ~~—Richard M. Kerbel, 560503~~
 3. ~~—Barry L. Weiss and Dorraine Gilbert Weiss, 605043~~
 - Section 40 (AB 2323) Matters
 4. Myles D. Hubers and Michelle Hubers, 534595

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 RefundsMr. McGuire
- Refund
 1. Pacmac, Inc., 699402 (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

I. Tax Program Nonappearance Matters

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

- I1. Property Taxes Matters..... Mr. Gau
- Audits
 1. Crimson California Pipeline, LP (490) 'CF'
 2. Smart City Networks, LP (2099) 'CF'
 3. McLeodUSA Telecommunications Services, Inc. (7914) 'CF'
 - Limited Scope Audits (ERC)
 4. San Diego Gas and Electric Company (141) 'CF'
 5. Southern California Edison Company (148) 'CF'
 6. Dynegy Moss Landing, LLC (1103) 'CF'
 7. Dynegy Morro Bay, LLC (1104) 'CF'
 8. La Paloma Generating Company, LLC (1112) 'CF'
 9. GenOn Energy West, LP – Coolwater (1113) 'CF'
 10. GenOn Energy West, LP – Mandalay (1114) 'CF'
 11. GenOn Energy West, LP – Ormond Beach (1115) 'CF'
 12. GenOn Energy West, LP – Etiwanda (1116) 'CF'
 13. Mountainview Power Company, LLC (1119) 'CF'
 14. Elk Hills Power, LLC (1126) 'CF'
 15. High Desert Power Trust 2000-A (1127) 'CF'
 16. Delta Energy Center, LLC (1128) 'CF'
 17. Pastoria Energy Facility, LLC (1131) 'CF'
 18. Calpine Construction Finance Company, LP (1132) 'CF'
 19. Metcalf Energy Center, LLC (1133) 'CF'
 20. Otay Mesa Generating Company, LLC (1134) 'CF'
 21. Sunrise Power Company, LLC (1137) 'CF'
 - Unitary Land Escaped Assessments
 22. Cellco Partnership (2559) 'CF'
 23. Sprint Telephony PCS, LP (2720) 'CF'
 24. MetroPCS Communications (2733) 'CF'
 25. Cricket Communications, Inc. (2762) 'CF'

- Allocation Adjustments
 - 26a. AT&T Mobility, LLC (2606) 'CF'
 - 26b. MetroPCS Communications (2733) 'CF'
 - 26c. T-Mobile West Corporation (2748) 'CF'
 - Assessment Cancellations
 - 27a. Pacific Gas and Electric Company (135) 'CF'
 - 27b. AES Alamitos, LLC (1100) 'CF'
 - 27c. AES Redondo Beach, LLC (1101) 'CF'
 - 27d. AES Huntington Beach, LLC (1102) 'CF'
 - 27e. Dynegy Morro Bay, LLC (1104) 'CF'
 - 27f. Dynegy Oakland, LLC (1105) 'CF'
 - 27g. El Segundo Power (1110) 'CF'
 - 27h. La Paloma Generating Company (1112) 'CF'
 - 27i. GenOn Energy West, LP - (RR) Energy Mandalay, Inc. (1114) 'CF'
 - 27j. GenOn Energy West, LP - RRI Energy Etiwanda, Inc. (1116) 'CF'
 - 27k. GWF Energy, LLC - Hanford (1122) 'CF'
 - 27l. GWF Energy, LLC - Henrietta (1123) 'CF'
 - 27m. GWF Energy, LLC - Tracy (1124) 'CF'
 - 27n. Elk Hills Power, LLC (1126) 'CF'
 - 27o. Gilroy Energy Center, LLC (1129) 'CF'
 - 27p. Blythe Energy, LLC (1136) 'CF'
 - 27q. Indigo Generation, LLC (1141) 'CF'
 - 27r. Larkspur Energy, LLC (1142) 'CF'
 - 27s. Harbor Cogeneration Company, LLC (1145) 'CF'
 - 27t. Inland Empire Energy Center, LLC (1148) 'CF'
 - 27u. Panoche Energy Center, LLC (1152) 'CF'
 - 27v. Starwood Power-Midway, LLC (1153) 'CF'
 - 27w. Bicent (California) Malburg, LLC (1154) 'CF'
 - 27x. Orange Grove Energy, LP (1155) 'CF'
 - 27y. Mariposa Energy, LLC (1159) 'CF'
 - Board Roll Change
 - 28. 2010, 2011, 2012, and 2013 Board Rolls of State-Assessed Property 'CF'
12. Offer in Compromise Recommendations Mr. Anderson
1. Israel Diaz Guevara
 2. Tamara Ann O'Dea
13. Local Tax Reallocation Matters
There are no items for this matter.

Administrative Session

The following items are scheduled for Wednesday, November 20, 2013.

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

Announcement of Closed Session Ms. Richmond

Q. Closed Session

- Q1. Discussion and approval of staff recommendations regarding settlement cases (Rev. & Tax. Code, §§ 6901, 7093.5, 30459.1, 50156.11).
- Q2. Discussion and action on personnel matters (Gov. Code, § 11126(a)).

Announcement of Open Session..... Ms. Richmond

Recess - The meeting will reconvene on Wednesday, November 20, 2013, at 9:30 a.m.

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Joann Richmond, Chief
Board Proceedings Division

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- ** 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.



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Agenda Changes

Webcast on Wednesday, November 20, 2013

Wednesday, November 20, 2013

9:30 a.m. Board Meeting Reconvenes**

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Board Meeting**

Special Presentations

- Award Presentation Ms. Bridges
Mr. Carlos Ramos, Director and California State Chief Information Officer of the California Department of Technology, will present the BOE an award from the National Association of Chief Information Officers for the Electronic Services Expansion Project in the category of Digital Government: Government to Business.
BOE Headquarters Building + Ms. Houser
A representative from the Department of General Services will provide a general update on BOE's Headquarters' Consolidation and the status of the Lease Request for Information (RFI) seeking options to address this facility need.

C. Sales and Use Tax Appeals Hearings

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

- C4. Schoettler Tire, Inc., 522013 (DF) +
For Petitioner: Kenneth R. Schoettler, Representative
Terry S. Schoettler, Representative
For Department: Erin Dendorfer, Tax Counsel

- C5. [Tri Minh Phan, 539025 \(KH\) +](#)
 For Petitioner: Tri Minh Phan, Taxpayer
 For Department: Marc Alviso, Hearing Representative
- ~~C6. [Ricky Alan Dumas, 547380 \(KH\) +](#)
 For Petitioner: ~~Rick Dumas, Taxpayer~~
 For Department: ~~Scott Claremon, Tax Counsel~~~~
- C7. [Mark J. Weidhaas and Richard A. Weiner, 577043 \(UT\) +](#)
 For Petitioners: Joe Micallef, Representative
 For Department: Monica Silva, Tax Counsel
- ~~C8. [James J. Barbera, Jr., 526563, 526564, 526565 \(BH\) +](#)
 For Taxpayer: ~~James Barbera, Taxpayer~~
 For Department: ~~Scott Lambert, Hearing Representative~~~~
- ~~C9. [Jafar Rezaian, 467747 \(JH\) +](#)
 For Petitioner: ~~Duane R. Menting, Attorney~~
 For Department: ~~Scott Claremon, Tax Counsel~~~~
- ~~C10. [Sheakh Sahib, 589643 \(BH\) +](#)
 For Petitioner: ~~M. Ali D. George, Representative~~
 For Department: ~~Kevin Smith, Tax Counsel~~~~
- C11. [Katherine E. Lett, 576171, 654996 \(CH\) +](#)
 For Petitioner: Katherine E. Lett, Taxpayer
 Michael Ferguson, Representative
 For Department: Marc Alviso, Hearing Representative

Administrative Session

Items that appear under these matters provide information to the Members and may require Board action or direction.

- N. Consent Agenda** Ms. Richmond
 (Contribution Disclosure forms not required pursuant to Gov. Code, § 15626.)

- N1. [Retirement Resolutions +](#)
- Michael Barcena
 - Irving James Buford III
 - Margie F. Dean
 - Louie E. Feletto
 - Lynn M. Garcia
 - Theresa E. Hannan
 - Jesus (Jesse) Macias

N2. Approval of the 2014 Timberland Production Zone Values +

For the 2014 lien date, request approval for certification by the Board to county assessors of the current values of lands zoned for timberland production.

~~**N3. 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.~~

N4. Approval of Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors* +

Request approval for publication of the 2014 revision of Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors*.

~~**N5. Proposed Revisions to Compliance Policy and Procedures Manual Chapter 7, *Collections* +**~~**N6. Proposed Addition to Compliance Policy and Procedures Manual Chapter 10, *Statewide Compliance and Outreach Program* +**~~**N7. Proposed Revision to Audit Manual, Chapter 4, *General Audit Procedures* +**~~**O. Adoption of Board Committee Report and Approval of Committee Actions****O1. Business Taxes Committee****P. Other Administrative Matters****P1. Executive Director's Report Ms. Bridges**

1. ~~2014 Board Calendar Update~~
2. CROS Project Update and ActionsMr. Steen
Progress on the CROS project to replace BOE's two current tax legacy technology systems.
3. **Rate-setting Delegation +..... Messrs. Gau, McGuire and Ferris**
Report on concerns raised regarding the delegation of certain non-discretionary administrative rate-setting adjustments to the Executive Director.

- P2. Chief Counsel Report
There are no items for this matter.
- P3. Sales and Use Tax Deputy Director's ReportMr. McGuire
1. ~~Security Deposit Program +~~
Recommended changes to the Security Deposit Program.
 2. **No Cash Policy Statewide Expansion +**
An update on the expansion of the No Cash policy parameters.
- P4. Property and Special Taxes Deputy Director's Report..... Mr. Gau
1. Fire Prevention Fee Program Update

There are no items for the following matters:

- P5. Administration Deputy Director's Report
P6. Technology Deputy Director's Report
P7. External Affairs Deputy Director's Report

Adjourn

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