



STATE BOARD OF EQUALIZATION  
450 N STREET, SACRAMENTO, CALIFORNIA  
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0080  
(916) 322-2270 • FAX (916) 324-3984  
www.boe.ca.gov

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First District, San Francisco

SEN. GEORGE RUNNER (RET.)  
Second District, Lancaster

MICHELLE STEEL  
Third District, Rolling Hills Estates

JEROME E. HORTON  
Fourth District, Los Angeles

JOHN CHIANG  
State Controller

KRISTINE CAZADD  
Interim Executive Director

**STATE BOARD OF EQUALIZATION MEETING**  
**450 N Street, Room 121, Sacramento**  
**February 22-24, 2011**  
**NOTICE AND AGENDA**  
**Meeting Agenda (as of 2:00 p.m., 02/24/11)**

[Agenda Changes](#)

**Tuesday, February 22, 2011**

**Board Committee Meetings\***

These items are scheduled for Wednesday, February 23, 2011.

**10:00 a.m. Board Meeting Convenes\*\***

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 Meeting\*\***

**Special Presentation**

- [Report from Geoffrey Way, Chief Counsel, Franchise Tax Board +](#)  
Summary of the current and future trends regarding appeals from the Franchise Tax Board.

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

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

- B1. [Tito J. Guerrero, 526822 +](#)  
For Appellant: Tito J. Guerrero, Taxpayer  
Jeff Johnston, Representative  
For Franchise Tax Board: Marguerite Mosnier, Tax Counsel  
Jane Perez, Tax Counsel

- B2. [Noel C. McDermott and Lynnet C. McDermott, 506915 +](#)  
 For Appellant: Noel C. McDermott, Taxpayer  
 Lynnet C. McDermott, Taxpayer  
 Jeff Johnston, Representative  
 For Franchise Tax Board: Nancy Parker, Tax Counsel  
 Jane Perez, Tax Counsel

- ~~B3. [James Tracy and Therese Tracy, 505057 +](#)  
 For Appellant: ~~Lawrence A. Jacobson, Attorney~~  
 For Franchise Tax Board: ~~Maria Brosterhous, Tax Counsel~~  
~~Ann Hodges, Tax Counsel~~~~

**C. Sales and Use Tax Appeals Hearings**

These items are scheduled for Tuesday afternoon, February 22, 2011, and Wednesday, February 23, 2011.

**D. Special Taxes Appeals Hearings**

These items are scheduled for Wednesday, February 23, 2011.

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

**F. Public Hearings**

- F1. 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 2011/12 property values of California public utilities, railroads and pipelines.  
 Speaker: Peter W. Michaels, Law Offices of Peter Michaels
  2. Private railroad car assesseees' presentations on factors and procedures affecting 2011/12 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 Matters .....Mr. Levine
- Hearing Notice Sent – No Response
    1. Mark Anthony Thomas, 478998 (AS)
  - Petitions for Release of Seized Property
    2. Nabil Ahmed Moflehi, 551051 (ET)
    3. Malcolm Export Import, Inc., 552294 (ET)

- Petitions for Rehearing
  4. Gladys Lillian Martines, 461496 (KH)
  5. Gaston A. Alvarez, 434595 (EH)
  
- G2. Franchise and Income Tax Matters ..... Mr. Ambrose
  - Decisions
    1. Richard C. Allmon and Dorothy R. Allmon, 485906
    2. John W. Batchan, Jr., 520206
    3. Maryann R. Burden, 469778
    4. Anthony Castillo and Leticia Barreto Castillo, 529570
    5. Colby Cline, 520363
    6. Joseph Eckhardt and Suzanne Eckhardt, 525093
    7. Warren T. Greene and Julia E. Greene, 492607
    8. John B. Isaac and Briana A. Isaac, 491198
    9. Legend Plus Enterprise, LLC, 486026
    10. Nhut T. Ngo, 525217
    11. Ezequiel Orozco, 461569
    12. Danny (Rene) C. Ortega, 484999
    13. Neil Rabara, 524790
    14. Neil Salem, 487202
    15. Ronna L. Sandner and Stephen Sandner, 533150
    16. Total Claims Management, Inc., 486474
    17. Lori Tirk, 528575
    18. Estate of Virginia Walker (Deceased), 479852
    19. Dera R. Williams, 508846
  - Petition for Rehearing
    20. Ronald R. Diamond and Elaine Diamond, 472937
  
- G3. Homeowner and Renter Property Tax Assistance Matters  
There are no items for this matter.
  
- G4. Sales and Use Taxes Matters ..... Mr. McGuire
  - Redeterminations
    1. Donn A. Tice, 462519 (CH)
    2. Calko Steel, Inc., 484692 (AS)
    3. Exxon Mobil Marine Limited, 524917 (OH)
    4. Information Global Solutions (MI), Inc., 490225 (OH)
  - Denials of Claims for Refund
    5. Rafinity, Inc., 434740 (AS)
    6. O.S.C. & Associates, Inc., 537071 (CH)
    7. Star Financial Services, 487195 (AP)
    8. Credit One Corporation, 458808 (EA)
  
- G5. Sales and Use Taxes Matters – Credits, Cancellations,  
and Refunds ..... Mr. McGuire
  - Refunds
    1. L.A. Unified School District, 554301 (AS)
    2. Electro Rent Corporation, 522662 (AC)
    3. LBS Financial Credit Union, 534644 (EA)

4. Dako North America, Inc., 553991 (GH)
  5. Genentech, Inc., 528628 (BH)
  6. Albertson's, Inc., 436824 (OH)
  7. Albertson's, Inc., 353619 (OH)
  8. American Multi-Cinema, Inc., 495405 (OH)
  9. Roscoe Steel & Culvert Co., 527067 (OH)
  10. American Drug Stores, Inc., 425738 (OH)
  11. Sprint Spectrum Equipment Co., LP, 530406 (OH)
  12. Cox PCS Assets, LLC, 478703 (OH)
  13. FAA Beverly Hills, Inc., 480210 (AS)
  14. Lucky Stores, Inc., 436826 (OH)
  15. Bausch & Lomb Incorporated, 439758 (OH)
  16. Travis Credit Union, 535382 (JH)
  17. Schawk Holdings, Inc., 351354 (AA)
  18. Credit One Corporation, 458808 (EA)
  19. Fidessa Corporation, 489183 (OH)
  20. Kern County Employees Federal Credit Union, 530374 (AR)
  21. 1<sup>st</sup> United Services Credit Union, 533824 (CH)
  22. Sai Long Beach B, Inc., 509239 (AA)
  23. Carmax Business Services, LLC, 508789 (OH)
- G6. Special Taxes Matters ..... Mr. Gau
- Redetermination
    1. Exxonmobil Oil Corporation, 490128 (MT)
  - Relief of Penalty
    2. CVS Pharmacy, Inc., 552697 (ET)
- G7. Special Taxes Matters – Credits, Cancellations, and Refunds ..... Mr. Gau
- Refunds
    1. Penske Truck Leasing Co., L.P., 486591 (MT)
    2. Equilon Enterprises, LLC, 513961 (MT)
    3. John Hancock Life Insurance Co. (USA), 552165 (ET) 'CF'

There are no items for the following matters:

- 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 Matters .....Mr. Levine
- Cases Heard Not Decided
    1. [Pedotti Livestock, 484288 \(UT\) +](#)
    2. [Ismail Ahmad Karajah, 534141 \(ET\) +](#)
    - 3a. [The Auto Store of Merced, Inc., 478614, 476975 \(KH\) +](#)
    - 3b. [Sana Sadeddin, 476973 \(KH\) +](#)

4. Gwang Hyun Song and Keum Joo Song, 433708 (AP) +
5. NCMG, Inc., 386871 (CH) +
6. Oracle Corporation, 217113 (BH) +
7. Lynne Marie Gallagher and Francis Xavier Gallagher, 459368 (BH) +

- H2. Franchise and Income Tax Matters .....Mr. Ambrose
- Decision
    1. Adele J. Fasano, 474165
  - Cases Heard Not Decided
    - 2a. Felix Lin and Betty Lin, 477812
    - 2b. Linus Upson, 477856
    - 2c. Rafael Weinstein, 477868
  - Petition for Rehearing
    3. Ronald N. Frazar and Jane A. Frazar, 494349

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 .....Mr. McGuire
- Refund
    1. SAP America, Inc., 346056 (OH)

There are no items for the following matters:

- 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
- Audit
    1. Southwest Gas Corporation (152) 'CF'
  - Unitary Land Escaped Assessments
    2. Trans Bay Cable, LLC (119) 'CF'
    - 3a. Los Angeles SMSA Ltd. Partnership (2532) 'CF'
    - 3b. Cellco Partnership (2559) 'CF'
    - 3c. AT&T Mobility, LLC (2606) 'CF'
  - Board Roll Change
    4. 2010 Board Roll of State-Assessed Property 'CF'

- I2. Offers in Compromise Recommendations ..... Ms. Kelly/ Ms. Fong
  - 1. GHC & C, Inc.
  - 2. Ai Molatore
  - 3. Charan Singh Sijher
- I3. Local Tax Reallocation Matters  
There are no items for this matter.

### Chief Counsel Matters

Items that appear under these matters provide information to the Members and may require Board action or direction.

#### J. Rulemaking

- J1. [Proposed Amendments to Regulation 6001, General Provisions +](#) ..... Mr. Heller  
Staff request for authorization to publish proposed amendments to update appendices A and B to Regulation 6001 containing the Board's conflict of interest code.

- K. Business Taxes  
There are no items for this matter.

- L. **Property Tax**..... Mr. Ambrose
  - Board Consideration of Findings and Decisions
    - L1. Golden State Water Company (101), 496057
    - L2. Golden State Water Company (101), 538248

- M. Other Chief Counsel Matters  
There are no items for this matter.

### Administrative Session

The following items are scheduled for Wednesday, February 23, 2011.

- N. 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, February 23, 2011.

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

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

- C1. [Berkeley Patients Group, Inc., 426761 \(CH\) +](#)  
For Petitioner: Eric J. Coffill, Representative  
Timothy D. Schick, Witness  
For Department: Bradley Heller, Tax Counsel
- C2. [Greg L. Moylan, 403554, 479953 \(JH\) +](#)  
For Petitioner: Greg Moylan, Taxpayer  
For Department: Scott Claremon, Tax Counsel
- C3. [David Anthony Miramontez, 402645, 492370 \(JH\) +](#)  
For Petitioner: David Miramontez, Taxpayer  
For Department: Scott Claremon, Tax Counsel
- ~~C4. [R-Tek Communications, Inc., 461499 \(KH\) +](#)  
For Petitioner: Rod Place, Taxpayer  
For Department: Andrew Kwee, Tax Counsel~~
- C5. [Harjap Singh, 467932 \(CH\) +](#)  
For Petitioner: Waived Appearance  
For Department: Scott Lambert, Hearing Representative
- C6. [Classique Raphy's, a California Corporation, 468141 \(AC\) +](#)  
For Petitioner: Waived Appearance  
For Department: Scott Lambert, Hearing Representative

**Adjourn** - The meeting will reconvene on Wednesday, February 23, 2011, at 9:30 a.m.

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Diane G. Olson, Chief  
Board Proceedings Division

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- + 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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**450 N Street, Room 121, Sacramento**  
**February 22-24, 2011**  
**NOTICE AND AGENDA**  
**Meeting Agenda (as of 2:00 p.m., 02/24/11)**

[Agenda Changes](#)

**Wednesday, February 23, 2011**

**9:30 a.m. Board Committee Meetings Convene\***

**Board Meeting reconvenes upon Adjournment of the Board Committee Meetings\*\***

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**Board Committee Meetings\***

[Legislative Committee](#) .....Mr. Horton, Committee Chairman

Set forth below is a suggestion for Sales and Use Taxes legislation to be sponsored by the BOE in the first year of the 2011-12 Legislative Session.

**2011 Legislative Proposals: Business Taxes: Sales and Use Taxes**

- 3-2 Add Revenue and Taxation Code Section 6593.7 to the Sales and Use Tax Law to authorize the Members of the Board of Equalization (BOE), meeting as a public body, to relieve all or any part of interest imposed on a late payment, up to an aggregate amount of \$50,000 during any 12-month period, if the Members find, in their discretion, that a person's late payment was due to extraordinary circumstances, as defined.

**Business Taxes Committee**..... Ms. Yee, Committee Chairwoman

- 1. Proposed amendments to Regulations 1598, *Motor Vehicle and Aircraft Fuels*, and 1533.2, *Diesel Fuel Used in Farming Activities or Food Processing*  
Request approval and authorization to publish proposed amendments to incorporate the provisions of Revenue and Taxation Code sections 6051.8, 6201.8, and 6357.3 related to the 1.75 percent tax rate increase on sales of diesel fuel beginning July 1, 2011.
- 2. Proposed Regulation 2558.1, *Wine*  
Request approval and authorization to publish a regulation to clarify the application of tax to wine-based products that contain distilled alcohol.

**Property Tax Committee** ..... Mr. Runner, Committee Chairman

- 1. Proposed Adoption of Revisions to *Guidelines for Appraiser Certification and Training*  
Adoption of revisions to guidelines used by county assessors in the administration of certification and training for property tax appraisers.

**Board Meeting\*\***

**Special Presentation**

- Presentation of Retirement Resolution ..... Mr. Horton  
Mr. Gilbert Haas

**Special Presentation**

- Presentation of Retirement Resolution ..... Mr. Runner  
Ms. Margaret Pennington

**C. Sales and Use Tax Appeals Hearings**

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

C7.a [Richard Caldron, 422927 \(KH\)](#) +

C7.b [Caldron's Jewelers, Inc., 418580 \(KH\)](#) +

For Petitioners:	Cyril Lawrence, Attorney Abe Golomb, Representative
For Department:	Andrew Kwee, Tax Counsel

- C8. [Guaranty RV, Inc., 391657 \(EH\) +](#)  
For Petitioner: Ed Morgan, Taxpayer  
Jesse McClellan, Representative  
Dan Davis, Representative  
For Department: Cary Huxsoll, Tax Counsel
- C9. [Granite Business Solutions, Inc., 492239 \(KH\) +](#)  
For Petitioner: Robert Johnson, Taxpayer  
Paul Dhanota, Taxpayer  
Monita Cloty, Representative  
For Department: Cary Huxsoll, Tax Counsel

**D. Special Taxes Appeals Hearings**

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

- D1. [Sahand Enterprises, Inc., 440941 \(MT\) +](#)  
For Claimant: Waived Appearance  
For Department: Carolee Johnstone, Tax Counsel

**Petitions for Release of Seized Property**

- D2. [Roger Jacob Nehme, 552300 \(ET\) +](#)  
For Petitioner: Roger Jacob Nehme, Taxpayer  
For Department: Stephen Smith, Tax Counsel
- D3. [Vinay Vohra and Vikram Vohra, 553888 \(ET\) +](#)  
For Petitioner: Vinay Vohra, Taxpayer  
Vikram Vohra, Taxpayer  
For Department: Pamela Mash, Tax Counsel
- D4. [Kashmir Singh Khinda, 536518 \(ET\) +](#)  
For Petitioner: Kashmir S. Khinda, Taxpayer  
For Department: Pamela Mash, Tax Counsel

**Administrative Session**

Items that appear under these matters provide information to the Members and may require Board action or direction.

**N. Consent Agenda** ..... Ms. Olson  
(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)N1. **Retirement Resolutions +**

- Corinne A. Allan
- Teresa G. Campbell
- Gilbert Haas, Jr.
- Frank K. Hemeng
- Sylvia N. Le
- James R. Mitchell
- Bruce E. Nelson
- Margaret Pennington
- Arlene B. Reed
- Laraine C. Sliwoski
- Gary R. Wolferman
- Lane Yoshiyama
- Stephen C. Young

## N2. Approval of Board Meeting Minutes

- **November 16-18, 2010 +**

N3. **2011 Timber Advisory Committee Membership +**

Approval of 2011 Timber Advisory Committee appointments.

N4. **Proposed Revisions to Audit Manual Chapter 1, *General Information* +**

Request approval to update section 0117.02 and add sections 0101.47 and 0101.67, to incorporate current policies and procedures on audit workpaper retention, use of annotations, and electronic transmission of data.

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

- O1. Legislative Committee - January 27, 2011
- O2. Legislative Committee - February 23, 2011
- O3. Business Taxes Committee - February 23, 2011
- O4. Property Tax Committee - February 23, 2011

**P. Other Administrative Matters**

- P1. Executive Director's Report ..... Ms. Cazadd
1. [Taxpayers' Rights Advocate's 2009/10 Property and Business Taxes Annual Report +](#)  
Presentation of Annual Report highlighting Taxpayers' Rights Advocate Office accomplishments, involvement in projects, current issues, and examples of cases illustrating services provided.
- P2. Chief Counsel Report..... Mr. Ferris
1. Southern California Appeals and Settlement Unit Update  
A presentation describing the successful implementation of the new Southern California Appeals and Settlement Unit.
- P3. Sales and Use Tax Deputy Director's Report ..... Mr. McGuire
1. [CROS Project Update and Actions +](#)
    - a. Progress on the CROS project to replace BOE's two current tax legacy technology systems.
    - b. Future Actions on CROS Project - possible Board direction.
- P4. Property and Special Taxes Deputy Director's Report..... Mr. Gau
1. [Fuel Tax Swap – Excise Tax Rate Setting for Motor Vehicle Fuel +](#)  
Current law eliminates the General Fund sales tax rate on motor vehicle fuel and requires the Board to adopt a 2011/12 excise tax rate that would generate the same amount of revenue.
- P5. [Administration Deputy Director's Report +](#) ..... Ms. Houser
1. Facilities Update
    - a. Headquarters Facilities – Update on the Headquarters remediation project.
    - b. San Diego/San Marcos Site Search – Update on the site search to relocate the San Diego and San Marcos Offices.
  2. 2010/11 and 2011/12 Budget Update and Union Agreements
    - a. Information regarding the Governor's 2010/11 and 2011/12 Budgets, and pending Union Agreements.

There are no items for the following matters:

- P6. Technology Deputy Director's Report  
P7. External Affairs Deputy Director's Report

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: *Nortel Networks, Inc. v. State Board of Equalization*; Court of Appeal, Second Appellate District, Case No. B213415 (Gov. Code § 11126(e)).
- Q3. 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)).
- Q4. 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)).
- Q5. Discussion and action on personnel matters (Gov. Code § 11126(a)).

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

**Adjourn** - The meeting will reconvene on Thursday, February 24, 2011, at 9:30 a.m.

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**Thursday, February 24, 2011**

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

Items agendized for a previous day of this meeting, but not concluded, may be taken up today. No items are scheduled for this day at this time.

**Adjourn**

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