



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

BETTY T. YEE
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
Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
February 28-29, 2012
NOTICE AND AGENDA
Meeting Agenda (as of 8:30 a.m., 02/28/12)

Agenda Changes

Webcast on Tuesday, February 28, 2012

Tuesday, February 28, 2012

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

Board Committee Meetings Convene upon Adjournment of Closed Session\*\*

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

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.

In addition to the above location, the following teleconference location will be available for this meeting. The location is available to the public:

5901 Green Valley Circle, Room 207, Culver City

Board Meeting\*

Announcement of Closed Session ..... Ms. Olson

Q. Closed Session

- Q1. Pending litigation: Western States Petroleum Association v. State Board of Equalization, Court of Appeal, Second Appellate District, Division Eight, Case No. B225932 (Gov. Code, § 11126(e)).

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

**Board Committee Meetings\*\***

**Legislative Committee**.....Mr. Horton, Committee Chairman

1. **Underground Economy—Centralized Intelligence Partnership**

Update on Legislative Proposal 5-2, which supports a multiagency Centralized Intelligence Partnership to help combat the Underground Economy.

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

1. **Proposed amendments to Regulation 1684, *Collection of Use Tax by Retailers***

Request authorization to publish proposed amendments to interpret the amendments made to RTC section 6203 by AB 155 (Stats. 2011, ch. 313) regarding the definition of “retailer engaged in business in this state.”

**Customer Services and Administrative**

**Efficiency Committee**..... Ms. Steel, Committee Chairwoman

1. **2012 Annual Education & Outreach Plan**

Presentation of the BOE Education & Outreach Plan for calendar year 2012. The plan includes a list of educational events/seminars for 2012.

**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. Michael John Klemp, 568733 +~~

~~For Appellant: Michael Klemp, Taxpayer~~

~~For Franchise Tax Board: Ted Tourian, Tax Counsel  
Diane Ewing, Tax Counsel~~

**C. Sales and Use Tax Appeals Hearings**  
(Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)

C1.a Daniel W. Shulte, 475423 (KH) +

C1.b Robert Wayne Kral, 475458 (KH) +

For Petitioners: Appearance Waived

For Department: Cary Huxsoll, Tax Counsel

C2. Johnny Batista, 531628 (BH) +

For Petitioner: Johnny Batista, Taxpayer

For Department: Scott Lambert, Hearing Representative

There are no items for the following matters:

- D. Special Taxes Appeals Hearings
- E. Property Tax Appeals Hearings

## F. Public Hearings

F1. Property Taxes - State Assessee's Presentations on Capitalization Rates and Other Factors Affecting Values ..... Mr. Thompson

1. State assessee's presentations on capitalization rates, other factors and procedures affecting 2012/13 property values of California public utilities, railroads, and pipelines.

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

2. Private railroad car assessee's presentations on factors and procedures affecting 2012/13 taxable values of private railroad cars.

## G. Tax Program Nonappearance Matters – Consent

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

G1. Legal Appeals Matters .....Mr. Levine

- Hearing Notices Sent – No Response
  1. Ehab M. Elsonbati, 478553, 478559 (UT)
  2. KM Western Investment Corp., 522747, 546402 (KH)
  3. Jose Luis Medina, 394183, 440302 (GH)
  4. Coliseum Steel Products, Inc., 522209 (CH)
  5. Qaisara Malik, 509272 (KH)
  6. HTL, Inc., 493837, 515740 (ET)
- Hearing Notice Sent – Appearance Waived
  7. Brian Niles Uslan, 488954 (KH)
- Petitions for Release of Seized Property
  8. Jason JW Kim and Andrew Kyu Kim, 593349 (ET)
  9. Uk Ro and Rosa Eunsook Ro, 594030 (ET)
  10. Will Y. Wong and Juliana K. Wong, 596311 (ET)
  11. Tripti Majumder, 595055 (ET)
- Petitions for Rehearing
  12. Juana Maria Olmos, 496090 (AC)
  13. Juan B. Garibo, 513023 (AS)
  14. Hung Van Pham, 486918 (BH)

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

- Hearing Notices Sent – No Response
  1. John E. Frantz, 461562
  - 2a. Bonny Goselin, 550204
  - 2b. Benjamin Killen, 554787
  - 2c. Champion Wiseman, 523161

- Decisions
  3. Thomas S. Hernandez, 538636
  4. Teresa S. Lee, 571533
  5. Robert A. Poll and Gail D. Poll, 523625
  6. Danilo F. Quintana, 520065
  7. Terry D. Ross and Mary J. Ross, 554433
  
- 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. Microboards Technology, LLC, 572715 (OH)
    2. Living Spaces Furniture, LLC, 559977 (AA)
    3. James Lyle Anderson, 485900 (GH)
    4. National City Commercial Capital Corporation, 469685 (OH)
  - Relief of Penalty/Interest
    5. PCS Leasing Co., L.P., 597059 (OH)
  - Denials of Claims for Refund
    6. Bank of America National Assoc., 474781 (OH)
    7. Scripps Health, 550597 (FH)
    8. Key Information Systems, Inc., 528282 (AC)
    9. 3M Company, 504671 (OH)
    10. Oberthur Technologies of America Corporation, 507406 (OH)
  
- G5. Sales and Use Taxes Matters – Credits, Cancellations,  
and Refunds .....Mr. McGuire
  - Credits and Cancellations
    1. Cardinal Health 110, Inc., 518182 (OH)
    2. MTD America LTD, LLC, 597206 (OH)
  - Refunds
    3. American Honda Finance Corp., 260528 (AS)
    4. Bank of America National Assoc., 474781 (OH)
    5. Scripps Health, 550597 (FH)
    6. The Golden 1 Credit Union, 536968 (KH)
    7. The Golden 1 Credit Union, 586110 (KH)
    8. Red Bull North America, Inc., 523369 (AS)
    9. Key Information Systems, Inc., 528282 (AC)
    10. Lumileds Lighting U.S., LLC, 595383 (GH)
    11. Wells Fargo Dealer Services, Inc., 578647 (EA)
    12. 3M Company, 504671 (OH)
    13. Northrop Grumman Systems Corp., 476959 (AS)
    14. Modern Finance Company, 518682 (AC)
    15. Challenge Financial Services, Inc., 486721 (EA)
    16. Bowman Asphalt, Inc., 574502 (AR)
    17. Medcal Sales, LLC, 577460 (EH)
    18. Harley-Davidson Credit Corp., 556839 (OH)
    19. Bankers Auto Acceptance Corp., 466585 (AA)
    20. Southland Credit Union, 534186 (EA)

- G6. Special Taxes Matters  
There are no items for this matter.
- G7. Special Taxes Matters – Credits, Cancellations,  
and Refunds ..... Mr. Gau  
➤ Refund  
1. Chevron U.S.A., Inc., 448517, 597582 (MT)

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. [Dansig, Inc., 493691 \(EA\) +](#)  
2. [Gurmail Singh, 487083 \(AR\) +](#)  
3. [Eritech International, Inc., 469541 \(AC\) +](#)
- H2. Franchise and Income Tax Matters ..... Mr. Epolite  
➤ Decisions  
1. ~~Tae G. Mok and Gyum S. Mok, 472910~~  
2. Ray E. O'Bier, 522148
- H3. Homeowner and Renter Property Tax Assistance Matters  
There are no items for this matter.
- H4. Sales and Use Taxes Matters .....Mr. McGuire  
➤ Denials of Claims for Refund  
1. Federal Express Corporation, 196286 (OH)  
2. Oracle Corporation, 316909 (BH)  
3. Solaicx, 523864 (GH)
- H5. Sales and Use Taxes Matters – Credits, Cancellations,  
and Refunds .....Mr. McGuire  
➤ Refunds  
1. Federal Express Corporation, 196286 (OH)  
2. Citigroup, Inc. and Subsidiaries and Affiliates, 446954 (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
  - Audits
    - 1. Bicent (California) Malburg, LLC (1154) 'CF'
    - 2. Cricket Communications, Inc. (2762) 'CF'
    - 3. T-Netix Telecommunications Services, Inc. (8084) 'CF'
  - Unitary Escaped Assessments
    - 4. Bestel USA, Inc. (8133) 'CF'
    - 5. Infotelecom, LLC (8134) 'CF'
    - 6. Broadvox-CLEC, LLC (8135) 'CF'
- I2. Offer in Compromise Recommendations .....Mr. Anderson
  - 1. Stewart Allen Cohen
  - 2. David Alan Ross
  - 3. Karen Elizabeth Sexton
- I3. Local Tax Reallocation Matters  
There are no items for this matter.

**Chief Counsel Matters**

There are no items for the following matters:

- J. Rulemaking
- K. Business Taxes
- L. Property Taxes
- M. Other Chief Counsel Matters

**Administrative Session**

The following items are scheduled for Wednesday, February 29, 2012.

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

Announcement of Closed Session ..... Ms. Olson

**Q. Closed Session**

- Q2. Discussion of Master Settlement Agreement Tobacco Litigation (Gov. Code, §11126(e)).
- Q3. 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)).

Q4. Discussion and approval of staff recommendations regarding settlement cases (Rev. & Tax. Code, §§ 6901, 7093.5, 30459.1, 50156.11).

Q5. Discussion and action on personnel matters (Gov. Code, § 11126(a)).

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

**Recess** - The meeting will reconvene on Wednesday, February 29, 2012, at 9:30 a.m.

General information regarding Board and Committee Meetings can be found at [www.boe.ca.gov/meetings/boardcomm.htm](http://www.boe.ca.gov/meetings/boardcomm.htm). If you would like specific information regarding items on this Notice and Agenda, please telephone (916) 322-2270 or email: [MeetingInfo@boe.ca.gov](mailto:MeetingInfo@boe.ca.gov). Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

If you wish to receive this Notice and Agenda electronically, you can subscribe at [www.boe.ca.gov/agenda](http://www.boe.ca.gov/agenda).

If you wish to listen to and/or view a live broadcast of the Board meeting, please go to [www.boe.ca.gov](http://www.boe.ca.gov) and click on Webcast.

The hearing location is accessible to people with disabilities. Please contact Rose Smith at (916) 323-9656, or email [Rose.Smith@boe.ca.gov](mailto:Rose.Smith@boe.ca.gov) if you require special assistance.

Diane G. Olson, Chief  
Board Proceedings Division

- \* 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.
- \*\* Public comment on any committee agenda item will be accepted at the beginning of the committee meeting.
- + Material is available for this Item.
- 'CF' Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code section 7.9.



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

BETTY T. YEE  
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  
Executive Director

**STATE BOARD OF EQUALIZATION MEETING**  
**450 N Street, Room 121, Sacramento**  
**February 28-29, 2012**  
**NOTICE AND AGENDA**  
**Meeting Agenda (as of 8:30 a.m., 02/28/12)**

[Agenda Changes](#)

[Webcast on Wednesday, February 29, 2012](#)

**Wednesday, February 29, 2012**

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

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.

**Board Meeting\***

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

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

**C3. Vincent Frere, 475376 (KH) +**

For Petitioner: John S. Bartlett, Attorney  
For Department: Cary Huxsoll, Tax Counsel

**C4. Richard L. Garrett, 467929 (BH) +**

For Taxpayer: Appearance Waived  
For Department: Scott Claremon, Tax Counsel

**C5. Sweetheart Cabinet Makers, Inc., 387045 (JH) +**

For Petitioner: Appearance Waived  
For Department: Scott Lambert, Hearing Representative

~~**C6. Stockton Railcar Repair, Inc., 493475 (KH) +**~~

~~For Taxpayer: David Aguirre, Taxpayer  
Hayley Flemens, Representative  
Jeffrey E. Prag, Attorney  
For Department: Andrew Kwee, Tax Counsel~~

**C7. Eloy Vargas Tejada, 506556 (BH) +**

For Taxpayer: Mario West, Representative  
For Department: Scott Lambert, Hearing Representative

## 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 +

- Ruth E. Betron
- Allen D. Brown
- Marilyn Hardy
- Sharon King
- Sue Teaman
- Kenneth W. Topper

#### N2. Approval of Board Meeting Minutes

- December 14-15, 2011 +

#### N3. Proposed New Audit Manual Chapter 14, *Appeals Procedures* +

Request approval to publish new Audit Manual Chapter 14, *Appeals Procedures*, to incorporate and consolidate current policies and procedures.

#### N4. 2012/13 Excise Tax Rate Setting (Fuel Tax Swap) +

Request approval of the new excise tax rates for motor vehicle fuel and diesel fuel (fuel tax swap) effective July 1, 2012, which are required by current law to be determined by BOE on an annual basis.

### O. Adoption of Board Committee Report and Approval of Committee Actions

- O1. Legislative Committee
- O2. Business Taxes Committee
- O3. Customer Service and Administrative Efficiency Committee

### P. Other Administrative Matters

#### P1. Executive Director's Report ..... Ms. Cazadd

1. CROS Project Update and Actions ..... Mr. Steen  
Progress on the CROS project to replace BOE's two current tax legacy technology systems.
2. Taxpayers' Rights Advocate's 2010/11 Property and Business Taxes Annual Report + ..... Mr. Gilman  
Presentation of Annual Report highlighting Taxpayers' Rights Advocate Office accomplishments, involvement in projects, current issues, and examples of services provided.

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. Headquarters Facilities Update  
A general update on the 450 N Street building.
  - 2. San Diego Facility  
An update on the new San Diego facility.
  - 3. Budget Update  
Information on the Governor's 2012/13 Budget and the budget impact of BOE proposals from prior fiscal years.
- P6. Technology Deputy Director's Report ..... Ms. Fleming
  - 1. **IT Project Portfolio and Modernization Projects +**  
Update on modernization projects to improve online access for customers and administrative efficiencies for employees.
- P7. External Affairs Deputy Director's Report ..... Mr. Garza
  - 1. External Affairs Update  
Brief update on new developments in internal and external communication strategies.

## Adjourn

General information regarding Board and Committee Meetings can be found at [www.boe.ca.gov/meetings/boardcomm.htm](http://www.boe.ca.gov/meetings/boardcomm.htm). If you would like specific information regarding items on this Notice and Agenda, please telephone (916) 322-2270 or email: [MeetingInfo@boe.ca.gov](mailto:MeetingInfo@boe.ca.gov). Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

If you wish to receive this Notice and Agenda electronically, you can subscribe at [www.boe.ca.gov/agenda](http://www.boe.ca.gov/agenda).

If you wish to listen to and/or view a live broadcast of the Board meeting, please go to [www.boe.ca.gov](http://www.boe.ca.gov) and click on Webcast.

The hearing location is accessible to people with disabilities. Please contact Rose Smith at (916) 323-9656, or email [Rose.Smith@boe.ca.gov](mailto:Rose.Smith@boe.ca.gov) if you require special assistance.

Diane G. Olson, Chief  
Board Proceedings Division

- \* 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.
- \*\* Public comment on any committee agenda item will be accepted at the beginning of the committee meeting.
- + Material is available for this Item.
- 'CF' Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code section 7.9.