



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

PRELIMINARY RECORD OF BOARD ACTIONS

Tuesday, February 28, 2012

The following is a preliminary record of Board actions taken at the February 28-29, 2012 Sacramento Board Meeting. This is not an official record and is subject to correction or modification. The official record of the Board's actions is the minutes of the Board, which will be adopted at a subsequent meeting.

The Board's decision reflects only the issues resolved by the Board at the meeting. Issues resolved prior to the meeting are not reflected in this document.

If you would like specific information regarding items on this Preliminary Record of Board Action, please telephone Claudia Madrigal at 916-324-8261 or email: Claudia.Madrigal@boe.ca.gov. Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

Board Committee Meetings Please see Page 12, O., Adoption of Board Committee Reports and Approval of Committee Actions, for voting results.

Board Meeting

Q. Closed Session

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

B. Corporate Franchise and Personal Income Tax Hearing

B1. ~~Michael John Klemp, 568733~~

C. Sales and Use Tax Appeals Hearings

C1.a. Daniel W. Shulte, 475423 (KH) – Waived Appearance

C1.b. Robert Wayne Kral, 475458 (KH) – Waived Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' petitions denied.	Mr. Horton	Yes
The Board directed staff to inform the taxpayer of the Offer in Compromise program.	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C2. Johnny Batista, 531628 (BH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition partially denied/granted.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

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 Assesseees' Presentations on Capitalization Rates and Other Factors Affecting Values

1. State assesseees' presentations on capitalization rates, other factors and procedures affecting 2012/13 property values of California public utilities, railroads, and pipelines.
2. Private railroad car assesseees' presentations on factors and procedures affecting 2012/13 taxable values of private railroad cars.

G. Tax Program Nonappearance Matters – Consent**G1. Legal Appeals Matters**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
No final determination on sub-item 14.	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- 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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
No final determination on sub-item 1.	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- 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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- 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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes – except not participating in sub-item 3.

- 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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

➤ 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**H1. Legal Appeals Matters**➤ **Cases Heard Not Decided**1. **Dansig, Inc., 493691 (EA)**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition partially granted/denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

2. **Gurmail Singh, 487083 (AR)**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

3. **Eritech International, Inc., 469541 (AC)**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition partially granted/denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

H2. Franchise and Income Tax Matters➤ **Decisions**1. **Tae G. Mok and Gyum S. Mok, 472910**2. **Ray E. O'Bier, 522148**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

H3. Homeowner and Renter Property Tax Assistance Matters
There are no items for this matter.

H4. Sales and Use Taxes Matters

➤ Denials of Claims for Refund

1. Federal Express Corporation, 196286 (OH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's claim denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

2. Oracle Corporation, 316909 (BH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's claim denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

3. Solaicx, 523864 (GH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's claim denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

H5. Sales and Use Taxes Matters – Credits, Cancellations,
and Refunds

➤ Refunds

1. Federal Express Corporation, 196286 (OH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's claim granted.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

2. Citigroup, Inc. and Subsidiaries and Affiliates, 446954 (OH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's claim granted.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

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

I1. Property Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Not participating

- 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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

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

Q. Closed Session



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**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
February 28-29, 2012**

PRELIMINARY RECORD OF BOARD ACTIONS

Wednesday, February 29, 2012

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Board Meeting

C. Sales and Use Tax Appeals Hearings

C3. Vincent Frere, 475376 (KH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
The Board directed staff to inform the taxpayer of the Offer in Compromise program.	Ms. Steel	No
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C4. Richard L. Garrett, 467929 (BH) – Waived Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
The Board directed staff to inform the taxpayer of the Offer in Compromise program.	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C5. Sweetheart Cabinet Makers, Inc., 387045 (JH) – Waived Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
The Board directed staff to inform the taxpayer of the Offer in Compromise program.	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

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

C7. Eloy Vargas Tejada, 506556 (BH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition partially denied/granted.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

Administrative Session**N. Consent Agenda**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations on items N1, N2 and N3.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation on item N4.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

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*

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

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

O1. Legislative Committee

O2. Business Taxes Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein. For details see: http://www.boe.ca.gov/meetings/btc2012.htm	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Steel	No
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Directed staff to exclude the two letters dated September 9, 2011, to the Assembly Daily Journal, as support, in and of themselves, for the proposed amendments.	Mr. Horton	Yes
	Ms. Steel	No
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Abstained

O3. Customer Service and Administrative Efficiency Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein. For details see: http://www.boe.ca.gov/meetings/custsrv/custsrv12.htm	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Absent
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

P. Other Administrative Matters

P1. Executive Director's Report

1. CROS Project Update and Actions
2. Taxpayers' Rights Advocate's 2010/11 Property and Business Taxes Annual Report

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

1. Headquarters Facilities Update
2. San Diego Facility
3. Budget Update

P6. Technology Deputy Director's Report

1. IT Project Portfolio and Modernization Projects

P7. External Affairs Deputy Director's Report

1. External Affairs Update