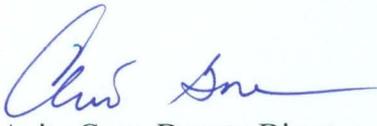


Memorandum

To: Honorable Jerome E. Horton, Chairman
Honorable Michelle Steel, Vice Chairwoman
Honorable Betty T. Yee, First District
Honorable George Runner, Second District
Honorable John Chiang, State Controller

Date: September 9, 2011

From: 
Anita Gore, Deputy Director
External Affairs Department

Subject: **Board Meeting: September 20-21, 2011, Item M
Procedures and Guidelines for Outreach Events**

This memo is to discuss the action items taken by the External Affairs Department in the area of procedures and guidelines for outreach events as discussed at the July 26-28 Board Meeting. The External Affairs Department has taken the following steps:

A webpage has been developed that offers information, readily available to the public, outlining the types of events we participate in and the guidelines we follow.

Areas of interest addressed on the page include:

- Types of events in which BOE participates
- Review and approval process
- Legal considerations and legal definitions

The External Affairs Department is also making information about BOE events easier to find on our website. A new tab titled, "Outreach & Events", will be added under the "Quick Links" banner on the front page of the BOE Internet website. This Outreach and Events tab will include information about:

- BOE events
- Guidelines used in the development of and participation in events
- Speakers bureau request information
- A schedule of events and
- Contact information

Screenshots of the proposed informational web pages are attached to this memo.

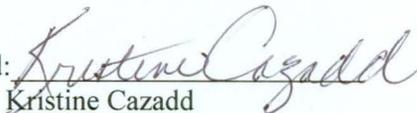
The External Affairs Department has also surveyed the offices of elected constitutional officers and determined that there are no publicly written guidelines available regarding event planning or participation. The offices contacted include:

- Office of the Attorney General
- State Controller
- Treasurer and Secretary of State

The BOE event information will be posted to the BOE Internet and available to the public following the September Board Meeting.

AG:cw

Attachments

Approved: 
Kristine Cazadd
Interim Executive Director



Welcome to the California State Board of Equalization

The Board of Equalization collects California state sales and use tax, as well as fuel, alcohol, and tobacco taxes and fees that provide revenue for state government and essential funding for counties, cities, and special districts. [More about BOE...](#)

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Requirements for participation

- » Must have a Governmental purpose.
- » Must be a not-for-profit event/seminar.
- » Must be sponsored by not-for-profit entity.
- » BOE speaker requests must meet the requirements outlined in BEAM sections 7807-7809.
- » Board Member speaker and cosponsor requests are approved directly by the Board Member.

Requirements for use of logo/seal

- » Can be used on event materials for BOE sponsored events.
- » Can be used on non-BOE sponsored event materials for a not-for-profit event, sponsored by a not-for-profit entity when the BOE is a participating agency.
- » Typically not used on event materials that include for-profit company logos.

Requirements for acceptance of donations

- » No donations will be solicited or accepted by BOE staff
- » Behested payments for BOE-approved event/seminar venues are allowed as long as the seminar is principally for governmental purposes. Such payments will not be considered a gift or donation. If such payments equal or exceed \$5,000 in the aggregate in a calendar year from the same source, then reporting obligations will occur. (Gov. Code, §82015(b)(2)(B)(iii).)
- » BOE may partner with a nonprofit organization to sponsor events/seminars that have a governmental purpose. The nonprofit organization may receive funding from for-profit entities. The nonprofit organization may receive funding/donations to defray the costs of an event/seminar sponsored by both the BOE and the nonprofit organization.

General information about BOE events

In person seminars are designed to better educate tax and fee-payers about their tax obligations. A schedule seminars can be found at http://boe.ca.gov/info/VirtualSeminars/seminars_inperson.htm

- » Sales and use tax classes are offered for free at the BOE District offices. Class locations, dates and can be found on the BOE website http://boe.ca.gov/cgi-bin/tax_class.cgi. These instructor led class assists taxpayers in preparing a sales and use tax return; supporting and reporting exempt sales; using a resale certificate, determining what is taxable and non-taxable labor; maintaining adequate records; preparing a sales and use tax return.
- » Event calendar for BOE events and meetings can be found at <http://boe.ca.gov/info/calendar.htm>. The calendar includes scheduled events and meetings that are sponsored by the BOE.

Approval Process

- » BOE-sponsored, cosponsored events, speaker bureau requests and the production and distribution of event materials, news releases, public service announcements, and promotional materials require review and approval by the External Affairs Department, Legal Department and the Executive Director.
- » Complete guidelines and Legal considerations can be found on the BOE website at <http://boe.ca.gov/info/outreach.htm>.

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+ Outreach Event Types

Generally, there are three basic types of outreach events that the Board of Equalization (BOE) participates in...

+ BOE Review and Approval Process for Outreach Events

Prospective outreach events must have a governmental purpose and be reviewed and approved...

+ Legal Considerations

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Outreach Event Types

Generally, there are three basic types of outreach events that the Board of Equalization (BOE) participates in.

BOE Sponsored Events

BOE sponsored events are initiated by a BOE program or Board Member. BOE coordinates and funds these events in whole or in part, and the events include only government entities, nonprofit organizations as event sponsors, event partners, or event participants.

Non-BOE Sponsored Events

Non-BOE sponsored events are sponsored and coordinated by non-profit or community-based organizations.

BOE Co-Sponsored Events

BOE co-sponsored events are sponsored and coordinated in different respects by BOE and non-profit or community-based organizations.

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+ Outreach Event Types

Generally, there are three basic types of outreach events that the Board of Equalization (BOE) participates in...

- BOE Review and Approval Process for Outreach Events

Prospective outreach events must have a governmental purpose and be reviewed and approved by the BOE's External Affairs Department, Legal Department, and Executive Director. In addition, prospective events must abide by the following guidelines:

BOE Sponsored Events

- May be produced in co-sponsorship with non-profit organizations and/or government agencies (does not prohibit nonprofit partners having for profit contributors).
- Admission is free to the participants.
- Event materials are created, printed and distributed by the BOE. All materials distributed to the public are reviewed and approved by the External Affairs Department, Legal Department, and Executive Director. Although it is not the general practice for the BOE to include logos of for-profit company names or logos on event materials, there is no law specifically prohibiting placement of a for-profit business logo on event materials created, printed and distributed by the BOE.
- Exhibit tables at BOE sponsored events are offered to non-profit organizations or government agencies at no charge.
- Venues used for BOE sponsored events are typically government, non-profit or community facilities that can be used at no cost if there is a fee that is typically charged for the venue. Outreach Services Division (OSD) of the External Affairs Department will submit a fee waiver request.

Non-BOE Sponsored Events

Policies related to non-BOE sponsored events are outlined in the Board of Equalization Administrative Manual (BEAM) Sections 7807, 7808 and 7809 and are summarized below:

- It is permissible for the BOE to participate in non-BOE sponsored events that are sponsored and coordinated by nonprofit or community-based organizations that have partnered with for-profit private businesses to put on the event.
- Requests for BOE participation in non-BOE sponsored events (i.e., a speaker, panel participation, staffing a booth or table), are evaluated by OSD and the Legal Department prior to authorizing participation to verify: (1) that the event has a governmental purpose, and (2) that use of BOE resources is not for personal or campaign purposes. All proposed allocation of resources are reviewed and approved by the Executive Director.
- It is permissible for BOE to participate in events where for-profit vendors have partnered with the sponsoring non-profit to have booths or tables at the events and/or otherwise support and help defray the costs of the seminars.
- Nothing in the Political Reform Act prevents the BOE from participating in non-BOE sponsored events sponsored or coordinated by non-profit and community-based organizations that have solicited payments from for-profit businesses to support and help defray the costs of the seminars.

BOE Co-Sponsored Events

- Requests for BOE co-sponsorship follow the guidelines for non-BOE sponsored events.

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+ Legal Considerations

The BOE Legal Department reviews and approves all events that the BOE participates....

+ Board of Equalization Administrative Manual (BEAM) Considerations

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Prospective outreach events must have a governmental purpose and be reviewed and approved...

Legal Considerations

The BOE Legal Department reviews and approves all events that the BOE participates. There are six different areas of legal guidance applicable to Outreach Events:

Quentin L. Kopp Conflict of Interest Act of 1990 (Kopp Act)

Generally, an outreach event does not result in disqualification under the [Kopp Act](#) because payments made to help defray the costs of a governmental event will not be construed as "contributions" if they are made principally for legislative, **governmental**, or charitable purposes and **not** principally for personal or campaign purposes.

A Member of the Board is disqualified from participating in an adjudicatory proceeding pending before the Board if any party, participant, or agent has contributed \$250 or more to the Member in the preceding 12 months. ([Board Reference Manual](#) pp. 3-1 - 3-3) For purposes of the Kopp Act, the term "contribution" has the same meaning prescribed in [Govt. Code section 82015](#) of the [Political Reform Act](#) (PRA) and related regulations. Therefore, if a payment is not considered a "contribution" under the PRA, it will not be deemed a contribution under the Kopp Act.

Political Reform Act

Outreach events generally do not constitute a conflict of interest under the Political Reform Act because payments made to help defray the costs of a governmental event will not be construed as "gifts" or "contributions." If a Board Member cosponsors a free tax seminar with a non-profit organization and solicits donations to help defray the seminar-related costs, the donations received by the non-profit, at the Board Member's behest, constitute "behested payments," not contributions or gifts.

Behested Payments

A payment that is made by a third party principally for legislative, governmental, or charitable purposes is generally considered a "behested payment" if it is requested, solicited, or suggested by an elected officer, or is otherwise made in cooperation, consultation, coordination, or with the consent of the elected officer. This includes payments behested on behalf of the elected officer by his or her agent or employee. ([Gov. Code § 82015](#), subd. (b)(2)(B)(iii); [Cal. Code Regs., tit. 2, § 18225.7](#); Fair Political Practices Commission (FPPC), [Limitations and Restrictions on Gifts, Honoraria, Travel and Loans](#) (February 2011), at p. 5.) These payments are not for personal or campaign purposes.

Behested payments will not be considered a contribution or a gift as long as they are not made principally for personal or campaign purposes. Thus, as long as the seminar is principally for governmental purposes, no contribution will occur. If such payments equal or exceed \$5,000 in the aggregate in a calendar year from the same source, then reporting obligations will occur. ([Gov. Code § 82015\(b\)\(2\)\(B\)\(iii\)](#).)

Mass Mailings

Generally, an outreach event does not result in violation of the "mass mailing" rule, so long as the dissemination of promotional materials meets one of the exceptions to the prohibition, or results in sending 200 or less invites via US mail. [Government Code section 89001](#) provides that no newsletter or other mass mailing shall be sent at public expense. A "mass mailing" has been made when over 200 substantially similar pieces of mail have been delivered, by any means, by an officeholder, candidate, or committee, to any person's home, office, or post office box in a calendar month. ([Gov. Code § 82041.5](#))

Because the outreach event invites typically "feature" the Member (for example, a Member's name is mentioned at least once or used in letterhead), no more than 200 copies of the event invites may be mailed or delivered, by any means, to a person's home, office, or post office box in a single calendar month, unless an exception applies and the announcement otherwise complies with the applicable provisions in [FPPC Regulation 18901\(b\)](#). For instance, the announcement cannot be signed by the Member, no photographs of the Member can be included, and there can be no other reference to the Member, unless another exception applies. ([FPPC Regulation 18901](#)) If, however, items are set out for the public to pick up on their own, are handed out in a public area, or sent by email via the Internet, the restrictions of the mass mailing regulation do not apply.

Conflicts of Interest

- Business Investment in a company of \$2,000 or more.
- Business Employment as a director, officer, partner, trustee, employee, or holding any position of management.
- Real Property interests of \$2,000 or more, and also certain leasehold interests.
- Sources from whom/which you have received (or from whom you have been promised) \$500 or more in income within 12 months prior to the decision about which you are concerned. (Includes a community property interest in spouse's or registered domestic partner's income.)
- Gifts from any single source may not exceed \$400 in a calendar year. Gifts from a single source that aggregate \$500 or more...

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Prospective outreach events must have a governmental purpose and be reviewed and approved...

+ Legal Considerations

The BOE Legal Department reviews and approves all events that the BOE participates...

- Board of Equalization Administrative Manual (BEAM) Considerations

Policies related to non-BOE sponsored events are outlined in BEAM Sections 7807, 7808 and 7809, reproduced below.

7807: Official Participation by Employees in Non-BOE Sponsored Activities

Employee participation in a restricted non-Board sponsored activity requires the approval of the Executive Director as set forth in BEAM Section 7808. A non-BOE sponsored activity is an activity that is not coordinated and/or funded by the Board.

Restricted Activities: Examples of restricted non-BOE sponsored activities include:

- Participating as a speaker at a conference, seminar, meeting, workshop, or class that is not sponsored by the BOE
- Reviewing a book or other publication that is not written by BOE staff.
- Conducting a tour of BOE facilities.
- Completing a questionnaire or survey.

As a general rule, participation by an employee on state time in a restricted non-BOE sponsored activity will not be approved unless the activity is sponsored by a governmental, quasi-governmental or nonprofit entity. Exceptions to the general rule may be approved by the Executive Director.

Exempted Activities: Non-BOE sponsored activities that have been exempted from the general rule are:

- Taxpayer education and outreach provided through speakers at not-for-profit events.
- Recruitment activities such as job fairs or college career days.
- Tours of BOE facilities by foreign government officials arranged by for-profit entities which have contracted with United States Government agencies and various foreign governments.
- The approval process for each exempted activity is set forth in BEAM Section 7808.

7808: Approval Procedure for Participation by BOE Employees in Non-BOE Sponsored Activities

Staffing and workload demands will be taken into consideration prior to authorizing employee participation in either restricted or exempted non-BOE sponsored activities. The appropriate Deputy Director or direct report Division Chief shall log and note the disposition of all written requests for employee participation in restricted and exempted non-BOE sponsored activities.

The appropriate approval procedure for each type of non-BOE sponsored activity is set forth below.

The request for employee participation in a restricted non-BOE sponsored activity, accompanied by a written recommendation consistent with BOE policy, shall be forwarded from the appropriate Deputy Director or direct report Division Chief to the Executive Director (Attention: Chief Counsel) for approval or denial of the request.

Tours Of BOE Facilities By Foreign Government Officials

A request for a tour of BOE facilities by foreign government officials arranged by for-profit entities which have contracted with United States Government agencies and various foreign governments shall be handled in the same manner as a request for an employee to participate in restricted non-BOE sponsored activities.

Recruitment Activities

A request for Headquarters staff to participate in recruitment activity shall be submitted to the Chief of the Personnel Management Division for approval or denial of the request. A request for District office staff to participate in a recruitment activity shall be submitted to the appropriate District Administrator for approval or denial of the request. If the recruitment activity is approved by the District Administrator, a copy will be sent to the Chief of Field Operations and the Recruitment Coordinator in the Personnel Management

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Governmental/Public Purpose

Public resources may not be used by the BOE unless there is a governmental or public purpose. This means that the expenditure of BOE resources must benefit the public interest rather than private individuals or a private purpose. Even if there is a governmental or public purpose, the expenditure must still be authorized. A Board Member or the BOE only has the authority to expend resources on governmental or public purposes within its express or implied constitutional or statutory authority. In *League of Women Voters of California v. Countywide Criminal Justice Coordination Committee* (1988) 203 Cal. App. 3d 529, 549 the court explained that "the determination of what constitutes a public purpose is primarily a matter for legislative discretion [citations], which is not disturbed by the courts so long as it has a reasonable basis." The court suggested, however, that in the case of an administrative agency, what constitutes a "legitimate purpose" is limited by the agency's explicit authority. In making this distinction, the court compared a state agency to a city government who they viewed to possess "broad autonomous legislative and fiscal powers."

Consistent with the opinion of the Attorney General in 73 Cal. Ops. Atty. Gen 255 (1990) (to view, visit www.ag.ca.gov and click on "Legal Opinions"), to be of "legitimate interest" to the BOE, the expenditure of state funds must affect the BOE as a state agency, or affect the citizens of the BOE in their status as citizens of the BOE. Mere general interest of the electorate in any matter, (e.g. in "pro-life" or "pro-choice" matters), would not be sufficient or a legitimate interest on which to expend state funds.

According to the Attorney General in its [Ethics Training Course for State Officials](#), the starting point for any analysis concerning the misuse of public funds begins with the principle that public funds must be expended for an authorized public purpose. An expenditure is made for a public purpose when its purpose is to benefit the public interest rather than private individuals or private purposes. Once a public purpose is established, the expenditure must still be authorized. A public official possesses only those powers that are conferred by law, either expressly or impliedly.

Behested Payments

A payment that is made by a third party principally for legislative, governmental, or charitable purposes is generally considered a "behested payment" if it is requested, solicited, or suggested by an elected officer, or is otherwise made in cooperation, consultation, coordination, or with the consent of the elected officer. This includes payments behested on behalf of the elected officer by his or her agent or employee. ([Gov. Code § 82015](#), subd. (b)(2)(B)(iii); [Cal. Code Regs. tit. 2, § 18225.7](#); Fair Political Practices Commission (FPPC), [Limitations and Restrictions on Gifts, Honoraria, Travel and Loans](#) (February 2010), at p. 5.) These payments are not for personal or campaign purposes.

[Government Code section 82015\(b\)\(2\)\(B\)\(iii\)](#) states that a payment which is made principally for legislative, governmental, or charitable purposes will not be considered a contribution or a gift as long as it is not made principally for personal purposes. Thus, as long as the seminar is principally for governmental purposes, no contribution will occur. If such payments equal or exceed \$5,000 in the aggregate in a calendar year from the same source, then reporting obligations will occur. ([Gov. Code § 82015\(b\)\(2\)\(B\)\(iii\)](#).) Moreover, in order to not be deemed a "contribution," the payment(s) may not be used for "election-related activities."

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For more information about the BOE's Outreach Services, please contact Ms. Kari Hammond by telephone at 916-327-5936 or via email at Kari.Hammond@boe.ca.gov.

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The Board of Equalization (BOE) Speakers' Bureau currently receives and processes over 100 speaker and staff requests per year from outside organizations that wish to have a BOE representative speak, or staff an information table at their event.

Requests are received by phone or email. These requests are processed, necessary approvals secured, and the appropriate speaker and/or staff are assigned for each request received through the BOE Speakers' Bureau.

How to Submit a Speakers' Bureau Request

Send an email to the BOE's Speakers' Bureau at BOE-Speakers_Bureau_email_request@boe.ca.gov.

Please include the following information:

- Event flyer and/or other important Event Information (please send as attachment)
- Requestor Contact Information: (name, phone number, email address)
- Name of Requesting Organization
- Event Name
- Event Date
- Event Time
- Event Location (address)
- Speaker Name, Title, Department (if preference for specific speaker)
- Presentation Topic
- Length of Presentation
- Type of Audience (business owners, tax professionals, assessors, etc.)
- Number of Attendees
- List Available Equipment for Audio/Video Presentation (laptop, projector, screen etc.)

To contact the BOE's Speakers' Bureau by telephone, call: 916-552-9092



Free In-Person Seminars / Workshops

This page describes various seminars and workshops available and includes dates and locations of upcoming free events.

[An important message from the Taxpayers' Rights Advocate Office](#)

- Find Your Board Member
- eServices
- Field Offices
- Forms & Publications
- Sign Up for BOE Updates
- City & County Tax Rates
- Calendar of Events
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- Local Government Services
- Make a Speakers' Bureau Request
- Bankruptcy

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Business Owners

- [Business Owner](#)
- [Women Entrepreneur](#)
- [Sales and Use Tax](#)
- [Restaurant](#)
- [Cigarette/Tobacco Sellers](#)
- [Town Hall Meetings](#)
- [Business Owner Resources](#)

Tax Professional

- [Efile/Eservices Workshop \(for Tax Professionals\)](#)

Nonprofit and Exempt Organizations

- [Seminar Dates & Locations](#)
- [Nonprofit and Exempt Publications](#)

See Also:

- [Online Seminars](#)
- [Calendar of Events](#)
- [BOE Office Locations](#)



Online Seminars

BOE has a number of online seminars that enable you to get answers to BOE's most frequently asked questions. These videos and PowerPoints offer a quick easy reference and are available around the clock to get basic information that you need for running and growing your business.

[An important message from the Taxpayers' Rights Advocate Office](#)

Versions: [Spanish \(Español\)](#) | [Chinese \(中文\)](#) | [Korean \(한국어\)](#) | [Vietnamese \(Tiếng Việt\)](#)

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Business Owners

- [Introduction](#)
- [Starting Your Business](#)
- [Growing Your Business](#)
- [Other Business Owner Resources](#)
- [Business Owner Publications](#)

Nonprofit, Exempt, & Faith-based Organizations

- [Introduction](#)
- [Nonprofit Seminar](#)
- [Property Tax Exemptions](#)
- [Sales and Use Tax](#)
- [Nonprofit and Exempt Publications](#)

Basic Sales & Use Tax

Prepare a sales and use tax return, report exempt sales, use a resale certificate, determine what is taxable and non-taxable labor, and maintain adequate records.

- [Basic Sales and Use Tax-Short Version](#)
- Presentations: [English](#) | [Spanish \(Español\)](#) | [Chinese \(中文\)](#) | [Korean \(한국어\)](#) | [Vietnamese \(Tiếng Việt\)](#)
- Video: [English](#) | [Spanish \(Español\)](#) | [Cantonese \(廣東話\)](#) | [Mandarin \(普通話\)](#) | [Vietnamese \(Tiếng Việt\)](#)
- [Seminar](#)

eFile

E-filing provides eligible taxpayers with a more convenient method to file tax returns and prepayments.

- [Introduction & Registration English | Spanish \(Español\)](#)
- [eFile Demonstration Tutorial English | Spanish \(Español\)](#)
- [eFile Use Tax Video Tutorial English | Spanish \(Español\)](#)



California State Board of Equalization

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BOE Events Calendar

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CTPL = Cigarette & Tobacco Products Licensing Classes RS = Restaurant Seminars TRPC = Tax Return Preparation Classes
 GTS = Gas Tax Swap SBF = Small Business Fairs WES = Women Entrepreneur Seminars
 IRS = IRS Town Hall Liaison Meeting SBS = SCORE Business Seminar WS = Women's Summit
 NP = Nonprofit Seminars SUT = Sales & Use Tax Classes

Board of Equalization Events Calendar

Today **September 2011**

Sun	Mon	Tue	Wed	Thu	Fri	Sat
26	29 10am Interested P	30	31	Sep 1	2	3
4	5	6	7	8	9	10
11	12	13 9am Riverside Nor	14	15	16	17
18	19	20 Board Meeting - Sacramento 1:30pm Rights Hea	21 10am Ventura Cig	22	23	24
25	26	27	28	29	30	Oct 1

Events shown in time zone: Pacific Time

- [Legislation](#)
- [Current Litigation](#)
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