



STATE BOARD OF EQUALIZATION

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Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Capitol Square, Sacramento
March 26-27, 2002
NOTICE AND AGENDA

TUESDAY, MARCH 26, 2002

BOARD COMMITTEE MEETINGS* (convene at 9:30 a.m.)

❖ **Legislative Committee—Room 122**

Mr. Klehs, Chair

Staff, Ms. Margaret Shedd (916) 322-2376

➤ **Legislative Bills—Recommendations for Board Positions**

- ❑ Property Taxes:
 - AB 2073, Property taxation: state-assessed property
 - AB 2662, Property tax: welfare exemptions: health care facilities
 - AB 2714, Property taxation: valuation: implements of husbandry
 - ACA 18, Property Taxation: exclusion: grandparent transfers to developmentally disabled grandchildren
 - ACA 19, Property taxation: grandparent transfers to grandchildren
 - SB 1469, Property tax: veterans' organization exemption
 - SCA 9, Property taxation: changes in ownership: exclusion: cohabitants
- ❑ Property/Business Taxes:
 - AB 2878, Local government finance
- ❑ Business Taxes:
 - AB 1845, State liens: priority of victims restitution fees
 - AB 1977, Sales and use taxes: computer sales tax holiday
 - AB 1980, Sales and use taxes exemption: service or duty pistols
 - AB 2014, Sales and use taxes: swap meet operator notification
 - AB 2056, Sales and use taxes: computer products sales tax holiday
 - AB 2061, Transactions and use tax: City of Salinas
 - AB 2205, Penalties on sales of untaxed cigarettes
 - AB 2508, Sales and use taxes: revenues derived from conditional ¼% rate
 - AB 2636, Sales and use taxes exemptions: public schools
 - AB 2682, Petroleum Pollution Cleanup Fee
 - AB 2701, Sales and use taxes: exclusions: Indian tribe taxes
 - AB 2809, Sales and use taxes: diesel used in farming activities
 - SB 1297, Sales and use taxes: exemption: meals furnished by nonprofit veteran's organization
 - SB 1400, Taxation: judicial relief
 - SB 1501, Sales and use tax: successor liability
 - SB 1502, Sales and use tax: successor liability: relief of penalty and interest
 - SB 1510, Sales and use tax: exemptions: fuel and petroleum products to air common carriers
 - SB 1520, Soda tax

- SB 1608, Fuel taxes exemption: emergency service providers
- SB 1869, Sales and use taxes: exclusion: Indian tribe taxes
- SB 1901, Sales and use tax: resale certificates: diesel fuel used in farming
- SB 1994, Petroleum Pollution Cleanup Fee
- SB 10XXX, Sales and use taxes: diesel used in farming activities
- Administration:
 - AB 1752, Public Records on Internet
- **2002 Legislative Proposals**—Suggestions for Special Taxes legislation to be sponsored by the Board in the second year of the 2001-2002 Legislative Session.
Amend Sections 43301 and 43452 of the Revenue and Taxation Code to authorize the Department of Health Services to hear petitions for redetermination and approve refunds of the childhood lead poisoning prevention fee.
- ❖ **Customer Services and Administrative Efficiency Committee—Room 121**
Mr. Parrish, Chair
Staff, Ms. Jerri Dale (916) 445-6188
 - Exit Questionnaire and Interview Policy and Process—Status Report
 - 2002-03 Finance Letter—Support Budget need, Postage Rate Increase
- ❖ **Business Taxes Committee—Room 121**
Mr. Chiang, Chair
Staff, Mr. Ramon Hirsig (916) 445-1441
 - Authorization to Publish Regulation 1807, Process for Reviewing Local Tax Reallocation Inquiries

Proposed regulation regarding process for reviewing local tax reallocation inquiries (continuation of 2/5/02 Business Taxes Committee discussion)
 - Authorization to Publish Regulation 1534, Timber Harvesting Equipment and Machinery

Proposed regulation to incorporate provisions of AB 426 regarding an exemption for the sales and use of equipment and machinery designed for off-road use in commercial timber harvesting operations

BOARD MEETING (convenes upon adjournment of the Business Taxes Committee)—Room 121**

- ❖ **ANNOUNCEMENT OF CLOSED SESSION**
- ❖ **CLOSED SESSION**
 - Discussion and approval of staff recommendations regarding settlement cases (R & T Code § 7093.5, 7093.5(b)(3), 30459.1 and 50156.11)
 - Discussion and action on court case—F.W. Strickler & Sons, Inc. v. State Board of Equalization, Fresno County Superior Court Case No. 01CECG2789 (Govt. Code § 11126 (e))
 - Discussion and action on Personnel Matters (Govt. Code § 11126 (a))
- ❖ **CORPORATE FRANCHISE AND PERSONAL INCOME TAX HEARINGS**
 - Milpitas Materials Company, 104667
 - Jon and Rita Minnis, 100638

❖ **BUSINESS TAXES APPEALS HEARINGS**

- ❑ National Superior Vending, Inc., 30065
- ❑ Proflowers, Inc., 155104

BOARD COMMITTEE MEETING* (convene at 1:30 p.m.)❖ **Property Tax Committee—Room 121**

Dr. Connell, Chair

Staff, Mr. David Gau (916-445-1516)

- Staff's request that the Board approve changes to Publication 30, Residential Property Assessment Appeals
- Staff's request that the Board approve changes to the language and layout of form BOE-305-AH, Application for Changed Assessment

BOARD MEETING (convenes upon adjournment of the Property Tax Committee)—Room 121**❖ **BUSINESS TAXES APPEALS HEARINGS**

- ❑ K B Products, Inc., 34346
- ❑ Mathew Valencia, 112999
- ❑ MS Carpet, Inc., 19285
- ❑ Mission Bay Car Exchange, 28594

WEDNESDAY, MARCH 27, 2002

BOARD MEETING (convenes at 9:30 a.m.)—Room 121**❖ **ADMINISTRATIVE SESSION**

- **Executive Director's Report**
- **2002-03 Fiscal Year Contracts Over \$1 Million**
 - ❑ Approval of Interagency Agreements over \$1 million
 - Department of General Services (amendment)
 - Stephen P. Teale Data Center (renewal)
 - Department of Motor Vehicles (renewal)
 - Department of Toxics Substances Control (renewal)
- **Request for Approval of Board Meeting Date Change**
 - Change of date and location for annual Board Assessors' Meeting
- **Consent Agenda**
 - ❑ Approval of Retirement Resolutions
 - Emil Pollak
 - Margaret Rangel
 - Richard S. Morikawa, Jr.
 - Camille Bush
 - Clintonia Hawkins
 - John F. Sheehy, III
 - ❑ Approval of Board Meeting Minutes
 - January 9-10, 2002 and February 5-6, 2002
 - ❑ [Proposed substantive and non-substantive revisions to Audit Manual Chapter 13](#)
- **Board Committee Reports**
 - ❑ Approval of the March 26, 2002 Board Committee Minutes
 - Legislative Committee
 - Business Taxes Committee
 - Customer Services and Administrative Efficiency Committee

- Property Tax Committee

❖ CHIEF COUNSEL MATTERS

A. Rulemaking

- Re-Adoption of Emergency Rule 138, Exemption of Aircraft Being Repaired, Overhauled, Modified or Serviced
- Section 100 Changes to Property Tax Rule
 - Rule 135, Homeowners' Property Tax Exemption
- Section 100 Changes to Motor Vehicle Fuel Tax Regulations
 - Regulation 1111, Highway
 - Regulation 1122, Conversion Factor
 - Regulation 1137, Exempt Sales of Jet Fuel
 - Regulation 1177, Records of Aircraft Jet Fuel Dealer
- Section 100 Changes to Diesel Fuel Tax Regulations
 - Regulation 1413, Tax-Paid Diesel Fuel and Ex-Tax Diesel Fuel
 - Regulation 1470, Records

B. Property Tax Matters

- Consideration of Applications for Review, Equalization and Adjustment of Assessments
 1. Northern California Power Agency, 19387, 27694

C. Property Tax Matters

- State Assessee Petition for Reassessment of Unitary Value—Findings and Decisions
 1. All American Pipeline L.P., 130880

❖ TAX PROGRAM NONAPPEARANCE MATTERS—ADJUDICATORY

D. Legal Appeals Matters

- Cases Heard But Not Decided
 1. Nypro San Diego, Inc., 78514
 2. Zarcon Corporation, 89000578220
 2. Advanced Coating Technology, Inc., 89000613020
 2. NCISuccessor, Inc., 89002447200, 89002447210
 3. Omnitrition International, Inc., 89000882520
 4. Z.E.I. Acquisition Corporation, 89002234310

E. Franchise and Income Tax Matters

- Decisions
 1. Candice A. Linquist, 53026
 2. Kevin P. Linquist, 53028
- Petitions for Rehearing
 3. Mark D. Perry, 62413

F. Homeowner and Renter Property Tax Assistance Matters

- Decisions
 1. Willemena Gordon, 113498
 2. Venicio F. Jesuitas, 129875
 3. A. Aguirre, 138471

F.1 Property Taxes Matters

- Claim for Refund
 1. Sierra Pacific Industries, 129687

❖ TAX PROGRAM NONAPPEARANCE MATTERS—CONSENT

G. Legal Appeals Matters

- Hearing Request Withdrawn
 1. The Pub at Tahoe Seasons, Inc., 88012, 88015
 2. Nipon Mathiyakom, 89000097420, 89002450710
- Petitions for Rehearing
 3. SFPP, LP, 83144
 4. Edward G. Staiger, 89002144910, 89002144920

H. Franchise and Income Tax Matters

- Decisions
 1. Edwardo H. Manaig, 99281
 2. Richard Schachter, 102318
 3. Darryl Arnold, 110560
 4. John H. Vories, 111259
 5. Donald C. Graham, 113513
 6. Franz E. Fischer, 114268
 7. Richard C. Paxman, 115057
 8. Brian Pierce, 118227
 9. Marcy Martin, 128292
 10. Jerry Cartwright, 129438
 11. Jane E. Evans, 130108
 12. George Torrez, 133513
 13. Haruko Saito, 133963
 14. Vernon E. Miller, 135868
 15. Charles W. Fink, 136794
 16. Etienne Graves, 136798
- Petitions for Rehearing
 17. Raymond C. Newbert, 56348
 18. Jason R. Fanugo, 57645
 19. Steven Gregory Dunmore, 88986
 20. Belainesh Belatchew, 92504
 21. Roberta A. Carmichael, 105021
 22. Robert R. Woore, 113633
 23. Manuel R. Diaz, 118706
 24. Daniel Morisette, 119108

I. Homeowner and Renter Property Tax Assistance Matters

- Decisions
 1. Reginald E. Williams, 112206
 2. David W. White, 115437
 3. Yasuji Ohta, 118699
 4. Jimisha Florence, 131869
 5. B.J. Coppedge, 134576
 6. B.C. Coppedge, 134582
 7. Barbara Love, 135966
 8. Betty J. Bryant, 136777
 9. Catherine Walker, 139126
 10. Morgan E. Rogers, 139138
- Petitions for Rehearing
 11. Joann Greer, 111777
 12. Patrick Tompkins, 127006
 13. Ralph M. Smith, 129774

J. Sales and Use Tax Matters—Redeterminations, Denials of Relief of Penalty, Denial of Claims for Refunds

- Redeterminations
 1. Bay City Electric Works, Inc., 135343
 2. Madge Networks, Inc., 113122
 3. Fox Photo, Inc., 61909
 4. Starbucks Corporation, 99802
 5. MDFC Loan Corporation, 138815
 6. Broder Bros. Co., 118271
 7. Holiday Marine Sales, LLC, 139098
- Denials of Claims for Refund
 8. SMC Corporation of America, 63158

K. Sales and Use Tax Matters—Credits, Cancellations & Refunds

- Credits and Cancellations
 1. Harris Corporation, 157860
 2. Ampex Data Systems Corporation, 157995
 3. Sea Vision I, LLC, 157276
 4. The George Family Living Trust, 156624
 5. Alpen LLC, 157589
 6. William N. Zabit, 157864
 7. O'Neil Group, Inc., 157159
- Refunds
 8. Keylex, Inc., 155883
 9. Steve Taub, Inc., 156368
 10. Commercial Press, Inc., 156706
 11. Hussmann Corporation, 60495
 12. Hitachi Leasing America Ltd., 80556
 13. Stone & Youngberg LLC, 155890
 14. Delaware Ariba, Inc., 145277
 15. Tokyo Electron Limited, 79363
 16. Commonwealth Aluminum Concast, Inc., 155931
 17. Corpworks, 155926
 18. Sorrento Networks, Inc., 143605
 19. Pacific Bell, 138877
 20. The Straumann Company, 134001
 21. Red Lion Hotels, Inc., 143618

L. Special Taxes Matters—Credits, Cancellations & Refunds

1. Applied Materials, Inc., 157453
2. Great Southern Life Ins. Co., 131273
3. Costco Wholesale Corporation, 153357
4. Costco Wholesale Corporation, 153356
5. Costco Wholesale Corporation 157942
6. Swedish Match North America, Inc., 153763

M. Special Taxes Matters

- Relief of Penalty
 1. Fremont Indemnity Company, 153548
 2. Fremont Compensation Insurance, Company, 153512
 3. American General Life Insurance Company, 156285
- Denials of Claims for Refund
 4. MTC Distributing, 153358

❖ TAX PROGRAM NONAPPEARANCE MATTERS—NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**N. Property Tax Matters**

- Audit
 1. Cox California Telecom, LLC (7640)
 2. GoBeam, Inc. (7893)
- Unitary and Nonunitary Escaped Assessments
 3. Pacific Gas and Electric Company (135)
 - Sierra Pacific Power Company (146)
 - Union Pacific Railroad Company (843)
 - Sprint Spectrum L.P. (2722)
 - Level 3 Communications, LLC (7761)
- Board Roll Changes
 4. 2001 State-Assessed Roll

❖ BUSINESS TAXES APPEALS HEARINGS

- ❑ Mohinderpal Singh Deol, 78617
- ❑ William D. Courtright, 143318
- ❑ Daniel Joseph Cullinan, 89000694310
- ❑ Crane, Borkenhagen Enterprises, Inc., 30686

BOARD MEETING* (convenes at 1:30 p.m.)**❖ PUBLIC HEARINGS**

- Proposed Adoption of Property Tax Rule 21, Taxable Possessory Interests-Valuation
- Proposed Repeal of Property Tax Rules
 - Rule 23, Written Agreements as to Term of Possessory Interests
 - Rule 24, Possessory Interest Rights to be Valued
 - Rule 25, Valuation of Post-De Luz Possessory Interests
 - Rule 26, Valuation of Pre-De Luz Possessory Interests

The Board is proposing to amend Rule 21 and delete Rules 23, 24, 25, and 26. These rules all relate to the valuation of taxable possessory interests for property tax purposes. The amendment and deletion of these rules is proposed to (1) combine the regulatory provisions relating to the valuation of taxable possessory interests in one unified rule, (2) implement the court's holding in American Airlines, Inc. v. County of Los Angeles 65 Cal.App.3d 325 (1976) with respect to the determination of the appropriate "term of possession," (3) delete those portions of the rules that are no longer valid or that no longer represent good appraisal practice, and (4) remedy intercounty inconsistencies with respect to the determination of the "term of possession" for valuation purposes.

- Proposed Adoption of Property Tax Rule 138, Exemption for Aircraft Being Repaired, Overhauled, Modified Or Serviced

Rule 138 will make it clear that the exemption provided by section 220 applies to aircraft which are located in California while out of revenue service due to the downturn in air carrier business in the aftermath of the terrorists attacks of September 11, 2001, where such aircraft are serviced in accordance with FAA requirements. The broad objective of the rule is to encourage air carriers to service their aircraft in California while the aircraft is out of revenue service. The benefit to California is the aircraft maintenance and repair work that will accrue to California businesses. The proposed rule is intended to make it clear that the terms "aircraft . . . in California . . . solely for the purpose of being repaired, overhauled, modified, or serviced" includes necessary and attendant storage and that exempt aircraft are not valued under Rule 202

- Proposed Adoption of Property Tax Rule 139, Restricted Access As Damaged Eligible For Reassessment Relief Pursuant to Section 170

Section 170 of the Revenue and Taxation Code authorizes a county board of supervisors to enact an ordinance that provides for the reassessment of property damaged or destroyed by misfortune or calamity as of the date of occurrence of the damage or destruction. For purposes of applying section 170, the proposed rule interprets damage or destruction as including restricted access that results in a diminution of the property's value. Restricted access resulting in a diminution of property value constitutes damage or destruction within the meaning of section 170 because it imposes a physical limitation on the use of property that adversely affects its value. The proposed rule also provides that reassessment relief may be granted only for the duration of the period of restricted access and prescribes the method of reappraisal for the period of restricted access and of reassessment at the termination of the period.

- The Board is proposing to amend three rules, to add four rules, to repeal three rules, and to renumber one rule to update and clarify the local assessment roll procedures by (1) conforming the rules to statutory requirements for inclusion of specific items on the assessment roll, (2) interpreting applicable statutes of limitations for making roll corrections, (3) reflecting current technology in the electronic format used for roll processing and recordkeeping and (4) deleting outdated procedures not required by statute.
 - Proposed Adoption of Property Tax Rules
 - Rule 255, Enrollment of Supplemental Assessments
 - Rule 263, Roll Corrections
 - Rule 264, Base Year Value Corrections

- Rule 265, Board Ordered Roll Changes
 - Proposed Amendment of Property Tax Rules
 - Rule 252, Content of Assessment Roll
 - Rule 254, Use of Board-Prepared Roll as Unextended Roll
 - Rule 261, Penalties, Form and Manner of Entry
 - Proposed Repeal of Property Tax Rules
 - Rule 253, Machine Prepared Roll; Controls
 - Rule 256, Tape Storage of Roll Data
 - Rule 262, Indexing Assessments of Escaped Property
 - Proposed Renumber of Property Tax Rule
 - Rule 304, Location of Local Roll for Inspection
- Regulations implement statutory changes in fuel tax laws respecting definitions, exemptions, and imposition of tax at the rack
- Proposed Adoption of Motor Vehicle Fuel Tax Law and Diesel Fuel Tax Law Regulations
 - Regulation 1123, Supplier
 - Regulation 1124, Relief From Liability
 - Regulation 1161, Tax Paid Twice On Motor Vehicle Fuel
 - Regulation 1178, Records
 - Regulation 1435, Tax Paid Twice On Diesel Fuel
 - Regulation 1436, Returned Sales
 - Proposed Amendment of Motor Vehicle Fuel Tax Law and Diesel Fuel Tax Law Regulations
 - Regulation 1101, Motor Vehicle Fuel
 - Regulation 1105, Tax-Paid and Ex-Tax Fuel
 - Regulation 1120, Returned Sales or Consignments and Invoice Corrections
 - Regulation 1132, Shipments Out of the State
 - Regulation 1134, Distributions to the United States
 - Regulation 1420, Supplier
 - Regulation 1422, Relief From Liability.
 - Regulation 1430, Shipments Out of the State
 - Proposed Repeal of Motor Vehicle Fuel Tax Law and Diesel Fuel Tax Law Regulations
 - Regulation 1103, Blending or Compounding
 - Regulation 1104, Consignment for Sale
 - Regulation 1106, Tax Paid Fuel Distributed
 - Regulation 1107, Drip Gasoline Producer
 - Regulation 1108, Qualified Distributor
 - Regulation 1114, Book Transfers, in Tank Transfers, Physical Exchanges and Settlements
 - Regulation 1115, Pipeline Overages and Shortages
 - Regulation 1116, Losses Prior to Distribution
 - Regulation 1117, Allowable Losses of Commission Agent
 - Regulation 1118, Distribution of Commingled Fuel
 - Regulation 1119, Tax Paid Motor Vehicle Fuel Blended, Compounded or Redistilled
 - Regulation 1121, Temperature Corrected Distributions
 - Regulation 1131, Natural Gasoline Sales to Licensed Distributors
 - Regulation 1151, Monthly Return of Distributor
 - Regulation 1152, Weekly Return of Distributor
 - Regulation 1153, Processor's Return of Distribution
 - Regulation 1154, Owner's Return of Processing Transactions
 - Regulation 1155, Recipient's Return of Processing Transactions
 - Regulation 1171, Distributor's Inventory and Stock Record
 - Regulation 1172, Producer's Stock Record
 - Regulation 1173, Producer's Purchase Record
 - Regulation 1174, Producer's Sales Record
 - Regulation 1175, Broker's Purchase Record
 - Regulation 1176, Broker's Sales Record

➤ Proposed Adoption of Sales and Use Tax Regulation 1507, Technology Transfer Agreements

Regulation 1507, Technology Transfer Agreements, is proposed to interpret, implement and make specific Revenue and Taxation Code sections 6011 and 6012. The regulation is proposed to incorporate the California Supreme Court decision in *Preston vs. State Board of Equalization*; clarify how the statutory language applies to technology transfer agreements that include transfers of patent interests; and describe the application of tax to technology transfer agreements

➤ Proposed Adoption of Sales and Use Tax Regulation 1525.7 Rural Exemption Tax Exemption

Proposed Regulation 1525.7, Rural Investment Tax Exemption, is proposed to be promulgated to interpret, implement and make specific Revenue and Taxation Code section 6378.1

➤ Proposed Adoption of Sales and Use Tax Regulation 1533, Liquefied Petroleum Gas

Regulation 1533, Liquefied Petroleum Gas, is proposed to be promulgated to interpret, implement and make specific Revenue and Taxation Code section 6353, granting an exemption from tax for sales of liquefied petroleum gas under defined conditions. (AB 426, Stats. 2001, Ch. 156, § 3.)

➤ Proposed Adoption of Sales and Use Tax Regulation 1533.1, Farm Equipment and Machinery

Regulation 1533.1, Farm Equipment and Machinery, is proposed to be promulgated to interpret, implement and make specific Revenue and Taxation Code section 6356.5, granting a partial exemption from tax for sales of farm equipment and machinery under defined conditions. (AB 426, Stats. 2001, Ch. 156, § 3.)

➤ Proposed Adoption of Sales and Use Tax Regulation 1533.2, Diesel Fuel Used in Farming Activities or Food Processing

Regulation 1533.2, Diesel Fuel Used in Farming Activities or Food Processing, is proposed to be promulgated to interpret, implement and make specific Revenue and Taxation Code section 6357.1, granting a partial exemption from tax for sales of diesel fuel used in farming activities or food processing under defined conditions. (AB 426, Stats. 2001, Ch. 156, § 6.)

➤ Proposed Amendment of Sales and Use Tax Regulation 1616. Federal Areas

Regulation 1616, Federal Areas, is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code section 6352. Amendments are proposed to provide that to the extent the gross receipts from the sale or consumption of tangible personal property by non-Indians on reservations have reservation-based value, they are not included in the gross receipts subject to tax.

If you would like specific information regarding other items on this Board Meeting Agenda Notice please telephone (916) 322-2270 or e-mail: MeetingInfo@boe.ca.gov. Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

Deborah Pellegrini, 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.

If substantial revisions to the published text of the regulations are approved at the hearing, the regulations will be re-published for a new hearing date. If only revisions sufficiently related to the published text of the regulations are approved, a notice containing these revisions will be mailed to those persons that commented orally or in writing or that asked to be informed of such revisions. The notice will be mailed at least 15 days prior to the scheduled Board adoption of the regulations to allow them time for additional comments.

Agenda items occur sequentially. When circumstances warrant, the Chairman may modify the order of items as they appear on the agenda. Any committee agenda item may be brought to the Board at its next meeting. The hearing location is accessible to the disabled. If you require special assistance, please contact Gary Evans at 916-445-4394 to make special arrangements.