

# Memorandum

To : Honorable Betty T. Yee, Chairwoman  
Honorable Judy Chu, Ph.D., Vice Chair  
Honorable Bill Leonard  
Honorable Michelle Steel  
Honorable John Chiang

Date : July 10, 2009

From : Ramon J. Hirsig  
Executive Director



Subject : **State Issued Registered Warrants**

May the BOE Accept State-Issued Registered Warrants as Payment of Tax and Fee Liabilities?

The question of whether BOE may accept IOUs in lieu of cash or other legal tender for tax and fee liabilities incurred from individuals or entities which have been "paid" with State-issued registered warrants, otherwise known as IOUs, for goods or services provided to the State has been considered by our Legal Department. The legal opinion on the issue is attached for your consideration.

If the Board decides that BOE should accept registered warrants as payment of taxes and fees due, procedures will be established by program and accounting staff to process such payments.

RJH:fr

Attachment

# Memorandum

Board of Equalization  
Legal Department, MIC: 83  
Office of the Chief Counsel  
Telephone (916) 445-4380  
Fax (916) 323-3387

**To:** Honorable Betty T. Yee, Chairwoman  
Honorable Judy Chu, Ph.D., Chair  
Honorable Bill Leonard  
Honorable Michelle Steel  
Honorable John Chiang

**Date:** July 14, 2009

**From:** Kristine Cazadd  
Chief Counsel 

**Subject:** Questions Concerning Registered Warrants for Tax Payments

## QUESTION PRESENTED

Board Member Bill Leonard has asked whether the BOE would be allowed to accept registered warrants issued by the State (known informally as IOUs) in payment of tax liabilities from taxpayers who are payees on registered warrants. Specifically, the questions posed were:

- (1) May the BOE accept IOUs in lieu of cash from local agencies, private contractors, State vendors and corporations/businesses, which have been “paid” with State-issued IOUs for services or sales to the State or for tax refunds<sup>1</sup> from the State?
- (2) If so, then what form of an IOU would be acceptable for purposes of payment to the BOE?
- (3) May the BOE accept IOUs in lieu of cash from a third party or accept (non-State issued) IOUs in lieu of cash from any local agencies, private contractors, State vendors and corporations/businesses, for their sales or use tax liabilities under any circumstances?

## BRIEF ANSWER

- (1) The BOE is not required to accept registered warrants issued by the State as payment for tax liabilities, but is not prohibited from doing so. If the BOE chooses to accept the warrants, staff will need to develop a process for handling them. The BOE would hold the warrants until the maturity date and then redeem them directly with the State.
- (2) If the BOE chose to accept IOUs, registered warrants issued by the State would be acceptable.

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<sup>1</sup> The State Controller’s Office informed BOE Accounting staff that, as of July 10, BOE’s tax refund claimants would receive regular warrants, not registered warrants.

- (3) BOE practice has been to refuse to accept IOUs, negotiable instruments or checks from third parties and would likely refuse to accept non-State issued IOUs by any person or entity other than the State.

## **DISCUSSION**

### **The BOE is Not Required to Accept Warrants**

There is no law requiring the BOE to accept registered warrants. There is a statute that requires the State to accept registered warrants as security for payment of personal income taxes or bank and corporation taxes, meaning that it applies only to the Franchise Tax Board (Govt. Code section 17280.1). Rules of statutory construction say that if the Legislature had intended to require the BOE or other agencies to accept the warrants, it could have done so. In fact, there is a bill pending in the Assembly (AB 1506, amended most recently on July 1, 2009) that would add section 17203.6 to the Government Code, requiring all State agencies to accept registered warrants for the payment of any obligation owed by the payee. As of July 8, the bill had been considered by the Assembly Business and Professions Committee, which voted unanimously in favor of the bill. The law would take effect immediately if passed. The fact that members of the Legislature thought it necessary to introduce such a bill bolsters the argument that the BOE is not currently required to accept the warrants.

### **The BOE May Have Discretion to Accept Warrants**

Separate from the question of whether the BOE is required to accept the warrants is whether the BOE may choose to accept them. There is no specific statutory or constitutional provision authorizing a State agency or the BOE to accept registered warrants as payment in lieu of cash. The statute applicable to payments to the BOE, Revenue & Taxation Code § 7101, states: "All fees, taxes, interest, and penalties imposed and all amounts of tax required to be paid to the state under this part shall, except as provided in Section 6452.1, be paid to the board in the form of *remittances* payable to the State Board of Equalization of the State of California. The board shall transmit the payments to the Treasurer to be deposited in the State Treasury to the credit of the Retail Sales Tax Fund." The term "remittances" is not defined by statute. Based on the foregoing, there is nothing requiring the BOE to accept registered warrants issued by the State as a "remittance."

Nevertheless, statutes in the Government Code provide that registered warrants issued by the State *may be* used as security for public or private debts (Government Code section 17203), and are considered to be "negotiable instruments" (Government Code section 17205). Section 17203 states: "Such registered warrants are acceptable and may be used as security for the faithful performance of any public or private trust or obligation or for the performance of any act, including the use of such registered warrants by banks and savings and loan associations as security for deposits of funds of any county, municipal or public corporation, district, political subdivision, or state agency." Section 17205 provides: "Notwithstanding any provision of the Uniform Commercial Code, all registered warrants are negotiable instruments." Under this body of law, a "negotiable instrument" is a form of payment that *may* be accepted by the payee in a particular transaction. A negotiable instrument however, is not the same as "legal tender," which *must* be accepted as a form of payment. Based on these statutes and the lack of any legal authority that clearly prohibits it, State-issued registered warrants *could be* accepted by the BOE as valid remittances for

purposes of crediting payment of a tax liability for the “payee.”. If the Board were to decide to accept State-issued warrants, the State Controller’s advice and direction regarding the use of the particular warrants should be followed.

Should the BOE choose to allow for payment of tax obligations with State-issued registered warrants, there would be a financial benefit to the State because the payee would give up the right to collect any interest on the warrant if and when that person submitted the warrant as payment of taxes. The interest rate has been set at 3.75%. The taxpayer could submit the warrant as soon as the BOE had procedures in place to accept it, but the interest would not be pro-rated. All of the interest goes to the holder of the warrant at the maturity date.

BOE Board Meeting minutes from 1992—the last time the State of California issued registered warrants—reflect that staff recommended and the Board voted at its August 27, 1992 meeting to accept State-issued registered warrants for payment of taxes. The Board delegated authority to staff to develop the necessary procedures. Minutes from the August 10, 1992 Board meeting indicate that the BOE had been accepting registered warrants up to that point, and the issue arose only after Bank of America stopped accepting the warrants for deposit on August 5, 1992.

### **Use of Warrants**

In effect, the question was posed as to three different uses of warrants.

- (1) Registered warrants issued by the State of California.
- (2) Registered warrants issued by the State and delivered to a third party by the payee, then remitted to the State by the third party as payment for taxes or fees due.
- (3) IOUs issued by others, e.g. local agencies, private contractors, State vendors and corporations/businesses.

The issue of the use of registered warrants issued by the State of California, and presented by the payee, was addressed above.

The BOE has no legal obligation or authorization to accept a registered warrant from a third party, that is, a taxpayer or entity other than the payee named on the warrant. Existing BOE practice and procedures do not allow a taxpayer to make a payment using a third party check, due to the increased possibility of fraud inherent in such a transaction. The same concerns would apply to third party registered warrants. Therefore, acceptance of registered warrants from third parties is not advisable.

There is some statutory authority for local entities (e.g. counties, irrigation districts and water storage districts) to issue their own registered warrants. However, our research revealed no authority that specifically permits local entities to use their own warrants to pay tax obligations due to the State. (There is a procedure for counties to sell registered warrants to the State so that aid to the needy may be paid in cash rather than by warrants from the County to the aid recipients, but those are obligations owed by the counties to the needy, not to the State.) We also see no authority requiring or allowing the BOE to accept any warrants or IOUs that individuals or businesses have issued themselves to pay their obligations to the State. Depending on the type of negotiable instrument presented by the person or entity, it is possible that it might constitute a valid remittance for certain limited purposes. However, the BOE would have to analyze the

validity of each such instrument, and in coordination with the State Controller and the State Treasurer determine whether to accept an IOU issued by any person or entity other than the State in a particular set of circumstances. The Sales and Use Tax staff has indicated that they have had negative experiences in the past with accepting promissory notes as collateral, and would not be comfortable with the idea of accepting IOUs issued by any person or entity other than the State.

### **Administrative and Procedural Issues**

The law requiring FTB to accept the warrants has been in place since 1983, and FTB had the opportunity to put its procedures into action when the State issued IOUs in 1992 (see FTB Public Service Bulletins 92-9 and 92-12). FTB has announced already to the media that it will accept warrants if it becomes necessary this year. The procedure set forth in Govt. Code section 17280.1 is that a taxpayer who is the payee of a registered warrant writes a check to FTB and submits it along with a copy of the warrant, but FTB cannot cash the check until after the date that the warrant becomes redeemable. The taxpayer is not entitled to receive interest on the warrant (only if the warrant is not yet redeemable). FTB is also willing to accept the warrant itself, but cannot deposit it, and thus holds it until the maturity date. If the warrant is already redeemable, and the taxpayer uses it to pay a tax liability, the taxpayer (as payee on the warrant) is entitled to receive interest (Govt. Code section 17280.2).

Once the warrants become redeemable, there should be no issue, because the payee would be able to collect the funds from the State at that point and pay any taxes due by using one of the usual payment methods, or the BOE could accept the warrant and collect the payment from the State itself.

The State Controller has posted a list of questions and answers regarding registered warrants (<http://www.sco.ca.gov/5935.html>), but it does not address the issue of using the warrants to make tax payments.

There are likely to be additional administrative burdens related to handling the warrants, such as where to hold the warrants, possible difficulties in processing and accounting using the existing IRIS system, and difficulty estimating how many taxpayers will use warrants to pay their tax bills. As the BOE has no obligation to accept the warrants and would be doing so voluntarily, the BOE could specify that no refunds would be given (prior to the maturity date of the warrant) in cases where the amount of the warrant was greater than the tax obligation. As such, differences between the amount owed and the amount of the warrant should not pose a problem up front. If the amount owed were more than the amount of the warrant, the taxpayer would have to pay the difference using one of the regular payment methods. If, on the other hand, the amount owed were less than the amount of the warrant, then the taxpayer would receive a refund, but only after the BOE received payment on the transferred warrant from the Controller.

In preparation for the possibility that the Board might decide to accept registered warrants, the BOE staff has developed draft procedures for handling the warrants. Procedural concerns, among other issues, include how to determine their validity, the proper method for transferring the warrant to the BOE in compliance with California Commercial Code requirements, the disposition of accrued interest, the issuance of refunds where the amount of the warrant is greater than the amount of the tax obligation, and how to handle refunds after the warrants' maturity dates. The BOE would also have to determine whether to distribute local tax allocations prior to the maturity date for amounts paid by unredeemable registered warrants.

If the BOE were to choose not to accept registered warrants, there is the possibility that taxpayers could, on their own initiative or legal action, raise an equitable “right of set off” alternative, whereby they could argue that they are entitled to “offset” their own tax liabilities by the amount owed to them by the State.

## **CONCLUSION**

While the BOE is not obligated to accept registered warrants issued by the State as payment for tax liabilities, it may choose to do so. Staff would adopt the necessary procedures for handling the warrants that were submitted for payment. The BOE has no legal obligation or authorization to accept registered warrants from third parties, that is, taxpayers or entities other than the payee named on the warrant, and existing practices and procedures do not allow a taxpayer to make a payment using a third party check, due to the increased possibility of fraud inherent in such a transaction. With regard to warrants or IOUs issued by any person or entity other than the State, the BOE is under no legal obligation or authorization to accept them, and if a decision was made to do so, we would, in coordination with the State Controller and the State Treasurer, have to analyze the validity of each such instrument to determine whether to accept in a particular set of circumstances and on a case-by-case basis.

KC/MS

## Memorandum

To : Honorable Betty T. Yee, Chairwoman  
Honorable Bill Leonard  
Honorable Michelle Steel  
Mr. Steve Shea, Acting Board Member  
Honorable John Chiang

Date: July 16, 2009

From : Kristine Cazadd  
Chief Counsel 

Subject: **July 21, 2009 Board Agenda Item P1 b.**  
**BOE Historical Background Information on State Issued Registered Warrants**

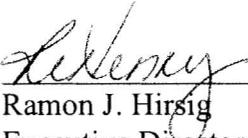
Simultaneous with the distribution of the July 14, 2009 opinion on "Questions Concerning Registered Warrant for Tax Payments," the Legal Department was asked to look for historical documentation that shed light on how the issue of registered warrants was handled by the Board of Equalization (BOE) in 1992. Some of the documents were located and are attached; others have not been located but are described below.

Attached are Board meeting minutes from the August 10, 1992 and August 27, 1992 meetings at which the issue of registered warrants was considered. Staff has reviewed the microfiche images of the Board's records from August 1992, but there were no additional documents relating to the August 1992 Board meetings.

Also attached are memoranda from 1992 by BOE and the Department of Finance relating to this issue. We were not able to locate a copy of a memorandum opinion on this issue that we believe was written by Asst. Chief Counsel Larry Augusta of the BOE Legal Department on August 21, 1992. In the attachments, you will see that BOE Chief Counsel E.L. Sorensen informed the Board Members on August 6, 1992 that staff had been accepting warrants (see two memos dated August 3rd outlining handling procedures), but that he had instructed them to put that practice on hold while he explored the legal issues. According to Mr. Sorensen's memo, the Department of Finance (in its memo dated August 4, 1992) left the issue to the agencies to decide whether to accept the warrants, and only provided guidance as to how to handle the warrants if the agency were to decide to accept them. The DOF memo specifically acknowledges that agencies such as EDD, FTB, DMV and BOE were receiving warrants. The DOF memo instructs the agencies to deposit the warrants with the agency's bank so long as the banks continued to accept them for deposit (which they were doing at the time); but if and when the banks stopped accepting warrants for deposit, the agencies were to hold the warrants until the maturity date and return them to the State Treasury (rather than depositing them with the bank).

There is a follow-up memo dated August 6, 1992 from the Department of Finance clarifying that its first memo (August 4) applies only to those departments that already have the authority to accept registered warrants and does not provide any new authority for the acceptance of registered warrants. Since BOE was specifically named in the first memo as one of the agencies that was receiving warrants, it is unclear into which group BOE falls.

Please feel free to contact Tax Counsel Miruni Soosaipillai at (916) 212-5756 or Supervising Tax Counsel Deborah Cooke at (916) 216-9409 if you have any further questions.

Approved:   
for Ramon J. Hirsig  
Executive Director

KC:es

Attachments

cc: Mr. Ramon J. Hirsig  
Ms. Jean Ogrod  
Ms. Deborah Cooke  
Ms. Miruni Soosaipillai

State of California

BUDGET LETTER 92-13

**M E M O R A N D U M**

**Date** : August 6, 1992

**To** : Agency Secretaries  
Department Directors  
Departmental Budget Officers  
Departmental Accounting Officers  
Department of Finance Budget Staff

**From** : DEPARTMENT OF FINANCE  
Office of the Director

**Subject**: Registered Warrants Remitted to the State

Budget Letter 92-12, issued August 4, 1992, provided instructions on how to handle the depositing of registered warrants. It should be clarified, however, that the instructions apply only to those agencies and departments which already have the authority to accept registered warrants. The Budget Letter does not provide any new authority for the acceptance of registered warrants.

If further clarification is needed, please call Robert Straight, Program Budget Manager, at 445-5332.



LaFENUS STANCELL  
Chief Deputy Director

bl:warrants.jl

THURSDAY, AUGUST 27

The Board met at its offices at 1020 N Street, Sacramento at 10:20 a.m. with Chairman Sherman, Vice Chairman Dronenburg and Mr. Fong present and Ms. Scott present on behalf of Mr. Davis in accordance with Government Code Section 7.9.

**BUSINESS TAXES MATTER HEARD AUGUST 26**

The Board deferred consideration of the matter in the appeal of *Wilshire Westwood Associates, HA HQ 36-018571*.

**FINAL ACTION ON PETITION HEARD AUGUST 26**

Upon motion of Mr. Fong, seconded by Mr. Dronenburg and unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Bennett absent, the Board ordered that the petition of *Wilshire Westwood Associates, HA HQ 36-018571* be denied.

**PROPERTY TAXES MATTERS**

Upon motion of Mr. Fong, seconded by Mr. Dronenburg and unanimously carried, Mr. Sherman, Mr. Dronenburg and Mr. Fong voting yes, Ms. Scott abstaining in accordance with Government Code Section 7.9, Mr. Bennett absent, the Board ordered that a \$132,108,005 unitary escape assessment of State-Assessed Property for the appeal of *Pacific Gas and Electric Company (135)*, in San Luis Obispo County be added to the 1992 Board roll in conformance with the Settlement Agreement and no penalties or interest are applicable.

Upon motion of Mr. Fong, seconded by Mr. Dronenburg and unanimously carried, Mr. Sherman, Mr. Dronenburg and Mr. Fong voting yes, Ms. Scott abstaining in accordance with Government Code Section 7.9, Mr. Bennett absent, for the appeal of *Southern Pacific Transportation Company (872), Nonunitary Escape Assessments*, the Board ordered that the following escape assessments be added to the 1992 Board Roll plus applicable penalty and interest:

SBE Map 872-39-44AC, Par 41

|      |    |            |
|------|----|------------|
| 1988 | -- | \$2,960.00 |
| 1989 | -- | \$2,960.00 |

THURSDAY, AUGUST 27 (continued)

1990 -- \$2,960.00  
1991 -- \$2,960.00

SBE Map 872-39-44AC, Par 42

1988 -- \$3,750.00  
1989 -- \$3,750.00  
1990 -- \$3,750.00  
1991 -- \$3,750.00

Upon motion of Mr. Fong, seconded by Mr. Dronenburg and unanimously carried, Mr. Sherman, Mr. Dronenburg and Mr. Fong voting yes, Ms. Scott abstaining in accordance with Government Code Section 7.9, Mr. Bennett absent, the Board ordered that for the appeal of *PacTel Cellular-San Diego (2512), Nonunitary Escape Assessments*, the following escape assessments be added to the 1992 Board Roll plus applicable penalty and interest:

SBE Map 2512-37-65, Par 1 Possessory Interest

1990 -- \$28,570.00  
1991 -- \$29,090.00

SBE Map 2512-37-67, Par 1 Possessory Interest

1989 -- \$34,470.00  
1990 -- \$34,310.00  
1991 -- \$55,810.00

Upon motion of Mr. Fong, seconded by Mr. Dronenburg and unanimously carried, Mr. Sherman, Mr. Dronenburg and Mr. Fong voting yes, Ms. Scott abstaining in accordance with Government Code Section 7.9, Mr. Bennett absent, the Board ordered that the changes to the 1992, 1991 and 1990 State-Assessed Rolls, be granted.

Upon motion of Mr. Fong, seconded by Mr. Dronenburg and unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, the Board ordered that the Timber Yield Tax Redetermination Schedule RD-2, which canceled a \$57,100.79 liability against Baldy and Baldy, Inc., as a result of the Hoopa Valley Tribe, et al. v. Richard Nevins, et al. be granted.

**RULEMAKING MATTERS**

THURSDAY, AUGUST 27 (continued)

As recommended by Mr. E. L. Sorensen, Jr., Chief Counsel, upon motion of Mr. Sherman, seconded by Mr. Fong and unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Bennett absent, the Board authorized publication of Sales and Use Tax Regulation 1574, Vending Machine Operators.

As recommended by Mr. Sorensen, upon motion of Mr. Dronenburg, seconded by Mr. Fong and unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Bennett absent, the Board authorized publication of Sales and Use Tax Regulation 1594, Watercraft.

As recommended by Mr. Sorensen, upon motion of Mr. Dronenburg, seconded by Mr. Fong and unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Bennett absent, the Board authorized publication of Sales and Use Tax Regulations 5104 & 5108, Settlement of Disputed Tax Liabilities (and adoption of the published versions of the remainder of Regulations 5100-5110).

As recommended by Mr. Sorensen, upon motion of Mr. Dronenburg, seconded by Mr. Fong and unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Bennett absent, the Board authorized publication of Sales and Use Tax Regulation 1802, Place of Sale for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes.

#### **WELFARE EXEMPTION CLAIM MATTER**

Mr. Fong moved that the request for review be granted; the motion was seconded by Mr. Dronenburg; Mr. Fong withdrew his motion. Upon motion of Mr. Dronenburg, seconded by Mr. Fong and unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Bennett absent, the Board deferred consideration on this matter for the appeal of *China Connection, Los Angeles County, WEC92-004*.

Ms. Scott left the Board room.

Mr. Davies entered the Board room.

#### **ALTERNATIVE TAX PAYMENT METHODS FOR TAXPAYERS OWED MONEY BY THE STATE**

THURSDAY, AUGUST 27 (continued)

Upon motion of Mr. Davies, seconded by Mr. Dronenburg and unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Mr. Davies voting yes, Mr. Bennett absent, the Board adopted the Oliver resolution to accept registered warrants.

Upon motion of Mr. Davies, seconded by Mr. Dronenburg and unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Mr. Davies voting yes, Mr. Bennett absent, the Board adopted the Sherman proposal subject to approval of Department of Finance. By the same motion, the Board granted the staff the authority to make necessary changes to procedures and forms.

Mr. Oliver reported on the status of the budget.

The Board recessed from 11:30 a.m. to 11:40 a.m. and reconvened with Mr. Dronenburg, Mr. Fong and Ms. Scott present.

#### **RETIREMENT RESOLUTION**

Upon motion of Mr. Fong, seconded by Ms. Scott and unanimously carried, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Sherman and Mr. Bennett absent, the Board adopted a resolution extending to Carol Reed, Van Nuys District Office, its best wishes on her retirement and its appreciation for her service to the Board and the State of California. A copy of the resolution is incorporated in these minutes by reference (Exhibit 8.4).

#### **ASSESSORS' HANDBOOK 215, STANDARDS FOR ASSESSORS' MAPS, PARCEL NUMBERING AND TAX-RATE AREA SYSTEMS**

Upon motion of Mr. Fong, seconded by Ms. Scott and unanimously carried, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Sherman and Mr. Bennett absent, the Board approved the Assessors Handbook 215.

THURSDAY, AUGUST 27 (continued)

**OUT-OF-STATE TRAVEL**

As recommended by Mr. Oliver, upon motion of Mr. Fong, seconded by Ms. Scott and unanimously carried, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Sherman and Mr. Bennett absent, the Board approved the out-of-state travel schedule dated August 27, 1992. A copy of the schedule is incorporated in these minutes by reference (Exhibit 8.5).

**LEGISLATIVE COMMITTEE REPORT**

Margaret Shedd, Legislative Counsel, presented the Legislative Committee Report dated August 26, 1992. A copy of the report is incorporated in these minutes by reference (Exhibit 8.6).

Upon motion of Mr. Fong, seconded by Ms. Scott and unanimously carried, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Sherman and Mr. Bennett absent, the Board approved the committee report.

**PRECOLLECTION OF SALES TAX ON FUELS**

The Board concurred.

**FRANCHISE AND INCOME TAXES HEARINGS**

Joseph F. and Mary E. Purcell, 91R-0729  
1985, \$19,419.02

For Appellant: Mark Roseman, Accountant  
Joseph M. Purcell, Witness

For Franchise Tax Board: Edward Kline, Counsel

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether appellants have established their entitlement to a bad debt deduction for the payment of certain loan guarantees by appellants.

THURSDAY, AUGUST 27 (continued)

Action: Upon motion of Mr. Fong, seconded by Ms. Scott and unanimously carried, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Sherman and Mr. Bennett absent, the Board ordered that the appeal be submitted for decision.

Patrick B. and Marjorie S. Dancer, 90A-1505  
1981, \$11,815.00  
1982, \$ 9,440.00  
1983, \$ 2,879.00

For Appellant: Lewis R. Wiener, Attorney  
Marjorie Dancer  
Patrick B. Dancer

For Franchise Tax Board: Edward Kline, Counsel

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether respondent properly characterized as a constructive dividend the aggregate corporate funds used to construct a single-family residence on property owned by appellants.

Whether respondent properly treated the gain from the sale of the residence as incurred by appellants rather than their corporation.

Whether respondent properly treated corporate payments to appellants for the use of their vehicles as constructive dividends rather than rental payments.

Action: Upon motion of Mr. Fong, seconded by Ms. Scott and unanimously carried, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Sherman and Mr. Bennett absent, the Board ordered that the appeal be submitted for decision.

The Board recessed at 1:00 p.m. and reconvened at 1:05 p.m. with Mr. Dronenburg, Mr. Fong and Ms. Scott present.

John Lee and Renee Alicia Carrico, 91R-0242  
1986, \$7,870.00  
1987, \$6,137.00

For Appellant: John Lee Carrico

For Franchise Tax Board: Anna Jovanovich, Counsel

THURSDAY, AUGUST 27 (continued)

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether appellants were residents of California during 1986, 1987, 1988 and 1989.

Action: Upon motion of Ms. Scott, seconded by Mr. Fong and unanimously carried, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Sherman and Mr. Bennett absent, the Board ordered that the appeal be submitted for decision.

Harbor Properties, 91A-0452  
9-30-84, \$336,198.00

For Appellant: Gary Conner, Attorney  
Roy Vallarino, Witness

For Franchise Tax Board: H. Kent Holman, Counsel

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether appellant successfully effected a like-kind exchange so as to come within the requirements for nonrecognition of gain set forth in Revenue and Taxation Code section 24941.

Mr. Sherman entered the Board room.

Mr. Fong left the Board room.

Action: Upon motion of Ms. Scott, seconded by Mr. Sherman and unanimously carried, Mr. Sherman, Mr. Dronenburg and Ms. Scott voting yes, Mr. Fong and Mr. Bennett absent, the Board ordered that the appeal be submitted for decision.

## **FRANCHISE AND INCOME TAXES MATTERS**

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

The Board deferred consideration of the opinion in the appeal of *The Nutrasweet*

THURSDAY, AUGUST 27 (continued)

*Company, 87N-1645.*

Upon motion of Mr. Dronenburg, seconded by Ms. Scott and unanimously carried, Mr. Sherman Mr. Dronenburg voting yes, Ms. Scott voting yes on all except abstaining on Subitems 1 and 13, Mr. Fong and Mr. Bennett absent, the Board approved the remainder of the staff recommendations with respect to Franchise and Income Tax Decisions Schedule dated August 27, 1992. A copy of the Schedule is incorporated in these minutes by reference (Exhibit 8.7).

Because of unsatisfactory contribution disclosures, the Board took no action in the appeals of *Charles (Deceased) and Josephine Ish, 89A-1365; Richard and Ellen Posell, 90R-0974; and William G. Wilt, 90A-1496.*

Mr. Brenner withdrew subitem 4, the appeal of *Robert F. and Marcia A. Smith, 89A-1318.*

The Board deferred consideration of the matters in the appeals of *Micro D, Inc., 0934878, Taxpayer, Ingram Computer, Inc., 1130770, Assumer and/or Transferee, 91A-0205; Paul B. and Haviland C. Thompson, 90R-0822; and Trico Bancshares, 87A-0224 and 90A-0061.*

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Upon motion of Mr. Dronenburg, seconded by Ms. Scott and unanimously carried, Mr. Sherman, Mr. Dronenburg and Ms. Scott voting yes, Mr. Fong and Mr. Bennett absent, the Board ordered that the appeals of *Chuck Venezia, 90R-1098; The William Lyon Company, 89A-0707; and The Walton Associated Companies, 89A-0933,* be sustained.

## FRANCHISE AND INCOME TAXES HEARINGS

Richard N. and Janice L. Lawrence, 90A-0405  
1983, \$1,941.93

For Appellant: Richard Lawrence

For Franchise Tax Board: Mark McEvelly, Counsel

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed. Ms. Scott stated that she would not participate in this hearing.

THURSDAY, AUGUST 27 (continued)

Issue: Whether the Franchise Tax Board properly included in appellants' California taxable income a lump-sum pension distribution attributable to services performed in another state but paid to appellants after they became residents of California.

Whether the Franchise Tax Board has correctly computed its adjustments to appellants' income, including adjustments based on a federal audit report and on an amended federal return.

Action: Upon motion of Mr. Dronenburg, seconded by Ms. Scott and unanimously carried, Mr. Sherman, Mr. Dronenburg and Ms. Scott voting yes, Mr. Fong and Mr. Bennett absent, the Board ordered that the appeal be submitted for decision.

John Mueller, 90R-0178

1981, \$3,160.00

1982, \$3,336.00

1983, \$3,440.00

1984, \$3,064.00

For Appellant: Appearance Waived

For Franchise Tax Board: H. Kent Holman, Counsel

Contribution Disclosures pursuant to Government Code Section 15626: No contribution disclosures were filed for this hearing.

Action: The Board took no action.

The Board adjourned at 3:20 p.m.

Attest:

Executive Director

MONDAY, AUGUST 10

The Board met at its offices at 690 West Knox Street, Torrance at 10:10 a.m. with Chairman Sherman, Vice Chairman Dronenburg and Mr. Fong present and Ms. Scott present on behalf of Mr. Davis in accordance with Government Code Section 7.9.

**BUSINESS TAXES MATTERS**

Lars Tragardh, Naveed Iqbal, Sauveur Chemouni, Michael Tolson, and David Kaweck, a partnership, SN BH 01-949317  
1-1-84 to 5-2-86, \$26,807.36

Considered by the Board on: April 1, 1992

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Action: The Board concluded that the petitioner's furnishing of animation on magnetic computer tape was a taxable sale of tangible personal property and not a furnishing of nontaxable services; that the petitioner was not a producer of motion picture productions under Regulation 1529; and that the petitioner had no written evidence as required by Section 6596 to prove misinformation. Therefore, the petitioner is liable for the tax on its sales of computerized animation to its customers.

The Board also concluded that all partners in the partnership are jointly and severally liable for the partnership's sales and use tax liability.

Accordingly, upon motion of Mr. Fong, seconded by Dronenburg, and unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Bennett absent, the Board ordered that the tax be redetermined without adjustment. However, the Board ordered that the 10% penalty for failure to file returns be cancelled.

Dilligham Heavy Construction, Inc., SZ JHF 27-705082  
1-1-85 to 12-31-87, \$796,457.69

Considered by the Board on: April 2, 1992

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Action: The Board concluded that the rock and aggregate transfers to the joint venture were retail sales and not nontaxable contributions of capital; that there was no misinformation

MONDAY, AUGUST 10 (continued)

given to the taxpayer by the Department; that the requirements for exemption for any of the rock and aggregate sales and fixed asset sales have not been met, and that the negligence penalty be deleted.

Accordingly, Mr. Dronenburg moved that the petition be granted with respect to transactions outside the 3-mile limit; the motion failed for a lack of a second.

Mr. Sherman moved that the petition be granted with respect to the \$4.6 million in addition to 30% of the remainder of the determined amount; Mr. Fong seconded the motion but it failed to carry, Mr. Sherman and Mr. Fong voting yes, Mr. Dronenburg and Ms. Scott voting no, Mr. Bennett absent, the Board deferred consideration of this petition to its August 11, 1992 meeting.

Edi R. and Fred H. Vickers, SR GH 26-757564  
4-1-86 to 3-31-89, \$62,966.67

Considered by the Board on: May 5, 1992

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Action: The Board concluded that the artwork in question was purchased for resale in the regular course of business.

Accordingly, upon motion of Mr. Fong, seconded by Mr. Dronenburg, unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Bennett absent, the Board ordered that the purchases of artwork be deleted from the amount subject to tax and that the matter be otherwise redetermined in accordance with the reaudit report dated December 10, 1990.

Musleh Lutf Ali, SR DHA 22-748549  
7-1-84 to 6-30-87, \$33,372.25

Considered by the Board on: May 20, 1992

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Action: The Board concluded that the taxpayer intentionally underrecorded taxable purchases for the purpose of underreporting taxable sales.

Accordingly, upon motion of Mr. Dronenburg, seconded by Ms. Scott and

MONDAY, AUGUST 10 (continued)

unanimously carried, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Sherman abstaining, Mr. Bennett absent, the Board ordered that the tax and penalty be redetermined without adjustment.

Meymarian Bros., Inc., SR AC 13-692687  
10-1-85 to 9-30-88, \$21,371.31

Considered by the Board on: March 4, 1992

Action: The Board concluded that the taxpayer failed to keep adequate records and was negligent in reporting taxable sales.

Accordingly, upon motion of Mr. Dronenburg, seconded by Mr. Sherman and unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Bennett absent, the Board ordered that the request for rehearing be denied.

Upon motion of Mr. Dronenburg, seconded by Ms. Scott and unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Bennett absent, the Board approved the staff recommendations with respect to requests for refunds. A copy of the schedule dated August 10, 1992, is incorporated in these minutes by reference (Exhibit 8.1).

## **ADMINISTRATIVE MATTERS**

Burton W. Oliver, Executive Director, reported that there is still no 1992-93 State budget. The Board's biggest resulting operating problem is travel funds for auditors. If the Board continues to operate without funds, audit revenues will fall.

Mr. Dronenburg noted that the Board had considered two draft versions of amendments to Sales Tax Regulation 1802, Place of Sale for Purposes of Bradley Burns Uniform Local Sales and Use Taxes. He stated that he would send his draft to the Members and asked that it be scheduled for authorization to publish at the next Sacramento meeting. He suggested that the issue of confidentiality of tax payment data be referred to the Legislative Committee.

## **BUSINESS TAXES HEARINGS**

Reliance Development Figueroa, Ltd. Ptn., SR AA 11-722227  
1-1-87 to 11-1-89, \$64,728.01

MONDAY, AUGUST 10 (continued)

For Department of Business Taxes: Robert Nunes, Deputy Director  
Dennis Fox, Hearing Representative

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether the understatement of retail sales was established in accordance with the facts.

Action: Upon motion of Mr. Fong, seconded by Ms. Scott and unanimously carried, Mr. Fong, Mr. Dronenburg and Ms. Scott voting yes, Mr. Sherman and Mr. Bennett absent, the Board ordered that the petition be submitted for decision.

Nazih Sami Khoury, SR ADA 14-699201  
2-1-85 to 6-30-86, \$195,144.64

For Petitioner: Nazih Khoury, Owner  
John W. Tulac, Attorney  
Yocoub Khoury, Witness

For Department of Business Taxes: Robert Nunes, Deputy Director  
Dennis Fox, Hearing Representative

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether a basis exists for the Board to increase the amount of tax determined.  
Whether the resale certificate and "XYZ" letter obtained from the petitioner's brother were accepted in good faith.  
Whether the Board is required to and has provided evidence to show that the resale certificate was not taken in good faith.  
Whether relief from the penalty for fraud or intent to evade the tax is warranted.

Action: Upon motion of Ms. Scott, seconded by Mr. Fong and unanimously carried, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Sherman and Mr. Bennett absent, the Board ordered that the petition be submitted for decision, granting the petitioner 30 days to submit additional documents.

The Board recessed at 12:15 p.m. and reconvened at 1:40 p.m. with Mr. Sherman, Mr. Dronenburg, Mr. Fong and Ms. Scott present.

MONDAY, AUGUST 10 (continued)

For Petitioner: Warner McLean, Vice-President, Tax  
Robert R. Richmond, Director

For Department of Business Taxes: Robert Nunes, Deputy Director  
Gary J. Jugum, Counsel

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether the negotiation of the amount of the gratuity to be included in the banquet contract makes the gratuity optional rather than mandatory.

Mr. Davis entered the Board room; Ms. Scott left the Board room.

Action: Upon motion of Mr. Dronenburg, seconded by Mr. Fong and unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Mr. Davis voting yes, Mr. Bennett absent, the Board ordered that the petition be granted.

Ms. Scott entered the Board room, and Mr. Davis left.

### **DISCUSSION OF REGISTERED WARRANTS**

Mr. Oliver and E. L. Sorensen, Chief Counsel, reported that before August 5, 1992, endorsed registered warrants were received in payment of amounts due the Board. On August 5, Bank of American stopped accepting these warrants for deposit. Because the warrants are negotiable instruments, the staff proposes to continue to accept them, hold them until they are redeemable, then deposit them with the State Treasurer. In the best interest of the State, the staff will continue to accept them.

The Board recessed at 11:20 a.m. and reconvened at 11:40 a.m. with Mr. Dronenburg, Mr. Fong and Ms. Scott present.

### **BUSINESS TAXES HEARINGS**

Dennis H. & Bonita K. Kline, SR AC 13-715712  
1-1-86 to 12-31-88, \$5,880.00

For Petitioner: Dennis H. Kline, Owner



MONDAY, AUGUST 10 (continued)

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether the evidence show that the tax was paid to the Board by the lessee either measured by the rental payments or measured by the purchase price, or was paid a part of a deficiency established by audit.

Whether the petitioner acted as an agent of the corporation which made the purchase from the manufacturer.

Whether rental receipts can be excluded from the tax.

Whether only the lessee can be liable for the use tax measured by rental receipts.

Whether the statute of limitations prevents the Board from collecting this tax.

Whether the substance of the arrangement was merely a nontaxable financing transaction.

Action: Upon motion of Mr. Dronenburg, seconded by Ms. Scott and unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Bennett absent, the Board ordered that the petition be submitted for decision.

Mr. Sherman left the Board room.

Noble Adrian Howze, SR DHA 22-705920  
7-1-83 to 9-30-86, \$15,477.12

For Petitioner: Noble Howze  
Christopher A. Strong, CPA

For Department of Business Taxes: Robert Nunes, Deputy Director  
David H. Levine, Counsel

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether certain items of equipment withdrawn from resale inventory and charged to a capital account for depreciation purposes were in fact resold without any intervening use.

Whether sufficient evidence has been provided to prove that certain sales qualify as exempt sales for resale to Mexican merchants or exempt sales in foreign commerce.

Action: Upon motion of Ms. Scott, seconded by Mr. Fong and unanimously carried,

MONDAY, AUGUST 10 (continued)

Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Sherman and Mr. Bennett absent, the Board ordered that the petition be submitted for decision, directing the Assistant Chief Counsel, Appeals Review Section, to discuss documentation with the petitioner.

Mr. Sherman entered the Board room.

Karman Ltd. Architectural Products, SS AC 13-765500  
4-1-86 to 3-31-89, \$54,823.14

For Petitioner: Andrew Cooper, President  
Charles Nagel, Attorney

For Department of Business Taxes: Robert Nunes, Deputy Director  
David L. Levine, Counsel

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether the signs furnished and installed by the petitioner are materials rather than fixtures.

Whether the petitioner received and relied upon misinformation qualifying for relief within the meaning of Revenue and Taxation Code Section 6596.

Action: Upon motion of Mr. Sherman, seconded by Mr. Dronenburg and unanimously carried, Mr. Sherman, Mr. Dronenburg, Mr. Fong and Ms. Scott voting yes, Mr. Bennett absent, the Board ordered that the petition be granted with respect to the structures and console, that the staff reaudit the labor accounts, and that the petition otherwise be redetermined.

The Board recessed at 3:40 and reconvened at 3:45 with Mr. Dronenburg, Mr. Fong and Mr. Scott present.

#### ADMINISTRATIVE MATTERS

Mr. Oliver reported that the Auditor General released a report with reference to a Board of Equalization auditor who accepted a bribe. The auditor was placed on administrative leave and then was dismissed effective the date of the bribery.

MONDAY, AUGUST 10 (continued)

Mr. Oliver reported that the Department of Finance denied the Board's proposal to participate in the Administration's early retirement program.

Mr. Sherman announced that the Board will meet October 5, 1992, in San Francisco and that meetings for the remainder of the week are canceled. October 30 and November 20 meeting dates will be held in reserve, as will the week of December 7. The work for the week of November 20 and December 7 will be combined.

**FINAL ACTION ON MATTERS HEARD AUGUST 10, 1992**

Upon motion of Mr. Dronenburg, seconded by Mr. Fong and duly carried, Mr. Dronenburg and Mr. Fong voting yes, Ms. Scott voting no, Mr. Sherman abstain, Mr. Bennett absent, the Board ordered that the petition of *Dennis H. & Bonita K. Kline*, SR AC 13-715712 be redetermined, reducing the measure by 50%.

**BUSINESS TAXES HEARINGS**

Mundorf Corp., SR AB 12-697185  
7-1-84 to 6-30-87, \$5,702.40

For Petitioner: No Appearance

For Department of Business Taxes: Robert Nunes, Deputy Director  
Dennis Fox, Hearing Representative

Contribution Disclosures pursuant to Government Code Section 15626: No contribution disclosures were filed.

Action: The Board took no action.

Stan's Wines & Spirits, Inc., SR AB 13-818465  
10-1-87 to 10-19-89, \$55,481.88

For Petitioner: No Appearance

For Department of Business Taxes: Robert Nunes, Deputy Director  
Dennis Fox, Hearing Representative

Contribution Disclosures pursuant to Government Code Section 15626: No contributions

MONDAY, AUGUST 10 (continued)

were disclosed.

Action: The Board took no action.

Franklin P. Peters, Advina Margorie Kadir, & Shanti I. Peters, SR AC 13-798865  
11-1-85 to 6-30-90, \$178,998.00

For Petitioner: No Appearance

For Department of Business Taxes: Robert Nunes, Deputy Director  
Dennis Fox, Hearing Representative

Contribution Disclosures pursuant to Government Code Section 15626: No contribution disclosures were filed.

Action: The Board took no action.

The Board recessed at 4:15 and reconvened immediately in closed session with Mr. Sherman, Mr. Fong and Ms. Scott present.

**CLOSED SESSION**

The Board met to discuss personnel matters and litigation.

The Board adjourned at 4:50.

Attest:

Executive Director

State of California

Jan  
Board of Equalization

## Memorandum

To : All District Administrators

Date : August 3, 1992

From : Catherine Metz, Chief  
Administrative Services Division

Subject : Processing of State Registered Warrants After August 4, 1992

In the event the Budget Act is not adopted before August 5, 1992, many banks will no longer accept the State Registered Warrants (RW). However, the Board will continue accepting RW's as payment for tax liability. If RW's are used by the taxpayer, the following procedures should be followed.

DISTRICT OFFICE PROCEDURETaxpayer Paying with Registered Warrant (RW)

If a taxpayer presents an RW as payment for a tax liability after August 4, 1992, the RW should be accepted as payment but not be deposited. The RW and the pay document should be sent to the Headquarters Cashier Unit (HQCU) for processing.

Taxpayer Requests Receipt

This should be prepared only upon request. Prepare a GA-602 receipt, with copies to distribute as follows:

- \* Original copy is given to taxpayer
- \* Second copy to HQCU
- \* Third copy (yellow) retained by district office

The receipt, RW and pay document should be sent to HQCU for processing.

Field Office Cash Transmittal Report (GA-603)

List the account number and amount of the RW. Make a notation "Sent to HQCU for processing".

Cash Register Receipt (Tape)

This should not be used, but if one is prepared inadvertently, then, minus the amount of the receipt from the total on the transmittal (GA-603). Write on the transmittal that the receipt, RW and pay document were sent to HQCU for processing.

Aug 5.92 13:3

All District Administrators -2-

August 3, 19

Cash Registered Receipt (Tape) Cont'

Forward a photocopy of the portion of tape pertaining to the RW, to HQCU. Please include the pay document and the RW.

**HEADQUARTERS, CASHIER UNIT RESPONSIBILITIES**

Preparing Transmittal (GA-603)

HQCU will prepare a transmittal (GA-603) for all RW's received that day. Previously prepared receipts (GA-602) will be listed on the transmittal prepared by the HQCU.

Those documents received without a receipt (GA-602) will have one prepared by the HQCU and will be listed on the transmittal (GA-603).

Processing Pay Document

The pay document will be processed as a paid document.

Registered Warrants

RW's will be held for deposit in the HQCU until they are directed to deposit them.

Questions regarding these procedures should be directed to Bettie Walker at 323-2325, Calnet 473-2325 or Jeanne Marshall at 323-2144, Calnet 473-2144 of the HQCU.

*Catherine*

CM:gm

cc: Mr. Burt Oliver  
Ms. Judy Agan  
Mr. Robert Nunes  
Mr. Charles Cordell  
Ms. Jan Tankersley  
Ms. Jeanne Marshall  
Principal Compliance Supervisors

# Memorandum

To : District Administrators

Date : August 3, 1992

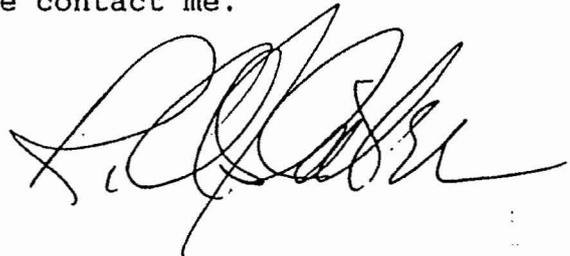
From : R. A. Slater

Subject : Acceptance of Registered Warrants

Registered warrants are to be accepted as payment for all taxes administered by the Board.

Even though the warrants are not redeemable until a future date not yet to be determined, procedures outlined in CPPM Sections 510.150 through 510.220 relating to effective dates of payment are applicable. Penalty and interest will apply only when the effective date of payment is subsequent to the due date.

Should you have any questions, please contact me.



RAS:jk

|                                   |                             |
|-----------------------------------|-----------------------------|
| cc: Mr. Robert Nunes              | ) Please ensure that should |
| Mr. Allan K. Stuckey              | ) our depositing banks      |
| Mr. Glenn A. Bystrom              | ) return these warrants     |
| Ms. Joan Albu                     | ) unpaid they are not       |
| Mr. E. V. Anderson                | ) treated as dishonored     |
| Mr. Dennis D. Smith               | ) checks for purposes of    |
| Mr. Ron Taussig                   | ) taxpayer notification     |
| Ms. Jan Tankersley                | ) and billing.              |
| Ms. Jeanne Marshall               | )                           |
| Supervisor, Cashier Section       | )                           |
| Supervisor, Return Review Section | )                           |

RECEIVED

AUG 04 1992

Board of Equalization  
Admin. Processing Section



AUG 06 1992

# Memorandum

To : Honorable Brad Sherman  
Honorable Ernest J. Dronenburg, Jr.  
Honorable William M. Bennett  
Honorable Matthew K. Fong  
Honorable Gray Davis

Date: August 6, 1992

From : E. L. Sorensen, Jr.

Subject: State Registered Warrants

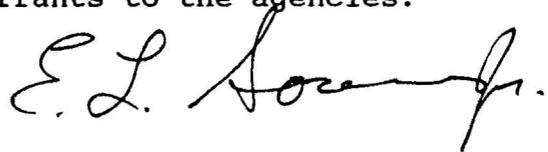
This is to give you an update on the question of whether the Board should accept State Registered Warrants submitted by taxpayers as payment for their business taxes liabilities.

Initially, the districts were notified that the warrants were acceptable as payments for tax liabilities (See August 3, 1992 memoranda from Slater and Metz, attached). We have since put that advice "on hold" in order to further consider the legal ramifications of this course of action. (See August 6, 1992 memoranda from Metz, attached). We will report our findings to you and try to get a sense of the Board on this issue next week during the Monday morning administrative agenda in Torrance.

For your information, attached are memoranda from the Department of Finance (DOF) dated August 4 and 6 which pertain to the general processing of warrants when accepted by state agencies. As you can see, DOF has left the determination as to the propriety of accepting these warrants to the agencies.

ELS:sb

cc: Mr. Burton W. Oliver  
Ms. Judy Agan  
Mr. Robert Nunes  
Mr. Ron Taussig  
Mr. Richard Slater  
Mr. Allan Stuckey  
Ms. Catherine Metz  
Mr. Gary Jugum  
Mr. Larry Augusta



**Memorandum****To** : All District Administrators**Date** : August 6, 1992**From** : Catherine Metz, Chief  
Administrative Services Division**Subject** : State Registered Warrants

An issue has been raised regarding the legality of the Board of Equalization's continued acceptance of State Registered Warrants as payment for taxes administered by the Board. This is currently being reviewed by the Board of Equalization's legal staff and will be discussed with the Board Members at next week's meeting.

Until further notice, taxpayer's attempting to pay by means of Registered Warrants should be informed that until a decision is made by the Board on this issue, warrants will not be accepted as payment for their tax liabilities. Accordingly, appropriate interest and penalty could apply.

*Catherine*

CM:gm

cc: Mr. Burt Oliver  
Ms. Judy A. Agan  
Mr. Bob Nunes  
Mr. Ron Taussig  
Ms. Jan Tankersley  
Ms. Jeanne Marshall  
Principal Compliance Supervisors

**M E M O R A N D U M**

Date : August 4, 1992

To : Agency Secretaries  
Department Directors  
Departmental Budget Officers  
Departmental Accounting Officers  
Department of Finance Budget Staff

From : DEPARTMENT OF FINANCE  
Office of the Director

Subject: Registered Warrants Remitted to the State

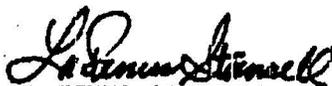
Effective July 1, 1992, the State Controller's Office began issuing registered warrants to meet the state's non-Constitutional General Fund obligations. These payments include disbursements to vendors for food, medicine and supplies, and refunds to taxpayers. Pursuant to Government Code Section 17205, these registered warrants are negotiable instruments. As a result, departments, primarily the Franchise Tax Board, the Board of Equalization, the Employment Development Department and the Department of Motor Vehicles have been receiving registered warrants as payments for liabilities owed to the State (e.g., a citizen will submit a registered personal income tax refund to the Department of Motor Vehicles to pay vehicle license fees, etc.)

As long as financial institutions continue to accept the registered warrants, registered warrants received as payment to the State should be deposited with the financial institutions. The financial institutions will then earn any interest accrued on the registered warrant from the date of issuance to the date the warrant is first advertised as redeemable.

When the banks no longer accept registered warrants for deposit, however, departments should hold the warrants until they are called for redemption by the State Treasurer's Office. *At that time, the warrants should be submitted to the Treasurer's Office for redemption, rather than deposited with the department's financial institution.* This action will allow the General Fund to be credited for interest earnings on registered warrants which were held by the State until redeemable.

For information on redemption dates for registered warrants, the State Controller's Office has established a toll-free telephone line at 1-800-992-4647.

If you have any questions about this memo, please call Robert Straight, Program Budget Manager, at 445-5332.

  
LaFENUS STANCELL  
Chief Deputy Director

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