



STATE BOARD OF EQUALIZATION
450 N STREET, SACRAMENTO, CALIFORNIA
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Fourth District, Los Angeles

JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
January 26 - 27, 2010
NOTICE AND AGENDA
Meeting Agenda (as of 8:00 a.m., 01/27/10)

Agenda Changes

Tuesday, January 26, 2010

9:30 a.m. Board Committee Meeting Convenes*

Board Meeting Convenes upon Adjournment of the Board Committee Meeting**

Agenda items occur in the order in which they appear on the agenda. When circumstances warrant, the Board's Chair may modify the order of the items on the agenda. Items may be postponed to a subsequent day; however, items will not be moved to an earlier day.

Board Committee Meetings*

Legislative Committee.....Mr. Horton, Committee Chair

I. 2010 Legislative Proposals

Set forth below are suggestions for business taxes legislation to be sponsored by the Board in the second year of the 2009-10 Legislative Session.

Business Taxes - Sales and Use Taxes

3-5 Amend Section 7063 of the Sales and Use Tax Law to require the Board to post a list of the largest 500 tax delinquencies of more than \$100,000, and within that list, enable the Board to include those accounts for which a notice of state tax lien has been filed with the Office of the Secretary of State.

3-6 Add Section 6593.7 to the Sales and Use Tax Law to authorize the Board to relieve all or a portion of interest imposed if the Board finds that a person's failure to make a timely payment was due to extraordinary circumstances and that it would be inequitable to hold the person liable for the applicable interest, under specified circumstances.

Business Taxes-Special Taxes and Fees

4-5 Amend Sections 30438 and 30449 of the Cigarette and Tobacco Products Tax Law to allow any person owning or claiming any interest in tobacco

~~products, as specified, to file a petition with the Board requesting the release or recovery of such products.~~

II. Proposed Law Sections related to Proposal 2-1 (personal liability on officers, partners, members, or managers), as adopted by the Board at the December 15, 2009 Legislative Committee Meeting

Discussion item only: proposed language to specific special taxes and fees programs.

Customer Service and Administrative Efficiency Committee.....

Mr. Leonard, Committee Chair

1. Taxpayers' Rights Advocate's 2008-09 Property and Business Taxes Annual Report

Presentation of Annual Report highlighting Taxpayers' Rights Advocate Office accomplishments, involvement in projects, current issues, and examples of services provided.

2. Status Report Regarding Online Educational and Learning Products and Related Marketing Plan

Status Report Regarding Online Educational and Learning Products and Marketing Plan.

Board Meeting**

A. Homeowner and Renter Property Tax Assistance Hearings
There are no items for this matter.

B. Corporate Franchise and Personal Income Tax Hearing
(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

~~B1. Charles R. Schwab and Helen O. Schwab, 450981 +~~

~~For Appellant: Jeffrey M. Weiss, Attorney~~

~~For Franchise Tax Board: William Gardner, Tax Counsel~~

~~Michael Cornez, Tax Counsel~~

C. Sales and Use Tax Appeals Hearing

Local Tax Reallocation Hearing

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

C1. City of Irvine, 434851 +

For Petitioner:

Janis Varney, Representative

Eric Myers, Representative

For Department:

Carole Ruwart, Tax Counsel

For Affected Jurisdictions: Robin Sturdivant, Representative
 Cities of Costa Mesa,
 Mountain View,
 Sunnyvale, Oakland

For Affected Jurisdiction: David McPherson, Representative
 City of San Jose

D. Special Taxes Appeals Hearings

These items are scheduled for the afternoon session.

E. Property Tax Appeals Hearings
 There are no items for this matter.

F. Public Hearings

F1. Property Tax Rules 192, Mandatory Audits; 193, Scope of Audit; and, 371, Significant Assessment Problems +Mr. Heller/ Ms. Ford

Public hearing to consider the adoption of proposed amendments to Property Tax Rules 192, 193, and 371, which incorporate new audit procedures required by recent amendments to Revenue and Taxation Code section 469, make grammatical and formatting changes, and update citations.

F2. Property Taxes - State Assesseees' Presentations on Capitalization Rates and Other Factors Affecting Values Mr. Thompson

1. State assesseees' presentations on capitalization rates, other factors and procedures affecting 2010-11 property values of California public utilities, railroads and pipelines.
2. Private railroad car assesseees' presentations on factors and procedures affecting 2010-11 taxable values of private railroad cars.

Speaker: Peter W. Michaels, Law Offices of Peter Michaels

G. Tax Program Nonappearance Matters – Consent

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

- G1. Legal Appeals MattersMr. Levine
- Hearing Notices Sent – No Response
 1. GIII Freedom, LLC, 401212 (UT)
 2. ~~Neal O'Gilvy and Deanne O'Gilvy, 434977 (UT)~~
 3. VJR Ventures, Inc., 435863, 435864 (JH)
 4. Gurmeet Singh Mehrok, 295399 (JH)

- Petitions for Release of Seized Property
 5. Travel Traders Hotel Stores, Inc., 514222 (ET)
 6. Hussein Saleh Mohammed Rajeh, 514224 (ET)
 7. Amarjit Singh, 514020 (ET)
 8. Harjinder Singh and Pushpinder Kaur, 513010 (ET)
 9. Ricar, Inc., 510010 (ET)
 10. Malek Mohammad Sulaiman, 509957 (ET)
 11. Mohammad Khalid, 510019 (ET)
 12. Kassim Saleh Shaibi, 514218 (ET)

- G2. Franchise and Income Tax MattersMs. Kelly
 - Decisions
 1. Mohammad R. Azarmsa, 445648
 2. Aquarius Investments, L.P., 460712
 3. Steven J. Benshoof, 432999
 4. Naomi Brown, 441093
 5. Joseph R. Buckley, 400990
 6. Zoe Cattouse, 434771
 7. Jerry Douglas and Annamaria Douglas, 423815
 8. Christine A. Elliott, 440797
 9. Harold Fine, 424288
 10. Antonio Ines Garcia, 468083
 11. Zeb Glass, Jr., 446034
 12. Robin D. Granger, 451511
 13. Joseph David Kunz, 438148
 14. Mark Alan Laythorpe, 468767
 15. Lemeur Family Partnership, 440976
 16. Howard N. Misle and Tamara R. Misle, 486028
 17. Marlyce Pang, 405254
 18. Edward G. Petraglia, 430113
 19. Brian L. Potter, 444037
 20. Jason Salgado, 461174
 21. Vladimir Shishkin and Emma Shishkin, 439473
 22. Shiro Shiozawa, 468726
 23. Marco Tornero and Dolores Maravilla, 436283
 24. Laurette M. Verbinski, 446066
 - Hearing Notice Sent – No Response
 25. Adriana Summers, 479849
 - Hearing Notice Sent – Appearance Waived
 26. William Amonette Anderson, 472150

- G3. Homeowner and Renter Property Tax Assistance MattersMs. Kelly
 - Decisions
 1. Vickie J. Bird, 415055
 2. Fabian Cooper (Deceased), 432460
 3. Deanna Gear, 473081

4. Eugene Martin, 437602
 5. D. H. Phan, 423861
 6. Juliet Staples, 450001
- G4. Sales and Use Taxes Matters..... Ms. Henry
- Redeterminations
 1. Citicorp Development Center, Inc., 467245 (AS)
 2. Hyundai Motor America, 447516 (EA)
 3. Debra L. George, 486044 (KH)
 4. Cemex California Cement, LLC, 473504 (OH)
 5. Crainco, Inc., 468245 (AA)
 6. Cross Fullerton, Inc., 474954 (EA)
 7. Zouheir Fayad, 479504 (EA)
 - Relief of Penalty/Interest
 8. Fisher Scientific Co., LLC, 513107 (OH)
 9. New Tangram, LLC, 513100 (AA)
 10. Daimler Trust, 513109 (OH)
 - Denial of Claims for Refund
 11. Nissan Motor Acceptance Corp., 418112 (OH)
- G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds Ms. Henry
- Credits and Cancellations
 1. Robert Martinez, 491195 (CH)
 2. Minaeh Ahn Jin, 511698 (AS)
 3. Cedar Fair, LP, 513904 (EA)
 4. Pro Sports Nutrition Depot, Inc., 513117 (AS)
 5. Harjinder Singh Bhade, 511299 (KH)
 6. Mopan Investments, Inc., 511769 (EA)
 - Refunds
 7. Amcor Sunclipse North America, 510850 (EA)
 8. Nissan Motor Acceptance Corp., 418112 (OH)
 9. Toyota Motor Credit Corporation, 433432 (AS)
 10. Crescent Jewelers, 509814 (CH)
 11. Pro Business Centers, Inc., 507480 (CH)
 12. Shop N Go, Inc., 448951 (KH)
 13. Cambro Manufacturing, 487375 (EA)
 14. Jeromes Furniture Warehouse, Inc., 477960 (FH)
 15. Bank of the West, 361937 (CH)
 16. Philips Medical Systems, Inc., 465441 (GH)
 17. Fruitridge Printing Lithograph, Inc., 435692 (KH)
 18. Worthen Enterprises, Inc., 512048 (KH)
 19. Mercedes-Benz USA, LLC, 510406 (KH)
 20. Sunamerica Life Insurance Company, 443314 (AS)
 21. Chrysler, LLC, 510928 (OH)
 22. Thomas William Kelly, 496218 (BH)
 23. Cary Vending, L.L.C., 510259 (KH)
 24. Sully-Miller Contracting Company, 509117 (EA)

25. Trade Care, Inc., 476795 (GH)
26. Drivetime Car Sales, Inc., 488619 (OH)
27. Network Hardware Resale, LLC, 484212 (GH)
28. THC – Orange County, Inc., 378750 (AS)
29. Equinix Operating Company, Inc., 509747 (BH)
30. Owens & Minor Distribution, Inc., 396526 (OH)
31. Owens & Minor Distribution, Inc., 423834 (OH)
32. Southern California Gas Company, 205208 (AA)
33. Travis Credit Union, 489119 (JH)
34. Q-Matic Corporation, 510509 (OH)
35. Oakland Pallet Company, Inc., 459068 (CH)
36. Americredit Financial Service, Inc., 488220 (OH)
37. Consumer Portfolio Services, Inc., 486762 (EA)
38. Transouth Financial Corporation, 488614 (OH)
39. Bowne Enterprise Solutions, LLC, 425402 (EA)
40. Claim Jumper Restaurants, LLC, 510465 (EA)
41. Fresh Dining, LLC, 483863 (AC)
42. Eagle Community Credit Union, 490963 (EA)
43. Home Acceptance Corporation, 461210 (EA)
44. Freshology, Inc., 483925 (AC)
45. Southland Credit Union, 468392 (EA)
46. BMAC Investment Company, LLC, 487052 (EA)

- G6. Special Taxes Matters Mr. Gau
- Denial of Relief of Penalty
 1. Kern Oil & Refining Company, 467744 (MT) ‘CF’

There are no items for the following matters:

- G7. Special Taxes Matters – Credits, Cancellations, and Refunds
 G8. Property Tax Matters
 G9. Cigarette License Fee Matters
 G10. Legal Appeals Property Tax Matters

H. Tax Program Nonappearance Matters – Adjudicatory

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

- H1. Legal Appeals MattersMr. Levine
- Cases Heard But Not Decided
 1. *On Sports, Inc., 334978 (KH) +*
 2. *Krishna Devi, 341721 (CH) +*
- H2. Franchise and Income Tax MattersMs. Kelly
- Decisions
 1. ~~James R. Evans and Robin B. Evans, 416415~~
 2. Mark R. Nicholson and Nancy J. Nicholson, 440949
 3. Joe L. Santos, 445970
 4. Ernesto Sibal, 435767
 5. Takashi Watanabe and Marcia Watanabe, 461159

- Petition for Rehearing
 6. Roland Leroy Reese, 393407

There are no items for the following matters:

- H3. Homeowner and Renter Property Tax Assistance Matters
- H4. Sales and Use Taxes Matters
- H5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds
- H6. Special Taxes Matters
- H7. Special Taxes Matters – Credits, Cancellations, and Refunds
- H8. Property Tax Matters
- H9. Cigarette License Fee Matters
- H10. Legal Appeals Property Tax Matters

I. Tax Program Nonappearance Matters

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

- I1. Property Taxes Matters..... Mr. Gau
 - Unitary Escaped Assessment
 1. Pacific Gas and Electric Company (135) – “CF”
 - Board Roll Changes
 2. 2009 Board Roll of State-Assessed Property – “CF”
- I2. Offers in Compromise RecommendationsMs. Ograd/ Ms. Marte
 1. Jacobs Electronics
 2. Sandeep Jaiswal
 3. Stephen and Loretta Elkins
 4. Michael Hoyt
- I3. Local Tax Reallocation Matters Not Subject to Contribution Disclosure Statutes
There are no items for this matter.

Chief Counsel Matters

- J. Rulemaking
These items are scheduled for Wednesday, January 27, 2010.

There are no items for the following matters:

- K. Business Taxes
- L. Property Taxes
- M. Other Chief Counsel Matters
These items are scheduled for Wednesday, January 27, 2010.

Administrative Session

The following items are scheduled for Wednesday, January 27, 2010.

- N. Administrative Consent Agenda
- O. Adoption of Board Committee Reports and Approval of Committee Actions
- P. Other Administrative Matters

Q. Closed Session

These items are scheduled for Wednesday, January 27, 2010.

1:30 p.m. Board Meeting Reconvenes****C. Sales and Use Tax Appeals Hearings**

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

C2. *Internet Support and Services Corp., 426155 (KH) +*

For Petitioner: Jim Adams, Taxpayer
Alina Adams, Taxpayer
David Scharlach, Attorney
For Department: Cary Huxsoll, Tax Counsel

C3. *Irving Paul Berman, 404690 (AC) +*

For Petitioner: Irving Paul Berman, Taxpayer
Jesse W. McClellan, Representative
For Department: Andrew Kwee, Tax Counsel

D. Special Taxes Appeals Hearings

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

D1. *Eyad Y. ArieKat and Aiman Abuhamdieh, 509965 (ET) +*

For Petitioner: Aiman Abuhamdieh, Taxpayer
Eyad ArieKat, Taxpayer
For Department: Stephen Smith, Tax Counsel

D2. *Brentwood Emporium, 518190 (ET) +*

For Petitioner: Larry Lindsay, Taxpayer
For Department: Chris Schutz, Tax Counsel

D3. *Mikhail Dorghalli, 506147 (ET) +*

For Petitioner: Patrick J. Finnegan, Representative
For Department: Stephen Smith, Tax Counsel

- D4. *Asal Melody Iranpour, 488813 (ET) +***
For Petitioner: Asal Melody Iranpour, Taxpayer
Steve Iranpour, Representative
Anthony Spina, Witness
For Department: Christine Bisauta, Tax Counsel
- D5. *A2Z Associates, Inc., 506279 (ET) +***
For Petitioner: Appearance Waived
For Department: Christine Bisauta, Tax Counsel

Adjourn - The meeting will reconvene on Wednesday, January 27, 2010, at 9:30 a.m.

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The hearing location is accessible to people with disabilities. Please contact Joann Richmond at (916) 322-1931, or e-mail Joann.Richmond@boe.ca.gov if you require special assistance.

Diane G. Olson, Chief
Board Proceedings Division

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- ** 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.
- *** Municipalities are exempt from Contribution Disclosure requirements, for further information please telephone Rick Bennion, Contribution Disclosure Analyst at (916) 445-2130 or email: Richard.Bennion@boe.ca.gov.
- + Material is available for this Item.
- ++ Material will be available at a later date.
- "CF" Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code section 7.9.



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Wednesday, January 27, 2010

9:30 a.m. Board Meeting Reconvenes**

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C. Sales and Use Tax Appeals Hearing

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

C4. John Henry Darral Steinhauer, 458651, 459600 (KH) +

For Petitioner/Claimant: Jesse W. McClellan, Representative

For Department: Scott Lambert, Hearing Representative

Chief Counsel Matters

J. Rulemaking

Section 100 Changes

J1. Specified Special Tax and Fee Regulations + Ms. Johnstone/ Mr. Heller

Staff request for authorization to complete Rule 100 changes to add or amend specified regulations pertaining to the Energy Resources Surcharge Law, the Fee Collection Procedures Law; the Emergency Telephone Users Surcharge Law; the Cigarette and Tobacco Products Tax Law; the Cigarette and Tobacco Products Licensing Act, the Fee Collection Procedures Law, and the general administration of special taxes.

J2. Property Tax Rule 312, Hearings Record + Mr. Heller

Staff request for authorization to complete a Rule 100 change to Property Tax Rule 312 to update a reference to the Code of Civil Procedure.

- J3. Sales and Use Tax Regulation 1699, Permits +*Mr. Heller
Staff request for authorization to complete Rule 100 changes to Regulation 1699 to incorporate the provisions of newly enacted Revenue and Taxation Code section 6225 regarding the registration of qualified purchasers.
- J4. Sales and Use Tax Regulation 1597, Property Transferred or Sold by Certain Nonprofit Organizations +*Mr. Heller
Staff request for authorization to complete Rule 100 changes to Regulation 1597 to incorporate the provisions of newly enacted Revenue and Taxation Code section 6018.9 pertaining to the requirements for 501(c)(3) organizations to be consumers of property transferred to their members.

M. Other Chief Counsel Matters

- M1. Discussion of Current Status of Appeals of Homeowner and Renter Property Tax Assistance Appeals and Response to Franchise Tax Board. Board action requested. +*Ms. Kelly/ Mr. Thompson
Staff recommendation and request for Board direction regarding the disposition of pending Homeowners and Renters Assistance appeals for which funding is exhausted.
- M2. Staff Update: Yabsley v. Cingular Wireless, LLC, Santa Barbara County Superior Court Case No. 01221332, Second Dist. Court of Appeal No. B198827, Supreme Court No. S176146 +*Mr. Lambert/ Mr. Waid
Supreme Court Granted of Review of Court of Appeal Decision, Amicus Curiae Brief may be Filed.

Administrative Session

- N. Administrative Consent Agenda** Ms. Olson
(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)
- N1. Retirement Resolutions +*
- Joseph W. Clayton
 - Lee F. Copeland
 - Rebecca L. Jones
 - Gloria McGill
 - Donald W. Prince
 - Motoshi C. Sakamoto
 - Shahla S. Samiee
 - Carol Takahashi
 - William M. Young
- N2. Approval of Board Meeting Minutes*
- *September 22-23, 2009 +*
 - *October 6, 2009 +*

N3. *Approval of revisions to Audit Manual Chapter 8, Bars and Restaurants +*

Proposed revisions to section 0806.40 provide additional guidance to auditors when conducting undercover pour tests.

O. Adoption of Board Committee Reports and Approval of Committee Actions

O1. Legislative Committee

O2. Customer Service and Administrative Efficiency Committee

P. Other Administrative Matters**P1. *Executive Director's Report +* Mr. Hirsig****1. *Development of BOE 2010-2015 Strategic Plan +***

Presentation of high-level work plan for the development of the Board's 2010-2015 Strategic Plan.

2. *Functional Organization Opportunities +*

A look at innovative ways to improve customer service, efficiency and reduce costs within the Board's day to day operations.

3. *Proposal to Reorganize the Special Taxes Divisions +* Mr. Gau

Development of a functional reorganization of the Special Taxes Divisions within the Property and Special Taxes Department. Board action or direction may be requested.

4. *Culver City Board Meeting Costs +* Ms. Olson

Presentation by Board Proceedings Division of a cost analysis for the Culver City Meetings; follow-up to Board request at the September 1, 2009 Meeting. Board action or direction may be requested.

There are no items for the following matters:

P2. Chief Counsel Report

P3. Sales and Use Tax Deputy Director's Report

P4. Property and Special Taxes Deputy Director's Report

P5. *Administration Deputy Director's Report +* Ms. Houser**1. Facilities Update**

These items provide information and may require Board action or direction.

a. Headquarters Facilities

An update on the Headquarters remediation project including the activated swing space moves within the building.

b. Site Search Selection

An update on the site search selection for the Headquarters annex locations.

2. 2009/10 and 2010/11 Budget Update, Furlough Plan and Layoffs
These items provide information and may require Board action or direction.
 - a. Information may be provided to the Board regarding the Governor's 2009/10 Budget, Governor's Executive Order S-16-08 State Employee Furlough, and layoffs.
 - b. An update on the Governor's 2010/11 budget as it relates to the Board.

- P6. Technology Deputy Director's Report
There are no items for this matter.

Announcement of Closed Session Ms. Olson

Q. Closed Session

- Q1. Discussion and approval of staff recommendations regarding settlement cases (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11)
- Q2. Pending litigation: *US Smokeless Tobacco Brands, Inc. v. State Board of Equalization*, San Francisco Superior Court, Case No. CGC-07-463592 (Gov. Code § 11126(e))
- Q3. Pending litigation: *Western States Petroleum Association v. State Board of Equalization*, Los Angeles Superior Court, Case No. BC 403167 (Gov. Code § 11126(e))
- Q4. Pending litigation: *Lucent Technologies, Inc., and AT&T Corp. v. State Board of Equalization*; Los Angeles County Superior Court, Case No. BC402036 (Gov. Code § 11126(e))
- Q5. Pending litigation: *Governor Arnold Schwarzenegger, et al. v. State Controller John Chiang, et al.*, Sacramento County Superior Court, Case No. 34-2009-80000158 (Gov. Code § 11126(e))
- Q6. Pending litigation: *Schroeder, et al. v. State Board of Equalization, et al.* Sacramento Superior Court Case No. 34-2008-00004467-CU-MT-GDS; *Frankot, et al. v. State Board of Equalization, et al.*, Sacramento Superior Court Case No. 34-2008-00012174-CU-PO-GDS; and, *Allen, et al. v. State Board of Equalization, et al.*, Sacramento Superior Court, Case No. 34-2008-00017014-CU-TT-GDS (Gov. Code § 11126(e)(2)(B)(i))
- Q6.1 *Ashok V. Parmar, et al. v. California State Board of Equalization*, Los Angeles County Superior Court Case No. BC379013 (Gov. Code § 11126(d))
- Q7. Discussion and action on personnel matters (Gov. Code § 11126(a))

Announcement of Open Session..... Ms. Olson

Adjourn

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