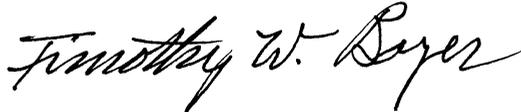


Memorandum

To: Ms. Betty Yee, Acting Member
Honorable Bill Leonard
Honorable Claude Parrish
Honorable John Chiang
Honorable Steve Westly

Date: December 6, 2004

From: Timothy W. Boyer
Chief Counsel



Subject: **December 14, 2004 – Public Hearing**
Amendment of the State Board of Equalization’s Conflict of Interest Code
Regulation 6001 - 15-Day Notice File

The proposed amendment of the State Board of Equalization’s Conflict of Interest Code (18 Cal. Code of Regulations §6001, “the Code”) is scheduled for public hearing on December 14, 2004. For the reasons discussed below, at the public hearing staff will ask the Board to place the proposed amendment of the Code into a 15-day notice file. The Code will be brought back for adoption as a Chief Counsel Matter at the January 24-25, 2005 meeting.

We are asking to have the Code amendment placed into a 15-day notice file because the Fair Political Practices Commission (FPPC), based on their review of the previously noticed proposed revisions, is asking the Board to make certain additional changes to Appendices A and B of the Code. Also, a new classification — CEA (Communications Office) — is being added to the Code, which did not exist at the time staff requested authorization to publish the Code.

Attached are copies of Appendices A and B. The previously noticed revisions are in ~~strikeout~~ and underline format. The new revisions are reflected in a ~~bracketed-strikeout~~ and double-underline format. New substantive revisions are also listed and discussed below.

Appendix A

The FPPC has asked the Board to review the disclosure requirements of the CEA classifications to ensure that the disclosure category for each reflects only those potential conflicts of interest an employee in the CEA position might have. Currently, all employees in Board CEA classifications report in the “All” disclosure category. Recommended disclosure category revisions for certain CEA classifications and other recommended revisions are discussed below under the applicable unit headings.

Executive

Add the new CEA (Communications Office) classification with an “All” disclosure category.

Administrative Support Division

For the Staff Services Manager and Telecommunications Systems Analyst classifications, disclosure category 11 has been revised to disclosure category 10. This change is required because, as discussed below under Appendix B, category 11 is being renumbered to category 10.

Personnel Management Division

Based on a review of the duty statement, it appears that the current disclosure category of “All” may be too broad for the CEA classification in the Personnel Management Division. Disclosure categories “7-9” better reflect the types of decisions made by, and the potential conflicts of interest of, an employee in this CEA classification.

Assessment Policy and Standards Division and Valuation Division

Based on a review of the duty statements, it appears that the current disclosure category of “All” may be too broad for CEA classifications in the Assessment Policy and Standards Division and Valuation Division. Disclosure categories “3,7-9” better reflect the types of decisions made by, and the potential conflicts of interest of, employees in these CEA classifications.

County Property Tax Division

Based on a review of the duty statement, it appears that the current disclosure category of “All” may be too broad for the CEA classification in the County Property Tax Division. Disclosure categories “3,4,7-9” better reflect the types of decisions made by, and the potential conflicts of interest of, an employee in this CEA classification.

Excise Taxes and Fees Division and Fuel Taxes Division

Based on a review of the duty statements, it appears that the current disclosure category of “All” may be too broad for CEA classifications in the Excise Taxes and Fees Division and the Fuel Taxes Division. Disclosure categories “1,2,7-9” better reflect the types of decisions made by, and the potential conflicts of interest of, employees in these CEA classifications.

Sales and Use Tax Department

Based on a review of the duty statements of CEA classifications in the Sales and Use Tax Department, it appears that the current disclosure category of “All” may be too broad for employees in CEA 2 classifications. Disclosure categories “1,2,7-9” better reflect the types of decisions made by, and the potential conflicts of interest of, employees in CEA 2 classifications. Employees in CEA 3 or 4 classifications would continue to report in the “All” disclosure category.

Appendix B

As recommended by the FPPC, each disclosure category has been revised to start with the following language: “Designated employees in this category must report ...” Also at the recommendation of the FPPC, the words “source of” are being added in front of “income” in each disclosure category. Other recommended revisions are discussed by disclosure category below.

Disclosure Categories 1 and 2

As required by the FPPC, the words “of the type” have been added to these categories so that category covers not just those who are licensed, regulated by, or registered with the Board, but those who should be licensed, regulated by, or registered by with Board.

Disclosure Category 3

As required by the FPPC, the words “of the type” have been added so as to cover all property that may fall within the assessment jurisdiction of the Board. The phrase “during the previous two years” has been deleted because it serves little purpose in conjunction with the words “of the type.” The FPPC also indicated that the phrase “except interests in real property which is used principally as the residence of the employee” must be deleted. The FPPC explains that this language is misleading since there are circumstances when a primary residence may be reportable. For example, if an individual runs a business out of a residence he or she owns, even though the property is a residence, it may be reportable.

Disclosure Category 4

The phrase “during the previous two years” has been deleted because it serves little purpose in conjunction with the words “of the type.”

Disclosure Category 7

Consistent with direction provided by the FPPC, we have changed this category to read “of the type utilized by the Board,” rather than “which, within the previous two years, contracted with the Board or the State of California.” The listed interests have also been slightly modified to eliminate redundancy.

Disclosure Category 8

As with Category 7, we have changed this category, which is limited to information technology and duplication services, to read “of the type utilized by the Board,” rather than “which, within the previous two years, contracted with the Board or the State of California.”

Disclosure Category 9

As with Category 7, we have changed this category, which is limited to goods and services involving personnel and training, to read “of the type utilized by the Board,” rather than “which, within the previous two years, contracted with the Board or the State of California.”

Disclosure Category 10

This category has been deleted because, with the revision of category 7, it is now redundant. Also, with the exception of those in the “All” disclosure category, no employees were reporting in this disclosure category.

Disclosure Category 11

This category has been renumbered “Category 10.”

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If you have any questions regarding this matter, please contact Senior Tax Counsel Ani Kindall at (916) 324-2195 or me at (919) 445-4380.

Approved



Ramon J. Hirsig

Date

12-9-04

Attachments – Appendices A and B, dated December 6, 2004

cc: Mr. Ramon J. Hirsig
Ms. Deborah Pellegrini
Ms. Jean Ogrod

CIC 15-day recom

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bc: Ms. Marcy Jo Mandel

APPENDIX B

DISCLOSURE CATEGORIES

CATEGORY 1

~~[Reporting Requirements: Investments and]~~ Designated employees in this category must report investments, business positions in business entities, and sources of income, including loans, gifts and travel payments, from sources of the type licensed or regulated by or registered with the Board under the Bradley-Burns Uniform Local Sales and Use Tax Law, the Sales and Use Tax Law, and the Transactions and Use Tax Law.

CATEGORY 2

~~[Reporting Requirements: Investments and]~~ Designated employees in this category must report investments, business positions in business entities, and sources of income, including loans, gifts and travel payments, from sources of the type licensed or regulated by or registered with the Board under the Alcoholic Beverage Tax Law, ~~Marine Invasive Species Fee Collection Law, California Cigarette and Tobacco Products Licensing Act of 2003,~~ California Tire Fee Law, Childhood Lead Poisoning Prevention Fee Law, Cigarette and Tobacco Products Tax Law, Diesel Fuel Tax Law, ~~Electronic Waste Recycling Act of 2003,~~ Emergency Telephone Users Surcharge Law, Energy Resources Surcharge Law, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, International Fuel Tax Agreement, ~~Marine Invasive Species Fee Collection Law,~~ Motor Vehicle Fuel Tax Law, Natural Gas Surcharge Law, Occupational Lead Poisoning Prevention Fee Law, Oil Spill Response, Prevention, and Administration Fees Law, Underground Storage Tank Maintenance Fee Law, ~~and Use Fuel Tax Law, or Water Rights Fees.~~

CATEGORY 3

~~[Reporting Requirements: (1) Investments and]~~ Designated employees in this category must report investments, business positions in business entities, and sources of income, including loans, gifts and travel payments, from sources [which] that own, or owned, property of the type assessed or valued or exempted by the Board [during the previous two years; (2) Interests] and interests in real property located within the State of California [except interests in real property which is used principally as the residence of the employee].

CATEGORY 4

~~[Reporting Requirements: (1) Investments and]~~ Designated employees in this category must report investments, business positions in business entities, and sources of income, including loans, gifts and travel payments, [during the previous two years] from sources of the type registered with or regulated by the Board under the Timber Yield Tax Law; (2) Interests] and interests in real property classified as timberland under the Timber Yield Tax Law.

CATEGORY 5

~~[Reporting Requirements: Investments and]~~ Designated employees in this category must report investments, business positions in business entities, and sources of income, including loans, gifts and travel payments, from sources [which] who have filed an appeal within the preceding 12 months or have an appeal pending under the Personal Income Tax Law, Bank and Corporation Tax Law, or Senior Citizens Property Tax Assistance Law or have a pending claim under the Taxpayers' Bill of Rights for one of these tax programs.

CATEGORY 6

~~[Reporting Requirements: Investments and] Designated employees in this category must report investments, business positions in business entities, and sources of income, including loans, gifts and travel payments, from sources authorized by the Insurance Commissioner to transact business in this state.~~

CATEGORY 7

~~[Reporting Requirements: Investments and] Designated employees in this category must report investments, business positions in business entities, and sources of income, including loans, gifts and travel payments, from sources that provide goods, equipment, vehicles, services, or leased space of the type utilized by the Board. ~~[which, within the previous two years, contracted with the Board or the State of California to provide services, equipment, vehicles, leased space, materials or supplies.]~~~~

CATEGORY 8

~~[Reporting Requirements: Investments and] Designated employees in this category must report investments business positions in business entities, and sources of income, including loans, gifts and travel payments, from sources ~~[of the type which, within the previous two years, contracted with the Board or the State of California to]~~ that provide computers, computer programming, or any other services or training or equipment related to such things as computers, software, automation, data processing, communication, information technology, and duplication services of the type utilized by the Board.~~

CATEGORY 9

~~[Reporting Requirements: Investments and] Designated employees in this category must report investments, business positions in business entities, and sources of income, including loans, gifts and travel payments, from sources that provide services, materials, equipment, conference facilities, or consultation of the type utilized by the Board for personnel services or the training of employees. ~~[of the type which, within the previous two years, contracted with the Board or the State of California to provide:~~~~

- ~~(1) Services, materials, equipment, or consultation related to personnel services or the training of employees;~~
- ~~(2) Conference facilities utilized for personnel services or the training of employees.]~~

CATEGORY 10

~~[Reporting Requirements: Investments and business positions in business entities and income, including loans, gifts and travel payments, from sources of the type to contract with the Board or the State of California to provide equipment (including, but not limited to, cashiering, computer, data processing, duplication, information technology, mail processing, security, software, tax return processing, telecommunications, and warehousing); materials (including, but not limited to, building, decorating and space planning); services (including, but not limited to, automation, computer programming, contracting, data security, design, engineering, and physical security); and supplies (including, but not limited, to furniture and office).]~~

[CATEGORY 11]

~~[Reporting Requirements: Investments and] Designated employees in this category must report investments, business positions in business entities, and sources of income, including loans, gifts and travel payments, from sources that provide telecommunications equipment and services of the type utilized by the Board. ~~[which, within the previous two years, contracted with the Board or the State of California to provide telecommunications equipment and services.]~~~~

APPENDIX A

DESIGNATED POSITIONS

DISCLOSURE CATEGORIES

BOARD

Deputy to Board Member	All
Administrative Assistant to Board Member	All
Assistant to Board Member	All
CEA	All
Administrative Assistant	1-8
Staff Services Manager	1-8
Tax Counsel	1-6
Tax Consultant Expert	1-6
Tax Services Specialist	1-6
Assistant Tax Services Specialist	1-6
Associate Governmental Program Analyst	1-6
Business Taxes Representative	1-6
<u>Business Taxes Specialist II</u>	<u>1-6</u>
<u>Information Officer II</u>	<u>1-6</u>

EXECUTIVE

Executive Director	All
Administrative Assistant	All
<u>CEA (Communications Office)</u>	<u>All</u>

BOARD PROCEEDINGS DIVISION

CEA	All
Staff Services Manager	All
Associate Governmental Program Analyst (LAN Workgroup Manager)	1-6,8
Associate Governmental Program Analyst	1-6

CUSTOMER AND TAXPAYER SERVICES DIVISION

CEA	All
Staff Services Manager	1-9
Business Taxes Compliance Specialist	1-6
Assistant Tax Services Specialist	1-6
Associate Governmental Program Analyst	1-6
Associate Information Systems Analyst	8
Staff Services Manager (Forms and Publications Section)	7,9
Assistant Tax Services Specialist (Forms and Publications Section)	7,8
Associate Governmental Program Analyst (Forms and Publications Section)	7,8

LEGISLATIVE DIVISION

Assistant Chief Counsel	All
CEA	All
Staff Services Manager	1-6
Senior Specialist Property Appraiser	1-6
Business Taxes Specialist	1-6
Associate Governmental Program Analyst (System or LAN Administrator)	1-6,8
Operations Research Specialist	1-4,6,8
Research Program Specialist	1-4,8
Research Analyst	1-4,8

TECHNOLOGY SERVICES DIVISION

CEA	All
<u>Data Processing Manager IV</u>	<u>All</u>
Business Taxes Administrator	1,2,7-9

Business Taxes Compliance Supervisor	1,2,7-9
Data Processing Manager	7-9
Staff Services Manager	7-9
Systems Software Specialist	8
Associate Systems Software Specialist	8
Senior Information Systems Analyst	8
Staff Information Systems Analyst	8
Associate Information Systems Analyst	8
Senior Programmer Analyst	8
Staff Programmer Analyst	8
Associate Programmer Analyst	8
Associate Governmental Program Analyst	8

TAXPAYERS' RIGHTS AND EQUAL EMPLOYMENT OPPORTUNITY DIVISION

CEA	All
Business Taxes Specialist (TRA)	1-4
Associate Property Appraiser (TRA)	1-4
Business Taxes Compliance Supervisor (Offers in Compromise)	1,2
Business Taxes Compliance Specialist (Offers in Compromise)	1,2
Business Taxes Specialist (Offers in Compromise)	1,2
Staff Services Manager (EEOO)	7,9
Associate Governmental Program Analyst (EEOO)	7,9

ADMINISTRATION DEPARTMENT

CEA	All
Training Officer (Training Office)	9
Associate Governmental Program Analyst (Training Office)	9

ADMINISTRATIVE SUPPORT DIVISION

CEA	All
Staff Services Manager	7-[9,11]10
Associate Business Management Analyst	7-9
Associate Governmental Program Analyst	7-9
Business Services Officer III	7-9
Telecommunications Systems Analyst	[11]10
Office Services Manager (Supervisor, Cashier Unit)	7

PERSONNEL MANAGEMENT DIVISION

CEA	[All]7-9
Staff Services Manager	7-9
Associate Governmental Program Analyst	7-9
Associate Personnel Analyst	7-9
Labor Relations Specialist	7-9

FINANCIAL MANAGEMENT DIVISION

CEA	All
Staff Services Manager	7-9
Accounting Administrator	7-9
Associate Accounting Analyst	7-9
Associate Administrative Analyst	7-9
Associate Budget Analyst	7-9
Senior Accounting Officer	7-9
Associate Governmental Program Analyst	7-9
Staff Information Systems Analyst (Specialist)	8

POLICY, PLANNING AND EVALUATION DIVISION

Staff Services Manager III	1-4, 7-9
Staff Services Manager I or II	7-9

Associate Management Analyst	7-9
Associate Business Management Analyst	7-9
Associate Governmental Program Analyst	7-9
Staff Information Systems Analyst	8

LEGAL DEPARTMENT

CEA	All
Assistant Chief Counsel	All
Tax Counsel	1-6
Supervising Tax Auditor	1,2
Administrative Assistant	7-9
Librarian	7,8
Staff Information Systems Analyst	8
Associate Information Systems Analyst	8
Business Taxes Specialist II or III	1,2
Business Taxes Specialist I	1,2 *
<u>Business Taxes Compliance Supervisor (Offers in Compromise)</u>	<u>1,2</u>
<u>Business Taxes Compliance Specialist (Offers in Compromise)</u>	<u>1,2</u>
<u>Business Taxes Specialist (Offers in Compromise)</u>	<u>1,2</u>

INTERNAL SECURITY AND AUDIT DIVISION

CEA	All
Business Taxes Administrator	All
Business Taxes Specialist	All
Associate Tax Auditor	All
Associate Governmental Program Analyst	7-9
Systems Software Specialist	8
Staff Information Systems Analyst	8
Associate Information Systems Analyst	8
Assistant Information Systems Analyst	8

INVESTIGATIONS DIVISION

CEA	All
Business Taxes Administrator	1,2,7-9
Business Taxes Specialist	1,2
Business Taxes Compliance Specialist	1,2
Supervising Tax Auditor	1,2,9
Associate Tax Auditor	1,2
Staff Information Systems Analyst	8

PROPERTY AND SPECIAL TAXES DEPARTMENT

CEA	All
Administrative Assistant	1,2,6-9
<u>Staff Services Manager</u>	<u>7-9</u>
<u>Associate Governmental Program Analyst</u>	<u>3,7-9</u>
<u>Staff Information Systems Analyst</u>	<u>8</u>

ASSESSMENT POLICY AND STANDARDS DIVISION

CEA	[All] <u>3,7-9</u>
Principal Property Appraiser	3,7-9
Senior Specialist Property Appraiser	3
Senior Specialist Property Auditor Appraiser	3
Supervising Property Appraiser	3,7-9
Associate Property Appraiser	3
Associate Property Auditor Appraiser	3
<u>Research Manager (GIS)</u>	<u>3</u>
<u>Research Analyst II (GIS)</u>	<u>3</u>
<u>Associate Governmental Program Analyst</u>	<u>3,7-9</u>

COUNTY PROPERTY TAX DIVISION

CEA	[All] <u>3,4,7-9</u>
Principal Property Appraiser	3,4,7-9
Senior Petroleum and Mining Appraisal Engineer	3
Supervising Property Appraiser (Assessment Practices Surveys Section)	3,7-9
Senior Specialist Property Appraiser (Assessment Practices Surveys Section)	3
Senior Specialist Property Auditor Appraiser (Assessment Practices Surveys Section)	3
Associate Property Appraiser (Assessment Practices Surveys Section)	3
Associate Property Auditor Appraiser (Assessment Practices Surveys Section)	3
Supervising Property Appraiser (Timber Tax Section)	4,7-9
Senior Specialist Property Auditor Appraiser (Timber Tax Section)	4
Associate Property Auditor Appraiser (Timber Tax Section)	4
Senior Forest Property Appraiser	4
Associate Forest Property Appraiser	4

VALUATION DIVISION

CEA	[All] <u>3,7-9</u>
Principal Property Appraiser	3,7-9
Senior Specialist Property Appraiser	3
Senior Specialist Property Auditor Appraiser Auditor Appraiser	3
Supervising Property Appraiser	3, 7-9
Associate Property Appraiser	3
Associate Property Auditor Appraiser	3

EXCISE TAXES AND FEES DIVISION

CEA	[All] <u>1,2,7-9</u>
Business Taxes Compliance Supervisor	1,2,6,9
Business Taxes Compliance Specialist	1,2,6,9
Supervising Tax Auditor	1,2,6,9
Business Taxes Specialist II or III	1,2,6,9
Business Taxes Specialist I	1,2,6 *
Associate Tax Auditor	1,2,6 *

FUEL TAXES DIVISION

CEA	[All] <u>1,2,7-9</u>
Business Taxes Administrator	1,2,7-9
Staff Services Manager	1,2,9
Business Taxes Compliance Supervisor	1,2,9
Business Taxes Compliance Specialist	1,2,9
Supervising Tax Auditor	1,2,9
Business Taxes Specialist II or III	1,2,9
Business Taxes Specialist I	1,2 *
Associate Tax Auditor	1,2 *

SALES AND USE TAX DEPARTMENT

CEA <u>3 or 4</u>	All
CEA <u>2</u>	<u>1,2,7-9</u>
Business Taxes Administrator	1,2,7-9
Administrative Assistant	1,2,7,8
Business Taxes Compliance Supervisor (LAN Administrator)	1,2,8,9
Business Taxes Compliance Supervisor	1,2,9
Business Taxes Compliance Specialist	1,2,9
Supervising Tax Auditor	1,2,7-9
Business Taxes Specialist II or III	1,2,7-9
Business Taxes Specialist (Special Projects)	1,2,7-9
Business Taxes Specialist (Systems Coordinator)	1,2,8,9

Business Taxes Specialist (Training Group)	1,2,9
Business Taxes Specialist (Computer Audit Specialist)	1,2,8
Business Taxes Specialist (Regulation Coordinator)	1,2
Business Taxes Specialist (Revenue Opportunity)	1,2
Business Taxes Specialist (Technical Advisor)	1,2
Business Taxes Specialist (Project Coordinator)	1,2
Business Taxes Specialist I	1,2 *
Associate Tax Auditor	1,2 *
Staff Information Systems Analyst	1,2,8
Associate Information Systems Analyst	1,2,8
Associate Governmental Program Analyst	1,2

CONSULTANT

All **

* Pursuant to 2 California Code of Regulations, section 18733, in lieu of filing Form 700, an employee in this disclosure category who was not assigned and did not participate in any property tax audits shall file Form 700-A.

** Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The Executive Director may determine in writing that a particular consultant is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.