



STATE BOARD OF EQUALIZATION
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JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Sacramento
February 1, 2007
NOTICE AND AGENDA**

Board Committee Meetings convene at 9:30 a.m.*

Board Meeting convenes upon adjournment of the Board Committee Meetings.**

Agenda items occur in the order in which they appear on the agenda. When circumstances warrant, the Board's interim Chairwoman, Ms. Yee, may modify the order of the items on the agenda.

BOARD COMMITTEE MEETINGS*

LEGISLATIVE COMMITTEE – ROOM 122Ms. Yee, Committee Chairwoman+

Suggestions for Property Taxes, Business Taxes (General, Sales and Use Taxes, and Special Taxes) and legislation to be sponsored by the Board in the first year of the 2007-2008 Legislative Session. Additional suggestions will be included on the agenda for March 2007.

➤ **2007 Legislative Proposals—Property Taxes**

Old Business

Put Over for a Vote from November and December 2006 Legislative Committee Meetings

- Amend section 63.1 of the Revenue and Taxation Code to clarify that a property need only be eligible for the homeowners' exemption, and not actually receiving the exemption, to qualify for the change in ownership exclusion for principal residences between parents and children.
- Amend Revenue and Taxation Code section 69.5 to correct a technical error made by SB 555 (Ch. 264, Stats. 2005). (Technical.)
- Amend section 215.1 of the Revenue and Taxation Code, related to the Veterans' Organization Exemption, to add a cross reference to the administrative procedure necessary to obtain the exemption.

- Amend sections 480 and 482 of the Revenue and Taxation Code to increase the maximum penalty cap from \$2,500 to \$10,000 for failure to file a change in ownership statement (except for property eligible for the homeowners' exemption) and amend section 480.4 to remove the specific detail of the preliminary change of ownership report from statute and add section 2188.25 to add legislative intent language to improve the administration of assessments made for leasehold (tenant) improvements.

➤ **2007 Legislative Proposals— Business Taxes (Sales and Use Taxes)**
Old Business

Put Over for a Vote from November and December 2006 Legislative Committee Meetings

- Expand Suggestion Number 3-1 of the November 20, 2006 agenda to further amend section 6405 of the Revenue and Taxation Code to broaden that exemption to include the first \$800 of tangible personal property purchased by individuals *from another state* (other than vehicles, vessels and aircraft) and personally hand carried into California within any 30-day period.
- Amend section 6478 of the Sales and Use Tax Law and section 7659.7 of the Motor Vehicle Fuel Tax Law to provide appeal rights to taxpayers who have been assessed a 10-percent penalty for failure to make a prepayment in accordance with the law and that failure is due to negligence or intentional disregard for the law.
- Amend section 7211 of the Bradley-Burns Uniform Sales and Use Tax Law to clarify that the Board of Equalization shall continue to enforce the Bradley-Burns ordinance of any city or city and county that levies a tax administered by the Board under the Transactions and Use Tax Law.
- Amend section 7252 and delete sections 7252.5 through 7252.30 of the transactions and Use Tax Law to simplify the definition of "districts."
- Add section 7269 to the Transactions and Use Tax Law to provide for a limitation on redistributions of transactions and use taxes.

New Business

- Repeal sections 7204.02, 7204.5, and 7208 of the Bradley-Burns Uniform Local Sales and Use Tax Law and sections 7251.2 and 7271.05 of the Transactions and Use Tax Law as these sections were enacted to serve a specific purpose and that purpose has been accomplished. (Technical.)
- Amend section 7204.3 of the Bradley-Burns Uniform Local Sales and Use Tax Law to correct an erroneous term, and amend section 7273 of the Transactions and Use Tax Law to add wording consistent with other subdivisions contained in section 7273. (Technical.)

- Repeal sections 7286.28, 7286.40, 7286.47, 7286.56, and 7286.65 of the Transactions and Use Tax Law to eliminate special statutes that are redundant due to subsequent legislation that authorized cities to levy transactions and use taxes for general and special purposes. (Technical.)

➤ **2007 Legislative Proposals—Business Taxes (Special Taxes)**

Old Business

Put Over for a Vote from November 2006 Legislative Committee Meeting

- Amend section 30187 of the Revenue and Taxation Code to change the return due date for consumers owing excise taxes on purchases from out-of-state cigarette sellers to be consistent with the due date of their use tax liability.
- Amend section 30182 of the Revenue and Taxation Code to change the due date of the monthly report filed by cigarette distributors who pay on a twice-monthly basis to the same report due date of cigarette distributors paying on a monthly basis.
- Amend sections 9304 and 60653 of the Revenue and Taxation Code to delete the word “license” from the Use Fuel Tax Law and the Diesel Fuel Tax Law, respectively, to correct the wording change in the name of the Motor Vehicle Fuel Tax Law.

New Business

- Add sections 7657.5 (Motor Vehicle Fuel Tax Law), 8880 (Use Fuel Tax Law), 11408.5 (Private Railroad Car Tax), 30285 (Cigarette and Tobacco Products Tax Law), 32258 (Alcoholic Beverage Tax Law), 38454.5 (Timber Yield Tax), 40105 (Energy Resources Surcharge Law), 41099 (Emergency Telephone Users Surcharge Law), 43159.1 and 43159.2 (Hazardous Substances Tax Law), 45158 (Integrated Waste Management Fee Law), 46159 (Oil Spill Response, Prevention, and Administration Fees Law), 50112.6 (Underground Storage Tank Maintenance Fee Law), 55045.1 and 55045.2 (Fee Collection Procedures Law), and 60210.5 (Diesel Fuel Tax Law) to the Revenue and Taxation Code to authorize the Board to provide relief of liability for an innocent spouse, if, in light of all the facts and circumstances, it is inequitable to hold that spouse liable for any unpaid tax, fee, or any deficiency (or any portion of either).
- Amend section 22973 of the Business and Professions Code to establish a reinstatement fee for the retailer’s license required under the Cigarette and Tobacco Products Licensing Act of 2003 in order to encourage license renewal compliance.

➤ **Discussion Only of the Following Item:**

- Consider pursuing a legislative proposal to address potential changes to the Emergency Telephone Users Surcharge Law.

BUSINESS TAXES COMMITTEE – ROOM 121 ..Ms. Yee, Committee Interim Chairwoman+1. Regulation 1521, *Construction Contractors*

Proposed revisions to Regulation 1521, regarding photovoltaic cells and solar panel.

**CUSTOMER SERVICES AND ADMINISTRATIVEMr. Leonard, Committee Chair+
EFFICIENCY COMMITTEE – Room 121**

1. Taxpayers' Rights Advocate's 2005-06 Property and Business Taxes Annual Report

BOARD MEETING – ROOM 121 ****ORAL HEARINGS****A. HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE HEARINGS**

There are no items for this matter.

B. CORPORATE FRANCHISE AND PERSONAL INCOME TAX HEARINGS

These items are scheduled for Wednesday, January 31, 2007.

C. SALES AND USE TAX APPEALS HEARINGS

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

~~C1. Inner Circle Entertainment II, Inc., 283636 (BH)~~

~~For Petitioner: Frank J. Finelli, Taxpayer~~

~~For Department: Cary Huxsoll, Tax Counsel~~

C2. Lazaro Garcia, 304496 (GH)

For Petitioner: Rodolfo Benavides, Accountant

For Department: Kevin Hanks, Hearing Representative

C3. Robert L. Reynolds and Donald R. Reynolds, 208940 (JHH)

For Petitioner: Jason Harrel, Attorney

Abe Golomb Representative

For Department: Robert Stipe, Tax Counsel

C4. Private Travel Options, Inc., 299788 (UT)

For Petitioner: Donald R. Wild, Attorney

Alban Lang, Representative

Conrad M. Davis, CPA

For Department: Carla Caruso, Tax Counsel

D. SPECIAL TAXES APPEALS HEARINGS

There are no items for this matter.

E. PROPERTY TAX APPEALS HEARINGS

There are no items for this matter.

G. TAX PROGRAM NONAPPEARANCE MATTERS – CONSENT

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

G1 Legal Appeals MattersMr. Levine

- Hearing Notice Sent – Appearance Waived
 1. Arrow International, Inc., 250017 (OHB)
- Petitions for Release of Seized Property
 2. Awad Nakhleh Baddour, 378385 (ET)
 3. Chang Yun Lee, 380648 (ET)
 4. Jaffers, Inc., 378377 (ET)
 5. Anilco, Inc., 378383 (ET)
 6. Maypearl, Inc., 380687 (ET)
 7. Cruz Javier Garcia, 378386 (ET)

G2 Franchise and Income Tax Matters..... Mr. Schreiter

- Decisions
 1. Robert R. Beatty, 341451
 2. Alfred J. Braun, 335261
 3. Jason G. Brent, 347607
 4. Gloria Cox, 335266
 5. Destino Properties, LLC, 339961
 6. Craig Dillard, 342261
 7. Eli Lilly and Company, 330522
 8. Florentina M. Hernandez, 334478
 9. Kasey C. Higgins, 325561
 10. Ian H. Pare, 345426
 11. Tony Jibilian, 346087
 12. Richard Petrick, 343103
 13. Ubaldo Saucedo, 343021
 14. Wilma R. Shanks, 332447
 15. Jose Solano, 350038
 16. Noelle C. Tennis, 337100
 17. Charles Everett Travis, 337095
 18. David Y. Uyeno, 344820
 19. Theresa Vernon, 335566
- Petitions for Rehearing
 20. Loran Jay Forbes, 299082
 21. Scott Lockard, 311188

G3 Homeowner and Renter Property Tax Assistance Matters..... Mr. Schreiter

- Decisions
 1. Mark Buchok, 335929
 2. Nora J. Campman, 351444
 3. Ogust Carmel, 346037
 4. Regina L. Didley, 341160
 5. Sydell Dublin, 296072
 - ~~6. Cynthia Fowler, 348940~~
 7. Carolyn Gray, 345500
 8. Robert L. Hamilton, 347629
 9. Layla Ibrahim, 356478
 10. Jericho Johnson, 348774
 11. Asberry Jones (Deceased), 349006
 12. George Liang, 339287
 13. Silvia Mejia, 352232
 14. Maria R. Martinez, 340172
 15. Douglas Snead, 351662
 16. Yolanda Swayze, 349040

G4 Sales and Use Taxes Matters Ms. Henry

- Redeterminations
 1. Fujitsu IT Holdings, Inc., 255923 (GH)
 2. Applied Materials, Inc., 218838 (OHC)
 3. Kulicke & Soffa Industries, Inc., 266307 (OHB)
 4. Ikon Office Solutions West, Inc., 334208 (OHC)
 5. TLC Multimedia, Inc., 150679 (JH)
 6. C.D. & R's Oil, Inc., 254365, (KH)
 7. Jawid Siddiq, 351529 (CH)
- Relief of Penalty/Interest
 8. Praxair Distribution, Inc., 372057 (OHA)
 9. Tustin Nissan, 380114 (EA)
 10. John L. Sullivan Chevrolet, Inc., 380116 (KH)
 11. Associated Ready Mixed Concrete, 380117 (AA)
- Denials of Claims for Refund
 12. Peoplepc, Inc., 346815 (BH)
 13. United Auto Credit Corporation, 379683 (EAA)

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

- Credits and Cancellations
 1. Vortex Marine Construction, Inc., 377159 (UT)
 2. Loring Cruz, Inc., 341714 (AA)
 3. Sukh Nal, Inc., 379714 (JHF)
 4. Precision Small Engine Company, Inc., 379796 (OHC)
- Refunds
 5. County of Los Angeles Auditor, 354449 (AA)
 6. Keystone Engineering Company, 350182 (AA)
 7. Putzmeister, Inc., 360005 (OHA)

8. Cicso Systems, Inc., 358651 (GH)
9. South Coast Medical Center, 330144 (EAA)
10. Fry's Electronics, Inc., 376763 (GH)
11. Minor Theatre Corporation, 308886 (JH)
12. Frito-Lay, Inc., 377812 (OHC)
13. Ford Motor Company, 334838 (OHA)
14. General Instrument Corporation, 359342 (OHB)
15. San Jose Sierra, LLC, 318320 (OH)
16. Rohde & Schwarz, Inc., 328894 (OHB)
17. Corillian Corporation, 309527 (OH)
18. WFS Financial, Inc., 375276 (EAA)
19. Pegasystems, Inc., 298317 (OHB)
20. Mykrolis Corporation, 345607 (OHB)
21. Owens & Minor Distribution, Inc., 308841 (OHB)
- ~~22. Capitol One Auto Finance, Inc., 341976 (OHC)~~
23. United Auto Credit Corporation, 344669 (EAA)
24. Discus Dental Software, Inc., 362188 (AS)
25. Paisano Publications, LLC, 372166 (AC)
26. Galtas Flooring Depot, LLC, 377567 (JHF)

G6 Special Taxes Matters Mr. Gau

- Relief of Penalty
 1. Valero Marketing & Supply Company, 377709 (MT) – “CF”
 2. American Family Life Assurance Company, 378441 (ET) – “CF”
 3. Redwood Fire & Casualty Insurance Company, 377599 (ET) – “CF”
- Denial of Claim for Refund
 4. Luis Marmol, 357031 (EF)
- Relief of Interest
 5. Ultramar, Inc. 379720 (MT)
 6. Valero Refining Company – California, 379666 (MT)
- Denial of Relief of Interest
 7. Ultramar, Inc., 379720 (MT)
 8. Valero Refining Company – California, 379666 (MT)

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

- Refunds
 1. City of Los Angeles, 356140 (ET)
 2. Tokio Marine & Nichido Fire LTD, 339381 (ET) – “CF”
 3. Beecher Carlson Insurance Services, Inc., 381572 (ET) – “CF”
 4. Affirmative Insurance Company, 380986 (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
(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

H1 Legal Appeals MattersMr. Levine

- Petitions for Rehearing
 - 1a. United Parcel Service, Inc., 98724, 126831, 131381, 153034, 192709, 242411 (OH)
 - 1b. United Parcel Service, Inc., 98726, 131383, 131431, 153036, 207917, 242304 (EAA)
 - 1c. United Parcel Service, Inc., 272826 (CH)
- Cases Heard But Not Decided
 2. Pascucci, Inc., 254331 (GH)
 3. Hector Gonzalez, 251992 (AA)
 4. Canyon Motors, Ltd., 219451 (AS)
 5. Mikhail Obolsky, 186902 (BH)
- Matters for Board Consideration
 6. Sierra Railroad Company, 287920, 288213 (JHF)

H2 Franchise and Income Tax Matters..... Mr. Schreiter

- Petitions for Rehearing
 1. Argonaut Group, Inc., 287738
 2. BG Star Productions, Inc., 268579
Billy Wayne Blanks and Gayle H. Blanks, 268581
 3. Kenneth A. Sauer and Eliza B. Sauer, 308089

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. Allergan Sales, Inc., 357255 (EA)~~
 - ~~2. Allergan Sales, LLC., 356791 (EA)~~
 - ~~3. Allergan Sales, LLC., 357254 (EA)~~
 - ~~4. Long Beach Acceptance Corporation, 198737 (EA)~~

H6 Special Taxes Matters

There are no items for this matter.

H7 Special Taxes Matters – Credits, Cancellations, and Refunds..... Mr. Gau

- Refund
 1. Aetna Life Insurance Company, 367182 (ET) – “CF”

There are no items for the following matters:

- 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**

➤ Audit

~~1. Sprint Nextel Corporation (2737) - "CF"~~

➤ Board Roll Changes – "CF"

2. 2003, 2004, 2005 and 2006 State-Assessed Property Rolls

I2 Offers-in-Compromise Recommendations Ms. Ograd

1. Richard Mink

F. PUBLIC HEARINGS**F1 Property Taxes – State Assesseees' Presentations on Capitalization Rates & Other Factors Affecting Values Mr. Siu**

The Board will hear:

1. State assesseees' presentations on capitalization rates and other factors and procedures affecting 2007-08 values of California state-assessed public utilities and railroads; and,
2. Private railroad car assesseees' presentations on factors and procedures affecting 2007-08 taxable values of private railroad cars.

Speakers: Peter Michaels, Cooper, White & Cooper
State Assessed Gas/Electric, Intercounty Pipeline,
Telephone and Railroad Companies

F2 Proposed Adoption of Amendment to Sales and Use Tax Regulation 1571, Florist Mr. Lambert+

Proposed amendments to Regulation 1571 are to define who is a "florist" for purposes of the regulation.

CHIEF COUNSEL MATTERS**J. Rulemaking****J1 Update and Overview of the Board of Equalization Ms. Cazadd
Rules for Tax Appeals Mr. Lambert**

The *Board of Equalization Rules for Tax Appeals* provides comprehensive guidance regarding the administrative and appellate review processes for the tax programs administered by the Board.

1. Overview+
2. Chapter 3: Property Tax Status Report and Recommendation+

J2 Sales and Use Tax Regulation 1668, Sales for Resale Ms. Ograd+

Section 100 change to clarify the penalty for misuse of resale certificate.

K. Business Taxes
There are no items for this matter.

L. Property Tax..... Mr. Ambrose+

- Board Consideration of Findings and Decisions
 - L1 Broadwing Communications, LLC (7630), 359204
 - L2 Calpine Construction Finance Company (1132), 358542
 - Delta Energy Center, LLC (1128), 358541
 - Metcalf Energy Center, LLC (1133), 358540
 - Pastoria Energy Facility, LLC (1131), 358544
 - L3 Covad Communications Company (7706), 358128
 - L4 Cricket Communications, Inc. (2762), 358157 & 359136
 - L5 High Desert Power Trust 2000-A (1127), 359070
 - L6 Lodi Gas Storage, LLC (198), 358341 & 359133
 - L7 Los Esteros Critical Energy Facility LLC (1143), 358545
 - L8 Southern California Edison Company (149), 359135
 - L9 Southern California Gas Company, Inc. (149), 342132
 - L10 SureWest Televideo (7961), 358815

M. Other Chief Counsel Matters

**M1 2007-2008 Overview of FTB Appeals on the Horizon Mr. Davies
Chief Counsel, Franchise Tax Board**

M2 Self Extinguishing CigarettesMs. Cazadd+

ADMINISTRATIVE SESSION

N. Consent Agenda..... Mr. Evans+

N1 Retirement Resolutions

- Arlo Gilbert
- Diane J. Valine
- Gloria Ledesma

N2 Approval of Board Meeting Minutes

- October 11, 2006

N3 Approval of 2007 Board Workload Plan - July through December

N4 2007 Timber Advisory Committee Membership

O. Approval of Board Committee Meeting Minutes

- O1 Legislative Committee
- O2 Business Taxes Committee
- O3 Customer Services and Administrative Efficiency Committee

P. Other Administrative Matters

- P1 Executive Director's Report.....Mr. Hirsig**
1. [Strategic Plan Update+](#)
 2. Cal Aware and PRA Requests Status Update
 3. Status report on Pro Bono Program – Mr. Todd Gilman
 4. Web Services Unit Report – Ms. Anita Gore
- P2 Chief Counsel Report.....Ms. Cazadd**
1. Status of Appeals – Comprehensive Report
 2. [Report on Tobacco Master Settlement Agreement Litigation+](#)
- P3 Deputy Directors' Reports**
1. **Sales and Use Tax..... Ms. Henry**
 - Status of e-Services
 - Status of Retail Licensing Enforcement – Mr. Gill Haas
 2. **Property and Special Taxes..... Mr. Gau**
 - Status of Valuation Studies
 - [Status of Cigarette Tax \(excise and sales\) on invoices of out-of-state purchases+](#)
 3. **Administration Ms. Johnson**
 - Status of CEA Positions
 - Windows Update
 - Report on BOE Budget Issues

ANNOUNCEMENT OF CLOSED SESSION..... Mr. Evans

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: *County of Santa Clara, et al. v. State Board of Equalization*, San Francisco Superior Court No. CPF-06-506789 (Gov. Code, § 11126(e))
- Q3. Pending Litigation: *Oda v. State of California, et al.*, Orange County Superior Court No. 04CC07235 (Gov. Code, § 11126(e))
- Q4. Pending Litigation: *Pacific Gas and Electric Co. v. California State Board of Equalization, Butte County, El Dorado County, Mariposa County, Nevada County, Placer County, Plumas County, Sierra County and Yuba County*, San Joaquin County Superior Court, Case No. CV 026962 (Gov. Code, § 11126(e))
- Q5. Discussion and action on personnel matters (Gov. Code § 11126(a))

ANNOUNCEMENT OF OPEN SESSION Mr. Evans

ADJOURN

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The hearing location is accessible to people with disabilities. Please contact Claudia Madrigal at (916) 324-8261, or e-mail Claudia.Madrigal@boe.ca.gov if you require special assistance.

Gary Evans, Acting Chief
Board Proceedings Division

- * Public comment on any committee agenda item will be accepted at the beginning of the committee meeting.
- ** 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.
- "CF" Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code section 7.9