Tuesday, March 12, 2013

The Board met at its offices at 450 N Street, Sacramento, at 11:50 a.m., with Mr. Horton, Chairman, Ms. Steel, Vice Chairwoman, Ms. Yee and Mr. Runner present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

SALES AND USE TAX APPEALS HEARINGS

La Torta Gorda, Inc., 572008 (BH)
7-1-07 to 6-30-10, $20,741.42 Tax
For Petitioner: Armando Macuil, Taxpayer
Mario West, Representative
For Sales and Use Tax Department: Marc Alviso, Hearing Representative
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issue: Whether adjustments are warranted to the amount of unreported taxable sales.

Lisa Burke, Business Taxes Specialist III, Appeals Division, Legal Department, advised of the revised recommendation of the Appeals Division to reduce the taxable sales by 6.5 percent for nontaxable sales of cold food to go.

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Nabil Abdo M. Abdulla and Taheri M. Aldafari, 569351 (CH)
7-1-07 to 6-30-10, $51,717.59 Tax, $0.00 Negligence Penalty
For Petitioner Nabil Abdo M. Abdulla: David B. Porter, Attorney
For Sales and Use Tax Department: Pamela Mash, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issue: Whether Mr. Abdulla is jointly and severally liable for petitioner's audit liability as a general partner.
Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

The Board recessed at 12:54 p.m. and reconvened at 1:49 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

LEGAL APPEALS MATTERS, CONSENT

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

Ahmed Mohammed Obaid, 559970 (CH)
2-1-07 to 3-31-10, $38,047.42 Tax, $4,207.94 Negligence Penalty
Action: Redetermine as recommended by the Appeals Division.

Tuesday, March 12, 2013

Steve's Place, Inc., 560567 (KH)
1-1-07 to 12-31-09, $2,465.25 Tax, $0.00 Penalty
Action: Redetermine as recommended by the Appeals Division.

Suhail Aref Abdelhalim, 478994 (BH)
7-1-04 to 6-30-07, $26,516.77 Tax, $6,629.24 Fraud Penalty
Action: Redetermine as recommended by the Appeals Division.

Victor K. Husary, 558936 (CH)
1-1-06 to 12-31-08, $22,514.98 Tax, $2,252.00 Negligence Penalty
Action: Redetermine as recommended by the Appeals Division.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

Erik L. Hayes, 606496
2008, $28,718.00 Tax, $7,179.50 Late Filing Penalty, $7,179.50 Notice and Demand Penalty, $88.00 Filing Enforcement Fee
Action: Sustain the action of the Franchise Tax Board and impose a $2,500.00 frivolous appeal penalty.

Peter T. Horwood, 601450
2008, $223.00 Tax
Action: Sustain the action of the Franchise Tax Board.

Richard Kuhle and Shelley Kuhle, 439454
1999, $1:00 or more Claim for Refund
2000, $1:00 or more Claim for Refund
Action: Sustain the action of the Franchise Tax Board.

John Markovich, 606129
2007, $4,063.89 Claim for Refund
Action: Sustain the action of the Franchise Tax Board.

Robert S. Marmor and Carol A. Marmor, 608840
2006, $5,600.00 Tax, $1,377.75 Late Filing Penalty, $1,120.00 Accuracy-Related Penalty
Action: Sustain the action of the Franchise Tax Board.

Steven Olmos, 600499
2005, $8,613.00 Tax, $2,153.25 Late Filing Penalty, $2,153.25 Notice and Demand Penalty
Action: Sustain the action of the Franchise Tax Board and impose a $5,000.00 frivolous appeal penalty.

Tuesday, March 12, 2013

Arthur C. Gustafson, 571611
2009, $2,384.00 Claim for Refund
Action: Sustain the action of the Franchise Tax Board.

Gongjian Hu, 593556
2008, $1,656.00 Assessment
Action: Sustain the action of the Franchise Tax Board.

Anthony D. Huerta and Carmen Huerta, 573108
2007, $10,619.50 Claim for Refund
2008, $10,902.98 Claim for Refund
Action: Sustain the action of the Franchise Tax Board.

Richard M. Kerbel, 560503
2005, $13,437.00 Claim for Refund
Action: Sustain the action of the Franchise Tax Board.

Jimmy L. Miller, 550085
1993, $167.75 Claim for Refund
1994, $777.90 Amnesty Penalty
1995, $340.93 Amnesty Penalty
Action: Sustain the action of the Franchise Tax Board.

Yvette Lang, 560276
1999, $4,296.00 Claim for Refund
2000, $7,879.00 Claim for Refund
2001, $39,651.00 Claim for refund
2002, $66,008.00 Claim for Refund
Action: Sustain the action of the Franchise Tax Board as to tax years 1999 and 2000; and, dismiss for lack of jurisdiction as to tax years 2001 and 2002.

SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES AND DENIALS OF CLAIMS FOR REFUND, CONSENT

The Board deferred consideration of the following matter: *Mitsubishi Power Systems Americas, Inc., 594638 (OH)*.

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties and Denials of Claims for Refund, Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *HSBC Card Services, Inc., 574503 (OH);* the Board made the following orders:

Garfield Beach CVS, LLC, 589637 (OH)
11-6-05 to 9-30-08, $428,733.44
Action: Approve the redetermination as recommended by staff.

Tuesday, March 12, 2013

Robert D. Tassone, 547499 (OH)
10-1-03 to 9-30-06, $107,046.13
Action: Approve the redetermination as recommended by staff.

The Vons Companies, Inc., 692601 (OH)
7-1-12 to 9-30-12, $126,485.00
Action: Approve the relief of penalty as recommended by staff.

Mitsubishi Power Systems Americas, Inc., 594638 (OH)
Action: The Board took no action.

HSBC Card Services, Inc., 574503 (OH)
1-1-11 to 3-31-12, $681,266.00
Action: Approve the denial of claim for refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *BP Products North America, Inc., 572762 (OH); ABC, Inc., 683881 (OH); HSBC Card Services, Inc., 574503 (OH); General Electric International, Inc., 546753 (OH);* and, *BP West Coast Products, LLC, 572758 (OH);* the Board made the following orders:

Recomm Wireless, Inc., 692569 (AC)
4-1-03 to 12-31-06, $423,735.90
Action: Approve the credit and cancellation as recommended by staff.

Trinity Oil Company, 691651 (FH)
10-1-05 to 12-31-05, $136,011.93
Action: Approve the credit and cancellation as recommended by staff.

Trinity Oil Company, 691653 (FH)
7-1-05 to 9-30-05, $119,032.44
Action: Approve the credit and cancellation as recommended by staff.

Hermes-Beverly Hills, 675584 (OH)
7-1-07 to 9-30-07, $249,181.00
Action: Approve the refund as recommended by staff.

Eclipse Advertising, Inc., 495267 (AC)
4-1-06 to 6-30-09, $300,776.75
Action: Approve the refund as recommended by staff.

Tuesday, March 12, 2013

BP Products North America, Inc., 572762 (OH)
1-1-08 to 6-30-10, $389,193.69
Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

ABC, Inc., 683881 (OH)
1-1-06 to 12-31-09, $1,644,258.59
Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Painters Unlimited CA, Inc., 602553 (OH)
1-1-09 to 12-31-11, $286,447.94
Action: Approve the refund as recommended by staff.

HSBC Card Services, Inc., 574503 (OH)
1-1-11 to 3-31-12, $3,611,546.00
Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

General Electric International, Inc., 546753 (OH)
1-1-08 to 12-31-09, $584,765.36
Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

BP West Coast Products, LLC, 572758 (OH)
4-1-08 to 6-30-10, $309,164.89
Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

LEGAL APPEALS MATTERS, ADJUDICATORY

Annand Nadir Sliuman, 475771 (FH)
1-1-06 to 7-31-07, $195,195.38 Tax, $7,457.70 Late Payment Penalty, $2,970.00 Late Prepayment Penalty, $10,935.50 Failure to File Penalty, $10,935.50 Finality Penalty
Saad Dawood Pattah, 479619 (FH)
1-1-06 to 7-31-07, $195,195.38 Tax, $7,457.70 Late Payment Penalty, $2,970.00 Late Prepayment Penalty, $10,935.50 Failure to File Penalty, $10,935.50 Finality Penalty
Considered by the Board: Hearing Notices Sent – No Response
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that no adjustments be made in the administrative protests as recommended by the Appeals Division.

Tuesday, March 12, 2013

Union Outlet, Inc., 547465 (AS)
1-1-06 to 12-31-08, $118,123.10 Tax, $11,812.32 Negligence Penalty
Considered by the Board: April 26, 2012
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Gateway Auto Center, Inc., 437262 (AS)
1-1-03 to 9-30-05, $64,676.73 Tax, $6,467.66 Negligence Penalty
Considered by the Board: July 26, 2012
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and duly carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel voting no, the Board ordered that the petition for rehearing be denied.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Pharmagenesis, Inc., 550168
2007, $5,372.91 Claim for Refund
Considered by the Board: January 15, 2013
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel voting no, the Board adopted a decision sustaining the action of the Franchise Tax Board.

SALES AND USE TAX MATTERS, DENIAL OF CLAIM FOR REFUND, ADJUDICATORY

HSBC Card Services, Inc., 504741 (OH)
10-1-08 to 12-31-10, $2,170,332.02
Considered by the Board: December 18, 2012
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 87105, the Board approved the denial of claim for refund as recommended by staff.

SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, ADJUDICATORY

HSBC Card Services, Inc., 504741 (OH)
10-1-08 to 12-31-10, $16,769,818.00
Considered by the Board: December 18, 2012
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Tuesday, March 12, 2013

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 87105, the Board approved the refund as recommended by staff.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

PROPERTY TAX MATTERS

Audits

Trans Bay Cable, LLC (119)
2009-2012, $26,500,000.00 Excessive Assessment, $650,000.00 Penalties, $975,000.00 In-lieu Interest
Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustment as recommended by staff.

Southwest Transmission Cooperative, Inc. (193)
2009-2011, $1,213,000.00 Escaped Assessment, $121,300.00 Penalties, $232,980.00 In-lieu Interest
Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustment as recommended by staff.

NTT America, Inc. (7732)
2008-2011, $11,100,000.00 Escaped Assessment, $1,710,000.00 Penalties, $3,699,000.00 In-lieu Interest
Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustment as recommended by staff.

NextG Networks of California, Inc. (7982)
2009-2012, $1,000,000.00 Escaped Assessment, $100,000.00 Penalties, $177,000.00 In-lieu Interest
Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustment as recommended by staff.

Tuesday, March 12, 2013

Sonic Telecom, LLC (8081)
2010-2012, $1,270,000.00 Escaped Assessment, $127,000.00 Penalties, $116,700.00 In-lieu Interest
Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustment as recommended by staff.

Unitary Land Escaped Assessments

Los Angeles SMSA Ltd. (2532)
2012, $180,924.00 Value
Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the unitary land escaped assessment as recommended by staff.

T-Mobile West Corporation (2748)
2011-2012, $173,191.00 Value
Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the unitary land escaped assessment as recommended by staff.

OFFER-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Offer in Compromise Recommendations of *Phu Dinh Do;* and, *Soi Sang Yong;* as recommended by staff.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD MARCH 12, 2013

La Torta Gorda, Inc., 572008 (BH)
Final Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined in accordance with the revised recommendation of the Appeals Division.

Nabil Abdo M. Abdulla and Taheri M. Aldafari, 569351 (CH)
Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Ms. Steel and Mr. Runner voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Tuesday, March 12, 2013

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 2:04 p.m. and reconvened immediately in closed session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss pending litigation (Gov. Code § 11126(e)), settlements (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 2:10 p.m. and reconvened immediately in open session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

The Board recessed at 2:11 p.m.

The foregoing minutes are adopted by the Board on September 10, 2013.

Note: The following matters were removed from the calendar prior to the meeting: *Doris Hsieh, 586283; Andy's BP, Inc., 546362 (BH);* and, *Rogelio Ortiz, 489267 (KH)*.

Wednesday, March 13, 2013

The Board met at its offices at 450 N Street, Sacramento, at 10:07 a.m., with Mr. Horton, Chairman, Ms. Steel, Vice Chairwoman, Ms. Yee, Mr. Runner and Mr. Chiang present.

2011/2012 EMPLOYEE RECOGNITION AWARD PROGRAM

Mr. Horton made introductory remarks regarding the Board of Equalization's *2011/2012 Employee Recognition Award Program*. The Members thanked recipients for their dedication and commitment to the organization. They congratulated recipients for their outstanding job performances and for being exceptional people who have done an exceptional job for the State of California. Cristina Herrera, Staff Services Manager III, Executive Projects & Services Section, External Affairs Department, read the names of the award recipients and their achievements into the record.

The Board recessed at 11:06 a.m. and reconvened at 11:21 a.m. with Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

SPECIAL PRESENTATION

Report from Chris Hill, Principal Program Budget Analyst, Department of Finance

Chris Hill, Principal Program Budget Analyst, Local Government Unit, Department of Finance (DOF), who presented DOF's process to recover certain redevelopment funds from local agencies and the BOE's certain potential ministerial responsibilities required by statute.

CHIEF COUNSEL MATTERS

RULEMAKING

Section 100 Changes

Regulations 1532, *Teleproduction or Other Postproduction Service Equipment;* 1533.1, *Farm Equipment and Machinery;* 1533.2, *Diesel Fuel Used in Farming Activities or Food Processing;* 1534, *Timber Harvesting Equipment and Machinery;* 1535, *Racehorse Breeding Stock;* and, 1598, *Motor Vehicle and Aircraft Fuels*

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to make Rule 100 changes to amend the specified regulations to incorporate the temporary tax rate increase from the passage of Proposition 30 and to incorporate changes from expired statutory provisions (Exhibit 3.1).

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved authorization to make Rule 100 changes to amend the specified regulations as recommended by staff.

Exhibits to these minutes are incorporated by reference.

Wednesday, March 13, 2013

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

Action: Adopt the following resolutions, extending its sincere and grateful appreciation to the retirees for their dedicated service to the State Board of Equalization and to the State of California, their congratulations on each retiree's well-earned retirement, and best wishes to them and their families for continued success, happiness and good health in the years to come (Exhibit 3.2).

Cindi J. Bonilla-Ernst, Office Assistant (General), Imaging and Mail Processing Center Unit, Administration Department, Headquarters
Kathye L. Jimenez, Office Assistant (General), Imaging and Mail Processing Center Unit, Administration Department, Headquarters
Ronald Lee, Staff Programmer Analyst, Technology Services Department, Headquarters
Phil Shipley (Amendment), Data Processing Manager III, Technology Services Department, Headquarters

Action: Approve the Board Meeting Minutes of August 21-22, 2012.

Action: Approve the 2013 Timber Advisory Committee appointments (Exhibit 3.3).

Mr. Horton directed staff to advise the Board of the statute relative to Timber Advisory Committee appointments and consider whether the Board should approve only changes in committee members as needed, rather than the Board's current practice of approving the standing committee each year.

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS

Legislative Committee – February 26, 2013

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the February 26, 2013 Legislative Committee report and the actions therein (Exhibit 3.4).

The Board recessed at 11:46 a.m. and reconvened at 12:17 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Legislative Committee – March 12, 2013

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the March 12, 2013 Legislative Committee report and the actions therein (Exhibit 3.5).

Wednesday, March 13, 2013

Business Taxes Committee – March 12, 2013

Action: Upon motion of Ms. Mandel, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the March 12, 2013 Business Taxes Committee report and the actions therein (Exhibit 3.6).

Property Tax Committee – March 12, 2013

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the March 12, 2013 Property Tax Committee report and the actions therein (Exhibit 3.7).

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Eric Steen, CROS Project Director, provided a report regarding the progress on the CROS project to replace BOE's two current tax legacy technology systems.

Property and Special Taxes Deputy Director's Report

David Gau, Deputy Director, Property and Special Taxes Department, provided an update regarding the Fire Prevention Fee Program (Exhibit 3.8).

David Gau, Deputy Director, Property and Special Taxes Department, presented the Federation of Tax Administrators (FTA) Tobacco Section Resolution to expand the *Prevent All Cigarette Trafficking Act* (PACT Act) to include cigars and pipe tobacco (Exhibit 3.9).

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved staff recommendation to support the FTA Tobacco Section Resolution to expand the PACT Act.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD MARCH 13, 2013

Ultimodule, Inc., 473612 (GH)
6-15-04 to 9-30-07, $5,932.25 Tax
For Petitioner: Waived Appearance
For Sales and Use Tax Department: Kevin Smith, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issues: Whether one specific claimed exempt sale in interstate commerce was disallowed in error.

Whether any adjustments are warranted to the unreported cost of tangible personal property purchased ex-tax and consumed by petitioner.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Wednesday, March 13, 2013

Mobile Telesys, Inc., 486216 (FH)
4-1-02 to 6-30-03, $450,257.41 Tax, $45,025.75 Negligence Penalty
For Petitioner: Waived Appearance
For Sales and Use Tax Department: Erin Dendorfer, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issues: Whether adjustments are warranted to the amount of unreported taxable sales.
Whether an adjustment is warranted for bad debts.
Whether petitioner was negligent.
Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the matter not be held in abeyance pending the adoption of a summary decision for publication.

The Unlimited Store, Inc., 522301 (KH)
2-1-08 to 9-30-09, $18,590.49 Tax, $26,445.89 Negligence Penalty
For Petitioner: Waived Appearance
For Sales and Use Tax Department: Marc Alviso, Hearing Representative
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issues: Whether additional adjustments are warranted to the understatement of reported taxable sales.
Whether petitioner was negligent.
Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Ms. Yee directed staff to agendize for the next Board meeting a discussion regarding holding Board meetings in the San Francisco area for Northern California hearings.

The Board adjourned at 12:38 p.m.

The foregoing minutes are adopted by the Board on September 10, 2013.

Note: The following matters were removed from the calendar prior to the meeting: *Sweetwater Restaurants, LLC, 491317 (DF); Mohamed M. Alhaj, 519427 (BH); Amar Abdo Alamary, 513144 (DF);* and, *Zap, 496989 (JH).*