



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

BILL LEONARD
Second District, Ontario/Sacramento

MICHELLE STEEL
Third District, Rolling Hills Estates

JUDY CHU, Ph.D.
Fourth District, Los Angeles

JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
January 31 – February 1, 2008
NOTICE AND AGENDA
Meeting Agenda (as of 9:00 a.m. 01/30/08)

Agenda Changes

Thursday, January 31, 2008

9:30 a.m. Board Committee Meeting Convenes*

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 Chairwoman, Ms. Yee, 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+ Dr. Chu, Committee Chairwoman

Set forth below are suggestions for property taxes, business taxes (general, sales and use taxes, and special taxes and fees) legislation to be sponsored by the Board in the second year of the 2007-2008 Legislative Session. Additional suggestions will be included on the agenda for March 2008.

2008 Legislative Proposals-Property Taxes

- 1-4 Amend sections 480.3 and 480.4 of the Revenue and Taxation Code to remove the specific detail of the Preliminary Change in Ownership Report from statute and instead authorize the Board to prescribe the form after consultation with the California Assessors' Association and interested parties.
1-5 Amend Government Code section 15606.5 and Revenue and Taxation Code sections 670 and 671 to allow the Board to deliver online continuing education training to certificated property tax appraisers through established web-based systems maintained by community colleges that charge fees for online courses.

- 1-6 Amend Revenue and Taxation Code sections 69 and 69.3 to treat land and improvements as separate units in meeting the "substantially damaged or destroyed" threshold of 50 percent for purposes of qualifying for disaster relief via a base year value transfer.
- 1-7 Amend Revenue and Taxation Code section 279 to (1) expressly address the continuity of the disabled veterans' exemption on a home that had been receiving the exemption but temporarily uninhabitable due to damage and (2) provide that in governor-proclaimed disasters in which a home is completely destroyed, the veteran may retain the exemption on the property while rebuilding.
- 1-8 Amend Revenue and Taxation Code section 214.6 to clarify the filing procedures for obtaining a property tax exemption on property owned by a church or a nonprofit organization that is leased to a public school.

2008 Legislative Proposals-Business Taxes (Sales and Use Taxes)

- 3-3 Add section 6487.06 to the Revenue and Taxation Code to reduce the period of time for which a determination may be mailed from eight years to three years when unregistered in-state purchasers, as defined, voluntarily report to the Board purchases subject to use tax.
- 3-6 Add section 6593.7 to the Revenue and Taxation Code to prohibit the accrual of interest on unpaid sales and use tax liabilities during the pendency of a Chapter 7 bankruptcy proceeding of a small business, as defined.

Secure and Affordable Health Care Act of 2008

- Discussion of Implementation Issues regarding proposed Tobacco Products Excise Tax and related issues and direction to staff.

Women, Infants, and Children (WIC) Program

- Discussion and Recommendation for Board Action:
Report on discussions with California Department of Public Health regarding its WIC program guidelines that require retailers of WIC-approved infant formula to purchase the formula from suppliers that hold a valid seller's permit.

Business Taxes Committee+..... Ms. Yee, Committee Chairwoman

1. Proposed amendments to Sales and Use Tax Regulation 1807, *Process for reviewing Local Tax Reallocation Inquiries*, adoption of Regulation 1828, *Process for reviewing Transactions and Use Tax Distributions Inquiries*

Property Tax Committee+ Ms. Steel, Committee Chairwoman

1. Forms to Implement Senate Bill 87, *Fractionally Owned Aircraft*
2. Update on the Status of the *Valuation Factors Studies*
3. Discussion of *Change in Ownership Training* for County Assessors' Staff

Customer Service and Administrative**Efficiency Committee+ Mr. Leonard, Committee Chair**

1. Taxpayers' Rights Advocate's 2006-07 Property and Business Taxes Annual Report

Board Meeting****Organization of the Board**

- The Board will vote to elect a Chair and Vice Chair.

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**
(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)
 - B1. Randall G. Tipton, 427078
For Appellant: Karen L. Hawkins, Representative
For Franchise Tax Board: Suzanne Small, Tax Counsel
Carissa Lynch, Tax Counsel
 - B2. Swift Transportation Company, Inc., 266318
For Appellant: Chris Schutz, Representative
John G. Rucker, III, Representative
Renaë Welder, Representative
Jess Penilla, Representative
For Franchise Tax Board: Laurie McElhatton, Tax Counsel
 - B3. Lionel M. Nurse and Silvia I. Perez, 397729
For Appellant: Lionel M. Nurse, Taxpayer
Silvia I. Perez, Taxpayer
For Franchise Tax Board: Mark McEvelly, Tax Counsel

- C. Sales and Use Tax Appeals Hearings
These items are scheduled for the afternoon.
- D. Special Taxes Appeals Hearings
These items are scheduled Friday, February 1, 2008.
- E. Property Tax Appeals Hearings
There are no items for this matter.
- F. Public Hearings
These items are scheduled Friday, February 1, 2008.
- G. Tax Program Nonappearance Matters – Consent**
(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)
- G1 Legal Appeals Matters Mr. Angeja**
- Petition for Rehearing
 1. City of Brisbane, 384183 (BH)
- G2 Franchise and Income Tax Matters Ms. Kelly**
- Decisions
 1. Neal Archer and Pamela Archer, 363077
 2. Luis Bueno and Emilia Bueno, 361513
 3. Ronco Consulting Corporation, 306086
 4. Ronald C. Salerno, 400375
- G3 Homeowner and Renter Property Tax Assistance Matters Ms. Kelly**
- Decisions
 1. Joyce Coleman, 349371
 2. Laura Dennis, 339328
 3. James Deringol, 387193
 4. Yasmin Gonsouland, 341130
 - Petitions for Rehearing
 5. Leonardo L. Calica, 377400
- G4 Sales and Use Taxes Matters Ms. Henry**
- Redeterminations
 1. Yoosef Aminpour, 157910 (AC)
 2. Exact Software Erp-Na, Inc., 361771 (OHA)
 3. Qwest Communications Corporation, 343233 (OH)
 4. Penn Emblem Company, 376819 (OHB)
 5. Praxair Surfaces Technologies, Inc., 400762 (OHB)
 6. The Robert Allen Group, Inc., 405239 (OHB)
 7. Cardinal Health 303, Inc., 378172 (FH)
 8. Imax Corporation, 109214 (OHA)
 9. Saeid Aminpour, 157907 (AC)
 10. Flowserve US, Inc., 379037 (OHC)
 11. Thoren Caging Systems, Inc., 351532 (OHB)

12. Durango Mining Equipment, Inc., 219878 (OH)
13. Pacific Gas & Electric Company, 271983 (BH)
14. Babol Sons, Inc., 157906 (AC)
15. Aminpour Brothers, Inc., 158234 (AC)
16. White Oak Inn, Inc., 157905 (AC)
17. For Stars Express, Inc., 380964 (AS)
- Relief of Penalty/Interest
18. La Curacao, 425509 (AS)
- Denials of Claims for Refund
19. American Honda Motor Company, Inc., 399483 (AS)

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

- Credits and Cancellations
 1. Nelco Products, Inc., 422686 (EA)
- Refunds
 2. Iron Mountain Info Management, Inc., 382768 (OHB)
 3. Sage Holding Company, Inc., 421991 (AS)
 4. Nissan North America, Inc., 417315 (AS)
 5. Occidental College, 423041 (AP)
 6. California Portland Cement Company, 391661 (AP)
 7. Doremi Labs, Inc., 415512 (AC)
 8. The Gap Stores, Inc., 294925 (BH)
 9. Peterson Power Systems, Inc., 420319 (CH)
 10. Primary Color Systems Corporation, 262778 (EAA)
 11. First Future Credit Union, 327425 (FH)
 12. Logitech, Inc., 359339 (CH)
 13. Ormco Corporation, 262509 (EA)
 14. Wafernet, Inc., 405477 (GH)
 15. Safe Credit Union, 401537 (KH)
 16. UPS Logistics Technologies, Inc., 197014 (OHB)
 17. Genie Industries Incorporated, 421341 (OH)
 18. UOP, Inc. & Katalistiks International, Inc., 417461 (OHA)
 19. Chevrolet Motor Division, 424152 (OHA)
 20. Daimler Chrysler Corporation, 424151 (CHA)
 21. Mercedes-Benz USA, LLC, 414135 (KH)
 22. The Doctors Company, 380016 (JHF)
 23. McAfee, Inc., 422993 (GH)
 24. Westates Carbon-Arizona, Inc., 261343 (OHB)
 25. Intl Post Leasing Limited, 423047 (AC)
 26. Cedar Fair LP, 329583 (EA)
 27. Bemusic, Inc., 420054 (OHB)
 28. International Business Mach. Corporation, 399474 (OHB)
 29. International Business Mach. Corporation, 328946 (OHB)
 30. American Honda Motor Company, Inc., 399483 (AS)
 31. Travis Credit Union, 417200 (JHF)
 32. Imation Corporation, 421992 (OHA)
 33. Universal Sodexho, 263741 (GH)

34. Arcadia Financial Ltd., 400986 (OHB)
35. Americredit Financial Service, Inc., 416631 (OHC)
36. Hess Microgen, LLC, 349771 (OHB)
37. Rock-It Surfaces, Inc., 389758 (FHB)
38. United Auto Credit Corporation, 415867 (EAA)
39. GNLD International, LLC, 417381 (CH)
40. Transouth Financial Corporation, 400795 (OHB)
41. Finance and Thrift Company, 334311 (KHO)
42. Cig Financial, 404730 (EAA)
43. Roy's Pasadena-I Ltd. Partnership, 398840 (AS)
44. San Francisco Federal Credit Union, 339256 (BH)
45. Kaz USA, Inc., 422913 (OHB)
46. Mediaflo USA, Inc., 390379 (FH)
47. Operating Engineers Local Unit #3, 355034 (CH)

G6 Special Taxes Matters Mr. Gau

- Relief of Penalty
 1. Lincoln National Life Insurance Company, 422872 (ET) "CF"

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

- Refunds
 1. Burlington Northern & Santa Fe Railway, 340352 (EF)
 2. Robert Mondavi Imports, Inc., 402795 (ET) "CF"
 3. CM Life Insurance Company, 426203 (ET) "CF"
 4. Massachusetts Mutual Life Ins. Company, 426204 (ET) "CF"
 5. Aetna Life Insurance Company, 426846 (ET) "CF"
 6. Santa Clara Valley Water District, 427354 (EF)

G8 Property Tax Matters Mr. Gau

- Petition for Reassessment of Private Railroad Car Tax
 1. RTI Railroad Services, Inc., 421436 "CF"
- Petition for Penalty Abatement on Private Railroad Car Tax
 2. American Soda, LLP, 421439 "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. Angeja

- Petition for Release of Seized Property
 1. Ngo My Chau, 415744 (ET)

H2 Franchise and Income Tax Matters.....Ms. Kelly

- Opinions
 1. Downey Toy Company, 306793
 2. Taiheiyo Cement USA, Inc., 332855
- Decisions
 3. Melody L. Beattie, 359059

H3 Homeowner and Renter Property Tax Assistance Matters.....Ms. Kelly

- Decisions
 1. Tanya Berry, 395705
 2. Frances M. Franklin, 335907

H4 Sales and Use Taxes Matters Ms. Henry

- Redetermination
 1. Michael P. Rogers, 314398 (CH)
- Relief of Penalty/Interest
 2. UPS Oasis Supply Corporation, 418332 (OHA)
- Denial of Claim for Refund
 3. Aramark Uniform & Career Apparel, 300481 (AC)
- Denial of Relief of Penalty/Interest
 4. Caddo Design & Office Products, 421105 (OH)

H5 Sales and Use Taxes Matters – Credits, Cancellations, and Refunds..... Ms. Henry

- Refund
 1. Montgomery Ward, LLC, 394694 (OHA)

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

- Board Roll Changes – “CF”
 1. 2004, 2005, 2006 and 2007 Board Rolls of State-Assessed Property
- Private Railroad Car Roll Changes – “CF”
 2. 2007 Private Railroad Car Roll

I2 Offers-in-Compromise RecommendationsMs. Ograd

1. Enrique Torres
2. Stephen Mannarmattathil

1:30 p.m. Board Meeting Reconvenes****Oral Hearings****C. Sales and Use Tax Appeals Hearings**

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

- C1. Johnny Quik Food Stores, Inc., 303702 (KHO)
 For Claimant: Nishan Kochian, Representative
 For Department: Christine Bisauta, Tax Counsel
- C2. Homecare Information Systems, Inc., 89002426820 (OHB)
 For Petitioner: Richard E.V. Harris, Representative
 For Department: Trecia Nienow, Tax Counsel
- C3. Scot Kenney, 312450 (KH)
 For Petitioner: Scot Kenney, Taxpayer
 For Department: Kevin Hanks, Hearing Representative
- C4. Tarek Anwar Nada, 305290 (CH)
 For Petitioner: Cindy Ho, Attorney
 Robert Goldstein, Attorney
 Tarek Nada, Taxpayer
 For Department: Kevin Hanks, Hearing Representative
- ~~C5. Advanced Aviation, LLC, 314063, 314064 (UT)
 For Petitioner: Warren Alston, Representative
 For Department: Carla Caruso, Tax Counsel~~

Chief Counsel Matters**J. Rulemaking**

- J1. *Petition to Amend Property Tax Rule 462.001, Change in Ownership – General* Mr. Lambert
 Petition to amend Property Tax Rule 462.001 to state that property transfers must be from primary owners in order to constitute changes in ownership.

Adjourn - The meeting will reconvene on Friday, February 1, 2008, at 9:30 a.m.

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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.

Diane G. Olson, 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.
- ++ 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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Meeting Agenda (as of 1:00 p.m. 01/29//08)**

Agenda Changes

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Board Meeting**

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 on Thursday, January 31, 2008.
- C. **Sales and Use Tax Appeals Hearings**
(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)
 - C6. Sportsmobile West, 307997 (KH)

For Petitioner:	Alan Feld, Taxpayer
For Department:	Robert Tucker, Tax Counsel

- C7. The Coca Cola Company, 193081, 186352, 288534 (OHA)
 For Petitioner: Mark Weiss, Representative
 Richard V. Carlson, Representative
 Rolston A. Dyer, Taxpayer
 For Department: Trecia Nienow, Tax Counsel

D. Special Taxes Appeals Hearing

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

- D1. Time Oil Company, 260451, 260452, 260453, 306239, 347465 (MT)
 For Petitioner: Joseph Vinatieri, Attorney
 Jason C. DeMille, Attorney
 Richard Gordon, Taxpayer
 For Dept. of Health Services: Tim Ford, Attorney
 For Department: Carolee Johnstone, Tax Counsel

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

F. Public Hearing

F1 Property Taxes – State Assesseees’ Presentations on Capitalization Rates and Other Factors Affecting Values.....Mr. Siu

1. State assesseees’ presentations on capitalization rates and other factors and procedures affecting 2008-09 values of California state-assessed public utilities and railroads; and,
2. Private railroad car assesseees’ presentations on factors and procedures affecting 2008-09 taxable values of private railroad cars.

Speaker: Peter Michaels, Law Office of Peter Michaels
 State Assessed Gas/Electric, Intercounty Pipeline,
 Telephone and Railroad Companies

The following items are scheduled for Thursday, January 31, 2008:

- G. Tax Program Nonappearance Matters – Consent
 H. Tax Program Nonappearance Matters – Adjudicatory
 I. Tax Program Nonappearance Matters

Chief Counsel Matters**J. Rulemaking**

- J2. *Overview of the California Administrative Procedures Act Rulemaking Requirements+* Mr. Heller
Requested overview of the California Administrative Procedure Act's rulemaking requirements.
- J3. *Sales and Use Tax Regulation 1570, Charitable Organizations+...*Mr. Treichelt
Rule 100 revisions to incorporate the provisions of RTC section 6375.5 regarding the tax exemption for new children's clothing sold to a nonprofit organization for its distribution without charge.
- J4. *Sales and Use Tax Regulation 1620, Interstate and Foreign Commerce+*Mr. Treichelt
Rule 100 revisions to incorporate the provisions of RTC section 6405 regarding the tax exemption for property purchased in a foreign country and personally hand-carried into this state
- J5. *Petition to Amend Property Tax Rule 140.1, Requirements for Managing General Partner of Limited Partnership for Welfare Exemption for Low-Income Housing Properties+*..... Mr. Lambert
Memorandum and recommendation on limited partnerships with a sole non-profit general partner acting as a managing general partner.

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

L. Property Taxes

- L1. *Consideration of Policy Change – Welfare Exemption “Community Benefit Test” Under Revenue and Taxation Code section 214+*.....Mr. Lambert
Staff request for guidance on the proper interpretation and application of the “community benefit test” for purposes of the welfare exemption.

1:30 p.m. Board Meeting Reconvenes**

M. Other Chief Counsel Matters

- ~~M1. *Untimely or Late-filed Appeals Materials*
Staff recommendation for Board distribution policy++....Mr. Ambrose/Mr. Vest~~
Staff's proposed procedures for Board consideration of and a party's response to untimely submitted information.

- M2. Staff Report on Cable Television Property Tax Assessment+Mr. Lambert
Status report on the California Cable and Telecommunications Association's Request for Guidance.
- M3. Amicus Brief, *State of Florida, Department of Revenue, v. Piccadilly Cafeteria, Inc.*, No. 07-312, cert. granted December 7, 2007. (In re *Piccadilly Cafeteria, Inc.*, 484 F.3d 1299 (11th Cir. 2007))+Mr. Stipe

Administrative Session

N. Consent Agenda Ms. Olson

N1. Approval of Board Employee Retirement Resolutions+

- Candace Rossi
- Gary J. Choi
- Ronald T. Yoshimoto

N2. Approval of Board Employee Resolution+

- Reed Schreiter

N3. Approval of Board Meeting Minutes+

- October 2, 3, 4, 2007
- October 17, 2007
- October 23, 24, 2007
- November 14, 15, 2007
- December 11, 12, 13, 2007

O. Adoption of Board Committee Reports and Approval of Committee Actions

- O1. Legislative Committee
O2. Business Taxes Committee
O3. Property Tax Committee
O4. Customer Service and Administrative Efficiency Committee

P. Other Administrative Matters

P1. Executive Director's Report+Mr. Hirsig

a. Headquarters Building Update

An oral update will be provided on the status of the BOE's 450 N Street Headquarters Building in Sacramento.

b. Report Board of Equalization Security Deposits+.....Ms. Henry/Mr. Gau

Report on the scope and magnitude of the potential delays in processing the return of security deposits.

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
There are no items for this matter.

c. Administration+..... Ms. Houser

- 1. Budget Update 2008-2009
- 2. New York District Office Relocation Project+

The Board’s New York office lease expires December 31, 2008. Based on current standards, our space needs have decreased and the existing lessor is unwilling to negotiate downsizing or provide a long-term renewal. An oral report on a proposed new location will be made and if acceptable, approval sought to enter a new lease.

Announcement of Closed Session Ms. Olson

Q. Closed Session

- Q1. Pending litigation: *Metromedia Fiber Network Services v. State Board of Equalization, et al.*, Superior Court of the State of California, County of Sacramento Case No. 34-2007-00882854-CU-CO-GDS (Gov. Code § 11126(e))
- Q2. Pending litigation: *BARNESANDNOBLE.COM LLC v. Betty T. Yee, Bill Leonard, Michelle Steel, Judy Chu, John Chiang, Wayne Hopkins, Joseph D. Young*, United States District Court, Eastern District of California, Case No. 2:07-cv-02776-WBS-KJM; (Gov. Code § 11126(e))
- Q3. Pending litigation: *Schroeder, et al. v. State Board of Equalization, et al.* (Gov. Code § 11126(e)(2)(B)(i))
- Q4. Pending Litigation: *Jonathan Harris v. The Board of Equalization and Claude Parrish*, Los Angeles County Superior Court Case No. NC039710 (Gov. Code § 11126(e))
- Q5. Discussion and action on personnel matters (Gov. Code § 11126(a))

Announcement of Open Session Ms. Olson

Adjourn

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