



STATE BOARD OF EQUALIZATION
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State Controller, Sacramento

RAMON J. HIRSIG
Executive Director

**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
October 25, 2005
NOTICE AND AGENDA**

Tuesday, October 25, 2005

Agenda items occur sequentially. When circumstances warrant, the Board's Chair, Mr. Chiang, may modify the order of the items on the agenda.

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

BUSINESS TAX COMMITTEEMr. Chiang, Committee Chair

- 1. Proposed revisions to "Compliance Policy and Procedure Manual (CPPM) Chapter 2, *Registration*," to clarify whether the Board should issue a seller's permit to a person requesting a seller's permit for the sale of tangible personal property, regardless of whether the sale of such property is lawful in this state.

PROPERTY TAX COMMITTEE Mr. Parrish, Committee Chair

- 1. Assessment of Structures Repaired or Rebuilt Following Damage or Destruction in a Disaster

BOARD MEETING (convenes upon adjournment of the Board Committee Meetings)**

ORAL HEARINGS

B. CORPORATE FRANCHISE AND PERSONAL INCOME TAX HEARINGS
(Contribution Disclosure forms required pursuant to Govt. Code § 15626)

- B1 Donald Prince, 283459
For Appellant: Michael Ferguson, CPA
For Franchise Tax Board: John Penfield, Tax Counsel

- B2 The Lurie Company, 284734
 For Appellant: William Harris, Taxpayer
 Rennie Guinasso, CPA
 Brian K. Byrne, CPA
 For Franchise Tax Board: Jon Jensen, Tax Counsel
- B3 Costco Wholesale Corporation, 266592
 For Appellant: Derick Brannan, Representative
 Jon Sperring, Representative
 Richard Galanti, Witness
 Monica Smith, Witness
 For Franchise Tax Board: Daniel Biedler, Tax Counsel
- B4 David A. and Cheryl D. Duffield, 241055
 For Appellant: Jeffrey M. Vesely, Attorney
 Kerne H. O. Matsubara, Attorney
 Annie H. Huang, Attorney
 For Franchise Tax Board: Renel Sapiandante, Tax Counsel

E. PROPERTY TAX APPEAL HEARINGS

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

- E1 UNOCAP (480), 316350 – “CF”
 For Petitioner: Peter W. Michaels, Attorney
 For Department: Sophia Chung, Tax Counsel
- E2 Looking Glass Networks, Inc. (7861), 316105 – “CF”
 For Petitioner: Eric Wojinski, Representative
 Joe Molina, Representative
 For Department: Shirley Johnson, Tax Counsel

P. Other Administrative Matters

- P1 Executive Director’s Report**..... **Mr. Hirsig**
 Executive Director’s opportunity to report on matters of interest to the Board.
1. [Headquarters Window Update](#)

BOARD MEETING* (convenes at 1:30 p.m.)**C. SALES AND USE TAX APPEALS HEARINGS***(Contribution Disclosure forms required pursuant to Govt. Code § 15626)*

C1a Derek Ward, 132982 (GH)

C1b Fabricated Steel Products, Inc., 132981 (GH)

For Petitioner: Derek Ward, Taxpayer

Clara Cooper, Representative

For Department: Kevin Hanks, Hearing Representative

C2 William Emmet Wehrli, 253121(CH)

For Petitioner: William Wehrli, Taxpayer

Robert Wehrli, Representative

For Department: Trecia Nienow, Tax Counsel

~~C3 A. Diamond Production, Inc., 36630 (BH)~~~~For Petitioner: Morgan King, Representative~~~~For Department: Kevin Hanks, Hearing Representative~~**F. PUBLIC HEARINGS****F1 Business Taxpayers' Bill of Rights Hearings..... Mr. Gilman**

Individuals have the opportunity to present their ideas, concerns, and recommendations regarding legislation, the quality of agency services, and other issues related to the Board's administration of its tax programs. At the Business Taxes hearings you can comment on the administration of sales and use taxes, environmental fees, fuel taxes, and excise taxes.

F2 Property Taxpayers' Bill of Rights Hearings Mr. Gilman

Individuals have the opportunity to present their ideas, concerns, and recommendations regarding legislation, the quality of agency services, and other issues related to the Board's administration of its tax programs. At the Property Taxes hearings you can comment on the property taxes programs and laws administered by the Board, and identify ways to resolve any problems identified in the Property Taxpayers' Advocate's Annual Report.

F3 Proposed Amendment to Sales and Use Tax Regulation 1620, Interstate and Foreign Commerce..... Ms. Stanislaus

Regulation 1620, *Interstate and Foreign Commerce*, is proposed to be amended to interpret, implement, and make specific Revenue and Taxation Code section 6352. Amendments are proposed to provide that transactions involving sales of locomotives are not subject to use tax if specified conditions are met, and to correct clerical errors.

F4 Proposed Adoption of Sales and Use Tax Regulation 1823.4, Place of Delivery Tangible Personal Property..... Ms. Stanislaus

Proposed Regulation 1823.4, *Place of Delivery of Tangible Personal Property*, is proposed to be promulgated to interpret, implement and make specific Revenue and Taxation Code section 7262. The regulation is proposed to provide a certificate of exclusion from district use tax for a purchaser to submit to a retailer in order to demonstrate that district use tax is not applicable to a given transaction.

G. TAX PROGRAM NONAPPEARANCE MATTERS – CONSENT

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

G1 Legal Appeals Business Tax Matters Mr. Levine

- Hearing Notice Sent – No Response
 1. California High Reach & Equipment, Inc., 261651 (KH)
- Petitions for Release of Seized Property
 2. Timothy Michael Curtis, 316644 (CH)
 3. Templeton Spirit, 317241 (GH)

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

- Decisions
 1. James D. Brewster, 281462
 2. James E. and Sylvia D. Brown, 294795
 3. Heidi Cairelli, 301346
 4. Marc Cohen, 301143
 5. Michael J. Dodge, 306358
 6. Egsan, Inc., 295699
 7. Robert S. Engel, 297084
 8. William and Patricia Facticeau, 287728
 9. Curtis L. and Judy D. Henderson, 287726
 10. Barbara L. Meyer, 287045
 11. Lwanda Okello, 288381
 12. Del Richardson, 271912
 13. Douglas C. Roberts, 286918
 14. Elsbeth W. Shepherd, 289917
 15. Lorne J. Simpson, 286423
 16. Connie R. Slaughter, 288713
 17. WI LV #2, A California Limited Partnership, 281230

- Petitions for Rehearing
 18. Jeffrey Balkin, 145089
Sylvia Freeman, 260948
 19. John W. Buerger, 252219, 262871
 20. Roland and Romaine Reese, 252111

G3 Homeowner and Renter Property Tax Assistance Matters Mr. Schreiter

- Decisions
 1. Romanse Banks, 299984
 2. Margaret Diaz, 295585
 3. Ramon M. Diaz, 295599
 4. Jan Hausmann, 298737
 5. Collins Haynes, 293067
 6. Khan Ly, 295431
 7. Arthur Van Allen, 298577
 8. Rebekah Viselli, 300864
 9. Michael Ydigoras, 300810

G4 Sales and Use Taxes Matters Ms. Henry

- Redeterminations
 1. Beijing Antique City (USA), Inc., 300414 (AS)
 2. Polyone Corporation, 285800 (OHA)
- Denials of Claims for Refund
 3. K/P Corporation, 314183 (CH)
 4. IMA North America, Inc., 314517 (OHB)

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

- Credits and Cancellations
 1. The Sohn Corporation, 317407 (EAA)
 2. Julie Yeh Johnson, 317405 (AP)
 3. Shiao Ping Chen, 317421 (AP)
 4. Hani, Inc., 317353 (EH)
 5. Professional Equipment & Design, Inc., 315887 (OHA)
 6. Branttel Networks, Inc., 317688 (GH)
- Refunds
 7. Farmers Group, Inc., 316301 (AS)
 8. Visionary Forces, Inc., 288180 (AC)
 9. Commercial Custom Seating & Upholstry, 309238 (EA)
 10. Ontario Automotive, Inc., 315966 (EH)
 11. K/P Corporation, 265227 (CH)
 12. Lynwood Unified School District, 281824 (AA)
 13. Mc-Connell Cabinets, Inc., 317569 (AP)
 14. Cardinal Health 414, Inc., 266960 (OHA)
 15. Sylvania Lighting Services Corporation, 282342 (OHB)
 16. Children's Hospital Central California, 315947 (KHO)
 17. Don Roberto Jewelers, Inc., 315083 (EAA)
 18. National Semiconductor Corporation, 219829 (GH)

19. Jelly Belly Candy Company, 317597 (JHF)
20. E & J Gallo Winery, 315967 (KH)
21. Overhead Door Corporation, 318319 (OHC)
22. E. R. Carpenter Company, Inc., 304342 (OHB)
23. DBL Labs, Inc., 143629 (OHA)
24. Alcoa Fujikura Ltd., 315938 (OHA)
25. Mercedes-Benz USA LLC, 313036 (KH)
26. Birmingham Fire Insurance Company, 187212 (OHB)
27. Colby Effler & Partners, 262490 (AS)
28. Wireless Fullfillment Services, LLC, 298786 (OHA)
29. Morton International, Inc., 192034 (OHB)
30. Kalmar Industries USA, Inc., 251380 (OHA)
31. PSI Management Team, Inc., 306818 (JH)
32. Oak Creek Homes, LLC, 306013 (KHO)
33. VA Tech Voest M.C.E. Corporation, 316921 (OHB)
34. James Bryson Henry, 315965 (KHM)
35. Weyerhaeuser Company, 314774 (OH)
36. American Buildings Company, 306072 (OHC)
37. Orange County Teachers Federal Credit Union, 257805 (EA)
38. Lease Corporation of America, 310229 (OHA)
39. Williams Lea, Inc., 243187 (OHA)
40. Roma Limited Liability Company, 307908 (AC)
41. PCT Enterprises, Inc., 317573 (CH)

G6 Special Taxes MattersMr. Gau

- Relief of Penalty
 1. Kern Oil & Refining Company, 314687 (MT)
 2. Exxonmobil Oil Corporation, 316831 (MT) – “CF”
- Relief of Interest
 3. Ultramar, Inc., 316672 (MT)
- Redetermination
 4. U.S. Department of Navy, 326401 (EF)

G7 Special Taxes Matters – Credits, Cancellations, and RefundsMr. Gau

- Credit and Cancellation
 1. U.S. Department of Navy, 326113 (EF)
- Refunds
 2. Southern California Edison Company, 259658 (ET)
 3. The Vons Companies, Inc., 314065 (ET)
 4. Safeway, Inc., 316482 (ET)

G8 Property Tax MattersMr. Gau

- Petitions for Reassessment of Unitary Value
 1. Southwest Gas Corporation (152), 314763 – “CF”
 2. Mpower Communications, Corporation (7724), 316107 – “CF”
 3. Seren Innovations, Inc. (7832), 315698 – “CF”
 4. Mercednet, Inc. (7904), 314924 – “CF”

5. KMC Millennium, LLC (7905), 315700 – “CF”
6. KMC Funding Corporation (7962), 315701 – “CF”
- Petitions for Penalty Abatement on Unitary Value
 7. Global Valley Networks (229), 316104 – “CF”
 8. Almanor Railroad Company (892), 311524 – “CF”
- Petition for Reallocation of Unitary Value
 9. Plains Pipeline, LP (465), 316771 – “CF”

G9 Cigarette License Fee Matters*THERE ARE NO ITEMS FOR THIS MATTER***G10 Legal Appeals Property Tax Matters Mr. Lambert**

- Petition for Reassessment of Unitary Value
 1. Pacific Gas & Electric Company (135), 316108 – “CF”

H. TAX PROGRAM NONAPPEARANCE MATTERS – ADJUDICATORY*(Contribution Disclosure forms required pursuant to Govt. Code § 15626)***H1 Legal Appeals Business Tax Matters Mr. Levine**

- Case Heard But Not Decided
 1. Rosalie Wardell, 115009 (JH)

H2 Franchise and Income Tax Matters Mr. Schreiter

- Decisions
 1. Philip and Carmella Glezer, 259538
 2. Ronald E. McKeown, 290245
 3. Michael G. McKinney, 290004
- Petition for Rehearing
 4. Scott R. and Judith E. Martin, 253561

H3 Homeowner and Renter Property Tax Assistance Matters*THERE ARE NO ITEMS FOR THIS MATTER***H4 Sales and Use Taxes Matters***THERE ARE NO ITEMS FOR THIS MATTER***H5 Sales and Use Taxes Matters – Credits, Cancellations, and Refunds***THERE ARE NO ITEMS FOR THIS MATTER***H6 Special Taxes Matters***THERE ARE NO ITEMS FOR THIS MATTER***H7 Special Taxes Matters – Credits, Cancellations, and Refunds***THERE ARE NO ITEMS FOR THIS MATTER***H8 Property Tax Matters***THERE ARE NO ITEMS FOR THIS MATTER*

H9 Cigarette License Fee Matters
THERE ARE NO ITEMS FOR THIS MATTER

H10 Legal Appeals Property Tax Matters
THERE ARE NO ITEMS FOR THIS MATTER

I. TAX PROGRAM NONAPPEARANCE MATTERS
(Contribution Disclosure forms not required pursuant to Govt. Code § 15626)

- I1 Property Taxes MattersMr. Gau**
- Unitary Escaped Assessment
 1. Calpoint (California), LLC (7971) – “CF”
 - Board Roll Changes
 2. 2004 State-Assessed Property Roll – “CF”
- I2 Offers-in-Compromise Recommendations Ms. Ograd**
1. Kurnia Kusumadilaga
 2. George Ortega
 3. Harmik Tahmassian
 4. Patricia Vallejo and Jesus Zamora

CHIEF COUNSEL MATTERS

- J. Rulemaking Ms. Stanislaus**
- J1 [Amendments to Sales and Use Tax Regulation 1584, *Membership Fees*](#)
- J2 [Petition to amend Sales and Use Tax Regulation 1591, *Medicines and Medical Devices*](#)
- K. Business Taxes**
THERE ARE NO ITEMS FOR THIS MATTER
- L. Property Taxes**
THERE ARE NO ITEMS FOR THIS MATTER
- M. Other Chief Counsel Matters Ms. Cazadd**
- M1 [AB-71 Cigarette and Tobacco Products Licensing Act of 2003
 Proposed Clarification of Penalties and Request to Draft Regulations](#)

ADMINISTRATIVE SESSION**N. Consent Agenda..... Ms. Pellegrini****N1 Retirement Resolutions**

- Jackie Chinn
- Robert Frank
- Thomas (Tom) Glab
- Trowbridge Hendrick
- Kathleen E. Madrid
- Rita Rae Perry
- Robert L. Reichmuth
- Joseph Riccobene

N2 Approval of Superior Accomplishment Award Nominees**N3 Approval of Board Meeting Minutes**

- June 30-July1, 2005

N4 Approval of 2006 Hazardous Waste Fees and Occupational Lead Poisoning Prevention Fee**N5 Prepayment of Sales Tax on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel****N6 Assessors' Handbook Section 534, *Rural Building Costs*****N7 Assessors' Handbook Section 581, *Equipment Index and Percent Good Factors*****O. Approval of Board Committee Minutes**

- O1 Business Tax Committee
- O2 Property Tax Committee

P. Other Administrative Matters**P1 Executive Director's Report..... Mr. Hirsig**

Executive Director's opportunity to report on matters of interest to the Board.

2. Multistate Tax Commission (MTC) Update**P2 Budget Change Proposals Ms. Johnson**

1. International Fuel Tax Agreement (IFTA) / North America Free Trade Agreement (NAFTA) Interim Program
2. Tax Gap Proposal – Agricultural Inspection Station Tax Leads

ANNOUNCEMENT OF CLOSED SESSION..... Ms. Pellegrini**Q. Closed Session**

- Q1 Discussion and approval of staff recommendations regarding settlement cases (R&T Code § 6901, 7093.5, 30459.1 and 50156.11)
- Q2 Discussion and action on personnel matters (Govt. Code § 11126(a))

OPEN SESSION

ADJOURN

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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.

"CF" Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code section 7.9.

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 who commented orally or in writing or who 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 time for additional comments.

Agenda items occur sequentially. When circumstances warrant, the Chair may modify the order of items as they appear on the agenda. The hearing location is accessible to the disabled. If you require special assistance, please contact Cathy Stroh at (916) 324-2599 or e-mail cathy.stroh@boe.ca.gov to make special arrangements.