STATE OF CALIFORNIA

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

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Third District, Rolling Hills Estates

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Fourth District, Los Angeles

JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
December 15-16, 2009
NOTICE AND AGENDA
Meeting Agenda (as of 3:00 p.m., 12/14/09)

Agenda Changes

Tuesday, December 15, 2009

9:30 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*

Legislative Committee .....Mr. Horton, Committee Chair

I. 2010 Legislative Proposals

Set forth below are suggestions for property and business taxes legislation to be sponsored by the Board in the second year of the 2009-10 Legislative Session. Additional suggestions will be included on the agenda for January 2010.

Property Taxes

1-6 Repeal Revenue and Taxation Code sections 1624.3, 1636.2, and 636.5 which were made redundant by recent legislation.

1-7 Amend Revenue and Taxation Code section 401.11 to extend for five years the assessment valuation methodology for intercounty pipeline rights-of-way which are otherwise scheduled to sunset.

1-8 Amend Revenue and Taxation Code section 1604 to clarify that the two year period that an assessment appeals board has to decide appeals before a property owner's opinion of value becomes controlling applies to supplemental and escape assessment appeals.

1-9 Amend Revenue and Taxation Code section 4831 to clarify the provisions related to assessment roll corrections.

2010 Legislative Proposals

Business Taxes

2-1 Amend Revenue and Taxation Code section 6829 of the Sales and Use Tax Law to include imposition of personal liability on responsible persons of a closely held corporation or closely held limited liability company (LLC) for liabilities arising during a period of suspension of that closely held corporation or closely held LLC, but only if the corporation or LLC is not revived within 60 days of the imposition of the suspension. Further, to add statutes comparable to section 6829, as amended, to those Board-administered Special Taxes and Fees programs where circumstances would warrant the imposition of personal liability on an officer, partner, member, manager, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of taxes or fees for a corporation, partnership, limited partnership, limited liability partnership, or LLC that has been terminated, dissolved or abandoned or on a responsible person of a closely held corporation or closely held LLC that has been suspended without being timely revived.

2010 Legislative Proposals

Business Taxes – Special Taxes and Fees

4-2 Amend Business and Professions Code sections 22971, 22980.2, and 22980.3 to (1) prohibit a licensee from gifting or displaying cigarettes or tobacco products during a period when the license is suspended or after a license has been revoked and (2) provide that cigarettes or tobacco products displayed during a license suspension or after a license has been revoked are presumed to be displayed for sale.

4-3 Amend Unemployment Insurance Code section 1095 to authorize the Board to admit the Employment Development Department's confidential employment tax information as evidence into the Board's administrative hearings for feepayer appeals and in court proceedings.

4-4 Add sections 7304.1, 7304.2 and 7360.1 to, amend sections 7304, 7326 and 7402 of, and repeal sections 8651.8 and 8657 of, the Revenue and Taxation Code to reclassify alcohol fuel, commonly know as E85, from the Use Fuel Tax Law to the Motor Vehicle Fuel Tax Law in order to conform the reporting requirements with those for gasoline and diesel fuel.

II. Table of Sections Scheduled to Sunset by January 1, 2011

Notification of law sections administered by the Board that will sunset by January 1, 2011.

Property Tax Committee.....Ms. Steel, Committee Chair

1. Adoption of Offset Lithographic Printing Presses – Business Property Assessment Practices Guidelines.
2. Adoption of Document Processors - Business Property Assessment Practices Guidelines.
3. Adoption of 2010 Revision of Assessors' Handbook Section 581, Equipment Index and Percent Good Factors.

Board Meeting**

There are no items for the following matters:
A. Homeowner and Renter Property Tax Assistance Hearings
B. Corporate Franchise and Personal Income Tax Hearings

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

C1. Rodney Eugene Lane, 415962 (BH) +
For Petitioner: Rodney Lane, Taxpayer
Denise Rivas, Witness
For Department: Cary Huxsoll, Tax Counsel

D. Special Taxes Appeals Hearing
(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

~~D1. Adobe Beverages and Foods, Inc., 506102 (ET) +~~
~~For Petitioner: Pradeep Sahota, Representative~~
~~For Department: Stephen Smith, Tax Counsel~~

E. Property Tax Appeals Hearings
There are no items for this matter.

F. Public Hearings
These items are scheduled for Wednesday, December 16, 2009.

G. Tax Program Nonappearance Matters – Consent
(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

G1. Legal Appeals Matters .....Mr. Levine
- Hearing Notice Sent – No Response
  ~~1. Sukrita Sanahi, 436874 (EA)~~
  2. Jose Aristides Torres and Angela J. Torres, 436435 (JH)
- Petitions for Release of Seized Property
  3. Yeon Hwga USA, Inc., 496421 (ET)
  4. Nabil I. Dib and Amal Deib, 496417 (ET)
  5. Fuad Mohammed Alwishah, 496370 (ET)

6. Chu Mei Yang, 496457 (ET)
7. Surinder Singh, 506263 (ET)
8. Sukhjivan Singh Dhaliwal, 506123 (ET)
9. Baldev Raj and Sarbjit Kaur, 491620 (ET)
10a. Bains Highway 99 Store, LLC, 506152 (ET)
10b. Bains Lincoln Rd Store, Inc., 506150 (ET)
11. Amany Incorporated, 506185 (ET)
12. Karamjit Kaur Grewal, 510014 (ET)
13. 1621 North Mountain Ave., Inc., 506182 (ET)
14. Triangle, Inc., 496439 (ET)
15. Charanjit Singh, 506869 (ET)

G2. Franchise and Income Tax Matters .....Ms. Kelly

- Decisions
  1. Jackie L. Adamson, 422135
  2. Alliance Media, LLC, 443388
  3. Patricia Betts, 423117
  4. Paul Burke, 464512
  5. Chris Alan Capriotti, 460717
  6. Cargill Incorporated, 476845
  7. Cascade Acceptance Corporation, 423950
  8. Charles Chu and Peichun Tsai, 468880
  9. Richard Courtney, 400993
  10. Dot.Org, Inc., 450405
  11. Extreme Distri, 439456
  12. Donna Hannah, 460190
  13. Isaac V. Hardy, 447640
  14. Nanci Ann Herbst, 435957
  15. Michael Hodsdon, 474164
  16. Greg Hohman, 406863
  17. Lincoln Kennedy, 461408
  18. Steve M. Kolhoff, 464694
  19. David R. Shelton and Suzanne Rosenbloom, 390857
  20. Ramiro Perez, 439532
  21. Glenn A. Smith and Eileen Smith, 431712
  22. Ada Unruh, 402857
  23. Angelica Urquiza Patlan and Abel Gonzalez, 424056
- Petitions for Rehearing
  24. John I. Alioto and Linda M. Alioto, 204713
  25. Gwendolyn Webber, 406027

G3. Homeowner and Renter Property Tax Assistance Matters
There are no items for this matter.

G4. Sales and Use Taxes Matters.....Ms. Henry

- Redeterminations
  1. Hot Topic, Inc., 466441 (AP)
  2. Richard Starr S B S, Inc., 426096 (KH)
  3. Bodybuilding.Com, LLC, 467307 (OH)

- Relief of Penalty/Interest
  4. Coach, Inc., 511141 (OH)
  5. Amway Corp, 505757 (OH)
  6. Time Warner, LP, 509159 (AC)
  7. Derse, Inc., 507748 (OH)
  8. The Irvine Company, LLC, 510204 (EA)
- Denials of Claims for Refund
  9. Modern Finance Company, 446816 (AC)
- Denials of Relief of Penalty/Interest
  10. Thermo Keytek, LLC, 494632 (OH)

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

- Credits and Cancellations
  1. Global Micro, Inc., 496769 (EH)
  2. Fleetwood Holdings, Inc., 509449 (EH)
- Refunds
  3. Desert Hospital Corporation, 468774 (EH)
  4. Delta Design, Inc., 468429 (FH)
  5. Redwood Credit Union, 504742 (JH)
  6. The Golden 1 Credit Union, 487374 (KH)
  7. Washington Mutual Bank FA, 435118 (OH)
  8. Tuff Shed, Inc., 507704 (OH)
  9. Hollywood Aviation, Inc., 464745 (UT)
  10. California Shock Trauma Air Rescue, 507007 (UT)
  11. John Picard, 479024 (UT)
  12. Global Micro, Inc., 473631 (EH)
  13. Dot Hill Systems Corp., 444255 (FB)
  14. Intel Americas, Inc., 506482 (GH)
  15. Aerofreeze, Inc., 476653 (OH)
  16. Platform Enterprises, 458323 (AP)
  17. Lawson Software, Inc., 486585 (OH)
  18. Home Carpet Investments, Inc., 509326 (FH)
  19. River City Paper Co, Inc., 473190 (KH)
  20. Arrowhead Central Credit Union, 459962 (EH)
  21. Arrowhead Central Credit Union, 485901 (EH)
  22. Arrowhead Central Credit Union, 504693 (EH)
  23. USE Credit Union, 484205 (FH)
  24. Modern Finance Company, 432794 (AC)
  25. United Auto Credit Corporation, 484206 (EA)
  26. Bulgari Retail USA SR1, 480365 (OH)
  27. NNV, Inc., 460974 (FH)
  28. Barnes & Noble Booksellers, Inc., 374369 (OH)
  29. Garmin International, Inc., 484612 (OH)
  30. TWC Leaseco, L.P., 463888 (OH)
  31. Tenet Healthsystem Desert, Inc., 477169 (EH)

G6. Special Taxes Matters
There are no items for this matter.

G7. Special Taxes Matters – Credits, Cancellations, and Refunds ..... Mr. Gau
- Refunds
  1. Asbury Environmental Services, 491946 (EF)
  2. Distribution Services, Inc., 512434 (EF)
  3. Weider Publications, LLC, 512436 (EF)

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

H1. Legal Appeals Matters .....Mr. Levine
- Petition for Rehearing
  1. Main Street California, Inc., 224746 (OH) +
- Cases Heard But Not Decided
  2. Select Office Solutions, Inc., 187460, 345451 (AP) +
  3. Elufa Corporation, 350440 (AA) +
  4. Universal City Studios, Inc., 373822, 378248 (AC) +
  5. Sukhwant S. Sekhon and Amarjit Sekhon, 491719 (ET) +
  6. City of Pomona, 469261 +***
- Petition for Release of Seized Property
  7. Zuma Arc, Inc., 466074 (ET) +

H2. Franchise and Income Tax Matters .....Ms. Kelly
- Decisions
  1. Bakal Company Limited Partnership, 395917
  2. James G. Degnan (Deceased) and Isobel Degnan, 388851
  ~~3. David M. Gallegos, 390980~~
  4. Joseph May, 429333

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 .....Ms. Henry
- Refunds
  1. Professional Hospital Supply, Inc., 457642 (EH)
  2. Professional Hospital Supply, Inc., 466754 (EH)
  3. Professional Hospital Supply, Inc., 493135 (EH)
  4. Owens & Minor Distribution, Inc., 459093 (OH)
  5. Owens & Minor Distribution, Inc., 468180 (OH)

H6. Special Taxes Matters ..... Mr. Gau
- Relief of Penalty
  1. Life Insurance Company of North America, 468866 (ET) – 'CF'
  2. Connecticut General Life Insurance Company, 468867 (ET) – 'CF'

H7. Special Taxes Matters – Credits, Cancellations, and Refunds
There are no items for this matter.

H8. Property Tax Matters
These items are scheduled for Wednesday, December 16, 2009.

H9. Cigarette License Fee Matters
There are no items for this matter.

H10. Legal Appeals Property Tax Matters
These items are scheduled for Wednesday, December 16, 2009.

I. Tax Program Nonappearance Matters
(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

I1. Property Taxes Matters
These items are scheduled for Wednesday, December 16, 2009.

I2. Offers in Compromise Recommendations .....Ms. Ogrod/ Ms. Marte
1. Nicholas Parks

Chief Counsel Matters

J. Rulemaking
This item is scheduled for Wednesday, December 16, 2009.

There are no items for the following matters:
K. Business Taxes
L. Property Taxes

M. Other Chief Counsel Matters
This item is scheduled for Wednesday, December 16, 2009.

Administrative Session
The following items are scheduled for Wednesday, December 16, 2009:
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 Wednesday, December 16, 2009.

Adjourn - The meeting will reconvene on Wednesday, December 16, 2009, at 9:30 a.m.

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Diane G. Olson, 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.

*** Municipalities are exempt from Contribution Disclosure requirements, for further information please telephone Rick Bennion, Contribution Disclosure Analyst at (916) 445-2130 or email: Richard.Bennion@boe.ca.gov.

\+ 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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December 15-16, 2009
NOTICE AND AGENDA
Meeting Agenda (as of 3:00 p.m., 12/14/09)

Agenda Changes

Wednesday, December 16, 2009

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

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

~~C2. Macromedia, Inc., 461946 (BH) +~~
~~For Petitioner: Tran Nguyen, Representative~~
~~Purva Samant, Representative~~
~~Sonja Johnson, Representative~~
~~For Department: Scott Lambert, Hearing Representative~~

C3. Raw Skate Parks, Inc., 459785, 507070 (GH) +
For Petitioner/Claimant: Bob Fisher, Taxpayer
Butch Kruse, Representative
For Department: Andrew Kwee, Tax Counsel

C4. I2 Group, LLC, 448503 (UT) +
For Petitioner: Joseph F. Micallef, Sr., Representative
Joseph F. R. Micallef, Jr., Representative
For Department: Christine Bisauta, Tax Counsel

F. Public Hearings

F1. Timber Yield Tax Rate + ... Mr. Ingenito

Section 38202 of the Revenue and Taxation Code requires an annual adjustment of the timber yield tax rate.

F2. Timber Harvest Values + ...Mr. Cari

On or before December 31, 2009, the Board shall estimate the immediate harvest values of and adopt schedules for timber harvested between January 1, 2010 and June 30, 2010. (Rev. & Tax. Code, § 38204.)

Special Presentation ..... Ms. Yee

- Presentation of Retirement Resolution

  Edward King

H. Tax Program Nonappearance Matters – Adjudicatory

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

H8. Property Tax Matters ..... Mr. Gau

- Petitions for Reassessment of Unitary Value
  1. Questar Southern Trails Pipeline Co, 495440 (196) – 'CF'
  2. Lodi Gas Storage, LLC, 494028 (198) – 'CF'
  3. TW Telecom of California, LP, 495865 (7522) – 'CF'
- Petition for Reassessment of Private Railroad Car Tax
  4. Paneltech International, LLC, 510882 (6399) – 'CF'

H10. Legal Appeals Property Tax Matters .....Mr. Ambrose

- Petitions for Reassessment of Unitary Value
  1. San Diego Gas & Electric Company (141), 495448 – 'CF'
  2. Verizon California, Inc. (201), 495518 – 'CF'
  3. Pacific Bell Telephone Company (279), 495430 – 'CF'
  4. Dynegy Oakland, LLC (1105), 495512 – 'CF'
  5. La Paloma Generating Company, LLC (1112), 495858 – 'CF'
  6. Reliant Energy Coolwater, LLC (1113), 495859 – 'CF'
  7. Reliant Energy Mandalay, LLC (1114), 495860 – 'CF'
  8. Reliant Energy Ormond Beach, LLC (1115), 495861 – 'CF'
  9. Reliant Energy Etiwanda, LLC (1116), 495862 – 'CF'
  10. Mountainview Power Company (1119), 495660 – 'CF'
  11. Elk Hills Power, LLC (1126), 495447 – 'CF'
  12. High Desert Power Trust 2000-A (1127), 495661 – 'CF'
  13. Delta Energy Center, LLC (1128), 495852 – 'CF'
  14. Pastoria Energy Facility (1131), 495854 – 'CF'
  15. Calpine Construction Finance Company (1132), 495855 – 'CF'

16. Metcalf Energy Center, LLC (1133), 495856 – 'CF'
17. Los Esteros Critical Energy Facility, LLC (1143), 495857 – 'CF'
18. Sprint PCS (2720), 495664 – 'CF'
19. OmniPoint Communications, Inc. (2748), 495863 – 'CF'
20. ~~Covad Communications Company (7706), 495864 – 'CF'~~

- Petitions for Abatement of Penalty
  21. Atlantic Path 15, LLC (156), 495433 – 'CF'
  22. Vizada, Inc. (7948), 492252 – 'CF'

I. Tax Program Nonappearance Matters
(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

I1. Property Taxes Matters..... Mr. Gau

- Audit
  1. WWC License, LLC (2665) – 'CF'
- Unitary and Nonunitary Escaped Assessments
  2a. Golden State Water Company (101) – 'CF'
  2b. Los Angeles SMSA Ltd., Partnership (2532) – 'CF'
  2c. Sprint PCS (2720) – 'CF'
- Board Roll Changes
  3. 2006, 2007, 2008 and 2009 Board Rolls of State Assessed Property – 'CF'

Chief Counsel Matters

J. Rulemaking

J1. Regulation 4076, *Wholesale Cost of Tobacco Products +*..... Mr. Lambert/ Ms. Johnstone

Request for Board approval to proceed on a proposed new rulemaking to clarify how to determine the taxable wholesale cost of tobacco products to distributors.

J2. Regulation 4903, *Innocent Spouse or Registered Domestic Partner Relief from Liability +* ..... Mr. Heller/ Ms. Johnstone

Staff request for authorization to publish proposed Regulation 4903 (and related cross-referencing regulations) to prescribe the requirements for obtaining innocent spouse relief from specified taxes and fees.

M. Other Chief Counsel Matters

M1. Opinion and Recommendation on Federal Ban and Attorney General's De-Listing of Flavored Cigarettes and Roll-Your-Own Tobacco Products ..... Mr. Ferris/ Mr. Haas

Update on Analysis and Recommendation on Federal Ban and Attorney General's Removal of Flavored Cigarettes and Roll-Your-Own Tobacco Products from Tobacco Directory.

Administrative Session

N. Consent Agenda ..... Ms. Olson
(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

N1. Retirement Resolutions +
- Victor C. Anderson, Jr.
- Richard A. Gardenhire
- Robert L. Haber
- Edward W. King
- Tim Rauscher
- Ruth Snyder
- Linda Studer
- Linda J. Welker
- Wayne Williams

N2. Approval of Board Meeting Minutes
- August 12, 2009 +
- August 31 – September 1, 2009 +

N3. Approval of revisions to Compliance Policy and Procedures Manual Chapter 7, *Collections* +

Proposed revisions incorporate updated information on bankruptcy, and other miscellaneous changes.

O. Adoption of Board Committee Reports and Approval of Committee Actions
O1. Legislative Committee
O2. Property Tax Committee

P. Other Administrative Matters

P1. Executive Director's Report

a. Employee Recognition Award Program + ... Mr. Hirsig

Approval of the Board of Equalization's nominees for the Employee Recognition Award Program.

P2. Chief Counsel Report
There are no items for this matter.

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. Approval of Assessors' Handbook Section 534, *Rural Building Costs +*..... Mr. Kinnee

   Request approval for publication of 2010 revision of Assessors' Handbook 534, Rural *Building Costs.*

c. Administration + ... Ms. Houser

1. Facilities Update–This item provides information and may require Board action or direction.
   - Headquarters Facilities–Update on the Headquarters Remediation Project including the activated swing space moves within the building.
   - Site Search Selection–Update on the site search selection for the Headquarters annex.
2. 2009/10 and 2010/11 Budget Update, Furlough Plan and Layoffs

   Information on recent developments regarding the Governor's 2009/10 and 2010/11 Budget, Governor's Executive Order S-16-08 State Employee Furlough, and layoffs. Possible action or direction may be requested regarding the Governor's Budget and Executive Order.

d. Technology
   There are no items for this matter.

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 and 50156.11)

Q2. Pending litigation: *AboveNet Communications, Inc. (formerly Metromedia Fiber Network Services, Inc.)* v. *California State Board of Equalization, et al.* Sacramento County Superior Court Case No. 34-2007-00882854-CU-CO-GDS (Gov. Code § 11126(e))

Q3. Pending litigation: *William M. Connell v. Board of Equalization,* Court of Appeal, Third Appellate District Case No. C061180 (Gov. Code § 11126(e))

Q4. Pending litigation: Dell, Inc., et al. v. State Board of Equalization, San Francisco County Superior Court No. CGC 03-419192 (Gov. Code § 11126(e))

Q5. Pending litigation: *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))

Q6. 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))

Q7. Discussion and action on personnel matters (Gov. Code § 11126(a))

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

Adjourn

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