



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

SEN. GEORGE RUNNER (RET.)  
First District, Lancaster

FIONA MA, CPA  
Second District, San Francisco

JEROME E. HORTON  
Third District, Los Angeles County

DIANE L. HARKEY  
Fourth District, Orange County

BETTY T. YEE  
State Controller

CYNTHIA BRIDGES  
Executive Director

**STATE BOARD OF EQUALIZATION MEETING**  
**5901 Green Valley Circle, Room 207, Culver City**  
**February 24-26, 2015**

**PRELIMINARY RECORD OF BOARD ACTION**

**Tuesday, February 24, 2015**

The following is a preliminary record of Board actions taken at the February 24-26, 2015, 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.

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**Pledge of Allegiance**

**Board Committee Meeting** – Please see Page 10, O. Adoption of Board Committee Report and Approval of Committee Actions, for voting results.

**Board Meeting**

**Administrative Matters**

**P. Other Administrative Matters**

P1. Executive Director's Report

1. 2015/16 Excise Tax Rate Adjustment for Motor Vehicle Fuel and Diesel Fuel (Fuel Tax Swap)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
The Board set the excise tax rate for the period July 1, 2015 through June 30, 2016 on: motor vehicle fuel at \$0.30 per gallon; and, diesel fuel at \$0.13 per gallon.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

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## 2. Approval of 2015/16 Diesel Fuel Tax Rate for Interstate Users Component b

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
The Board adopted a diesel fuel tax rate for interstate users Component b of \$0.320 per gallon for 2015/16 as recommended by staff.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

## 3. Prepayment Rate for Sales Tax on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
The Board set the rate of prepayment of sales tax on motor vehicle fuel, diesel fuel and jet fuel distributions, for the period April 1, 2015 through June 30, 2016 at \$0.05 per gallon, \$0.225 per gallon, and \$0.115 per gallon, respectively, as recommended by staff.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

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**

B1. Myles D. Hubers and Michelle R. Hubers, 534595

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' appeal granted.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

~~B2. Hesperian, LLC, 340169~~

B3. Larry G. Dighera, 515547

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal granted.	Mr. Horton	No
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	No

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## B4. Unified Precious Metals, Inc., 606172

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Harkey	No
	Mr. Runner	No
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

B5. ~~Maria Phillips (Santamaria-Del Campo) and Michael Del Campo, 741179~~

## B6. Millennium Dental Technologies, Inc., 747501

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

## B7. Garrett J. Zelen, 800216

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

## B8. Steven B. Avery, 785074

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal granted.	Mr. Horton	No
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	No

## B9. J.L.E. Enterprises, Inc., 796714

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

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B10.—Joseph A. Sciarretta, 809250

B11a. William R. Dobkin and Donya Dobkin, 728014

B11b. Deborah M. Dobkin, 725828

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Mr. Horton	Yes
The Board ordered that the hearing be continued to a later date, granting the appellant 30 days to submit supporting documents, the Franchise Tax Board 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board.	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

**C. Sales and Use Tax Appeals Hearings**

These items are scheduled for Wednesday and Thursday, February 25-26, 2015.

**D. Special Taxes Appeals Hearings**

These items are scheduled for Thursday, February 26, 2015.

**E. Property Tax Appeals Hearings**

There are no items for this matter.

**F. Public Hearings**

F1. Proposed Amendments to Sales and Use Tax Regulation 1533.2, *Diesel Fuel Used in Farming Activities or Food Processing*

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopt proposed amendments as published.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

F2. Proposed Amendments to Sales and Use Tax Regulation 1598.1, *Diesel Fuel Prepayment Exemption*

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopt proposed amendments as published.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

- F3. Property Taxes - State Assessee's Presentations on Capitalization Rates and Other Factors Affecting Values
1. State assessee's presentations on capitalization rates and other factors and procedures affecting 2015/16 property values of California public utilities, railroads, and pipelines.
  2. Private railroad car assessee's presentations on factors and procedures affecting 2015/16 taxable values of private railroad cars.

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

G1. Legal Appeals Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

- Petitions for Release of Seized Property
  1. Doo Hyun Sung, 849689 (STF)
  2. Charkha Liquors, Inc., 854585 (STF)
  3. L & W Liquor Corporation, 852225 (STF)
  4. Lawand Distribution, Inc., 850268 (STF)

G2. Franchise and Income Tax Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

- Hearing Notice Sent – No Response
  1. Dr. Roth's Footcare Products, LLC, 746877
- Decisions
  2. Amber Anderson and Brandon White, 759253
  3. Michael L. Becker, 796404
  4. Carole A. Fielder, 742241
  5. Mark N. Fiore, 668140
  6. Cindy Garcia, 796624
  7. Garden Center Cafe, Inc., 796321
  8. Donald Phillip Goode and Cheryl Lea Stout-Goode, 796684
  9. Udayasuryan Kodoly, 772616
  10. Hugh Lewis and Courtney L. Baber, 796706
  11. Ram Malik, 772093
  12. Ahmad S. Mazumder, 797300
  13. Brian E. Oerly, 769828

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- 14. Anthony Peters, 774830
- 15. John T. Poon, 789456
- 16. Ravisante, Inc., 790841
- 17. RTTEMPPS, LLC, 800205
- 18. Ahmad Shah, 785085
- 19. Markus Taylor, 804631
- 20. Christopher M. Willick, 791775

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

G4. Sales and Use Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

- Redeterminations
  - 1. Regency Enterprises, Incorporated, 795785 (AC)
  - 2. John Dovalis Gantes, 574744 (EH)
  - 3. Benihana Ontario Corp., 724084 (OH)
  - 4. Benihana National Corp., 724080 (OH)
  - 5. Wunderlich-Malec Systems, Inc., 743620 (OH)
- Relief of Penalty/Interest
  - 6. Hewlett-Packard Financial Services Company, 852772 (OH)
  - 7. Siemens Energy, Inc., 852773 (OH)
  - 8. EDP Renewables North America, LLC, 852774 (OH)
  - 9. Jinkosolar (U.S.), Inc., 852776 (BH)
- Denials of Claims for Refund
  - 10. Nissan Motor Acceptance Corp., 737456 (OH)
  - 11. Terra Properties, Inc., 845675 (OH)
  - 12. Cellco Partnership, 744169 (OH)
- Grant-One Day Interest Relief
  - 13. ASA Computers, Inc., 852778 (GH)
  - 14. TC Dugan Enterprises, Inc., 852779 (FH)

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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

- Credits and Cancellations
  1. Dionex Corporation, 850442 (GH)
  2. Raymond Harry Simmons, 854681 (AS)
  3. Alejandro Uribe Gardiel, 850994 (SO)
- Refunds
  4. Nissan Motor Acceptance Corp., 737456 (OH)
  5. Terra Properties, Inc., 845675 (OH)
  6. W.E.C.S. Electric Supply, Inc., 777656 (EH)
  7. CGI Technologies & Solutions, Inc., 574943 (OH)
  8. Mercedes-Benz USA, LLC, 852523 (KH)
  9. Ajinomoto Althea, Inc., 851124 (FH)
  10. Cellco Partnership, 744169 (OH)
  11. Amgen USA, Inc., 718192 (AR)
  12. American Airlines, Inc., 362784 (OH)
  13. J.C. Bromac Corp., 774383 (AS)
  14. Oracle America, Inc., 850483 (BH)
  15. An Fremont Luxury Imports, Inc., 539395 (CH)
  16. Liftech Elevator Services, Inc., 851126 (AA)
  17. Autozone Parts, Inc., 772184 (OH)
  18. Ally Bank, 620465 (OH)
  19. Tektronix Texas, LLC, 846285 (OH)
  20. Yellowpages.com, LLC, 843102 (OH)
  21. Grandway Investment, Inc., 846593 (AP)
  22. Megapath Corporation, 810335 (GH)

G6. Special Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

- Redeterminations
  1. HPT TA Properties Trust, 711688 (STF)

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There are no items for the following 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 Not Decided

- 1. Elite Cert' Auto Service & Tires, Inc., 550595 (EA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition partially granted/denied.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

H2. Franchise and Income Tax Matters

➤ Decisions

- 1. Capitola Mall Associates, LP, 681023

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Harkey	No
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	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**

I1. Property Taxes Matters

There are no items for this matter.

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12. Offer in Compromise Recommendations

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

- 1a. Nasira Begum
- 1b. Syed Imtiaz Nawab
- 2. Susan Alice Bakewell
- 3. Barbara L. Brown
- 4. Sokwon Choe
- 5. Farmacia Remedios, Inc.
- 6. James Louis Lombardi
- 7. Lillian Lien Nguyen
- 8. Hilford Lloyd Phillips
- 9. Jose Alberto Rodriguez
- 10. Roxana Valdivia
- 11. Chin Long Robert Wang
- 12. In Ja Yoon

13. Local Tax Reallocation Matters  
There are no items for this matter.

**Chief Counsel Matters**

**J. Rulemaking  
Section 100 Changes**

J1. Sales and Use Tax Regulation 1621, *Sales to Common Carriers*

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

There are no items for the following matters:

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

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**Administrative Session****N. Consent Agenda**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

## N1. Retirement Resolution

- Laura Bowman-Dirrim

## N2. Approval of Board Meeting Minutes

- January 21, 2015

N3. Proposed Revision to Audit Manual (AM), Chapter 2, *Preparation of Field Audit Reports***O. Adoption of Board Committee Report and Approval of Committee Actions**

## O1. Legislative Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein as reflected by the committee members' votes.  For details see: <a href="http://www.boe.ca.gov/legdiv/legmeetings15.htm">www.boe.ca.gov/legdiv/legmeetings15.htm</a>	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

**P. Other Administrative Matters**

## P1. Executive Director's Report

4. Taxpayers' Rights Advocate's 2013/14 Property and Business Taxes Annual Report
5. CROS Project Update and Actions

There are no items for the following matters:

## P2. Chief Counsel Report

## P3. Sales and Use Tax Deputy Director's Report

## P4. Property and Special Taxes Deputy Director's Report

## P5. Administration Deputy Director's Report

## P6. Technology Deputy Director's Report

## P7. External Affairs Deputy Director's Report

**Q. Closed Session**

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STATE BOARD OF EQUALIZATION MEETING
5901 Green Valley Circle, Room 207, Culver City
February 24-26, 2015

PRELIMINARY RECORD OF BOARD ACTION

Wednesday, February 25, 2015

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C. Sales and Use Tax Appeals Hearings

C1. En Pointe Technologies Sales, Inc., 532130 (AS)

C2. Laleh Enterprises, Inc., 469308 (AC) - Waived Appearance

Table with 3 columns: DECISION, MEMBER, BOARD VOTE. Contains voting records for C1 and C2.

~~C3. James Eugene Goldstein, 442332 (AG)~~

C4. Y.N.V., Inc., 573642 (AS) - Waived Appearance

Table with 3 columns: DECISION, MEMBER, BOARD VOTE. Contains voting records for C4.

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C5. ~~Flying Goat Coffee (419) L.P., 611323 (JH)~~

C6. ~~Ruthy Aghabi and Issa Aghabi, 620839 (AC)~~

C7. Ace Service Centers, 625359 (FH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
<p>Taxpayer's petition partially granted/denied.</p> <p>The Board reduced the 40-percent penalty for failure to timely remit collected sales tax reimbursement to a negligence penalty. Accordingly, the liability for the period January 1, 2008, through June 30, 2008, is deleted due to the expiration of the statute of limitations.</p> <p>The Board directed staff to inform the taxpayer of the Offer in Compromise program.</p>	<p>Mr. Horton Ms. Harkey Mr. Runner Ms. Ma Ms. Yee/ Ms. Stowers</p>	<p>No Yes Yes Yes No</p>

C8. ~~Gold Star Equipment Rentals, Inc., 592213 (EH)~~

C9. Hezghiahoo Aharon Investment, Inc., 611158 (AR)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
<p>No final Board determination.</p> <p>The Board ordered that the hearing be continued to a later date, 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 parties' submissions and provide its recommendation to the Board.</p>	<p>Mr. Horton Ms. Harkey Mr. Runner Ms. Ma Ms. Yee/ Ms. Stowers</p>	<p>Yes Yes Yes Yes Yes</p>

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**STATE BOARD OF EQUALIZATION MEETING  
5901 Green Valley Circle, Room 207, Culver City  
February 24-26, 2015**

**PRELIMINARY RECORD OF BOARD ACTION**

**Thursday, February 26, 2015**

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**C. Sales and Use Tax Appeals Hearings**

C10. ~~Jalidat, Incorporated, 476422 (AC)~~

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Mr. Horton	Yes
The Board ordered that the hearing be continued to a later date, 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 parties' submissions and provide its recommendation to the Board.	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

~~C11. Sahaki, Inc., 610480 (EH)~~

~~C12a. Randolph Hope Bruce Murad, 404667 (FH)~~

~~C12b. Michelle Pauline Murad, 404668 (FH)~~

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## C13. Azim Shaalemi, 521073 (AC)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

## C14. The Wakefield Company, Inc., 608341 (EA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition granted.	Mr. Horton	No
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	No

## C15. Pacific Paradise Nursery, Inc., 518628, 576425 (EA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition partially granted/denied.  The Board ordered that the measure of tax for disallowed claimed diesel fuel exemptions be deleted.	Mr. Horton	No
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	No

## C16. Dastigir G. Omar, 609881 (EH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition granted.	Mr. Horton	No
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	No

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**D. Special Taxes Appeals Hearings****D1. Adil Alfonse Khilla, 391101 (STF)**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
The Board abated the interest for the periods 3/22/07 to 3/26/09 and 9/20/12 to 6/30/14.	Mr. Horton Ms. Harkey Mr. Runner Ms. Ma Ms. Yee/ Ms. Stowers	Yes Yes Yes Yes Yes
The Board ordered an adjustment of \$16,500 to the measure of tax for wholesale cost of cigars from overstock.	Mr. Horton Ms. Harkey Mr. Runner Ms. Ma Ms. Yee/ Ms. Stowers	No Yes Yes Yes No

**D2. Solar American Transfers, Inc., 512177 (STF)**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition granted.	Mr. Horton Ms. Harkey Mr. Runner Ms. Ma Ms. Yee/ Ms. Stowers	No Yes Yes Yes No

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