



STATE BOARD OF EQUALIZATION

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BETTY T. YEE
First District, San Francisco

MICHELLE STEEL
Third District, Rolling Hills Estates

JEROME E. HORTON
Fourth District, Los Angeles

JOHN CHIANG
State Controller

BARBARA ALBY
Acting Member
Second District, Sacramento

RAMON J. HIRSIG
Executive Director

**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento**

PRELIMINARY RECORD OF BOARD ACTIONS

Tuesday, April 13, 2010

The following is a preliminary record of Board actions taken at the April 13, 2010 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 Amber Taylor-Forman at (916) 324-5589 or e-mail: Amber.M.Forman@boe.ca.gov Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

Board Meeting

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

B. Corporate Franchise and Personal Income Tax Hearings**B1. Thomas A. Leonardini and Karen M. Leonardini, 449478**

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---|------------------------|-------------------|
| No final Board determination | Ms. Yee | Yes |
| The Board ordered that the appeal be submitted for decision, granting the appellant 30 days to submit supporting documents, the Franchise Tax Board 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board. | Ms. Alby | Yes |
| | Ms. Steel | Yes |
| | Mr. Horton | Yes |
| The Board ordered staff to prepare the further briefing letter to the parties considering the FTB's previous requests for documentation and requesting any substitute documentation specific to the wine industry. | Mr. Chiang/ Ms. Mandel | Yes |

B2. Harvinder Singh Pahal and Satvinder Kaur, 487053

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---|------------------------|-------------------|
| No final Board determination. | Ms. Yee | Yes |
| The Board ordered that the appeal be submitted for decision, granting the appellant 30 days to submit supporting documents, the Franchise Tax Board 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board. | Ms. Alby | Yes |
| | Ms. Steel | Yes |
| | Mr. Horton | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

C. Sales and Use Tax Appeals Hearings~~C1a. Sally M. Gordon, 349938 (JH)~~~~C1b. Gordon's Restaurants, Inc., 349939 (JH)~~~~C2. Joseph Peter Frumentti, 437274 (CH)~~~~C3. Jaswant S. Sra, 437185 (UT)~~

D. Special Taxes Appeals Hearings
There are no items for this matter.

E. **Property Tax Appeals Hearing**
This item is scheduled for the afternoon session.

F. **Public Hearings**
These items are scheduled for the afternoon session.

G. **Tax Program Nonappearance Matters – Consent**

G1. Legal Appeals Matters

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

- Hearing Notice Sent – No Response
 1. Steven John Biondi, 403194 (KH)
 2. Peter Alden Sartin, 473188 (AP)
 3. Kent Gene Miller, 415553 (KH)
- Petitions for Release of Seized Property
 4. Hamed Akbarzadeh, 514215 (ET)
 5. Ayman Hassan Shehadeh Odeh & Omar Mohammed Odeh, 513466 (ET)

G2. Franchise and Income Tax Matters

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---|------------------------|-------------------|
| Approved staff recommendations. | Ms. Yee | Yes |
| | Ms. Alby | Yes |
| No final determination on sub-items 3 and 16. | Ms. Steel | Yes |
| | Mr. Horton | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

- Decisions
 1. Erika Bejarano, 472938
 2. Dominga P. Belen, 449318
 3. Sylvia Bellow (Deceased) Philip K. Lee (Trustee), 459746
 4. Anup Bhowmik, 444144
 5. Eugene Cobb & Jacqueline Cobb, 450391
 6. Michael Denapoli & Rie Y. Denapoli, 479519
 7. Glen A. Dierckman, 478532
 8. John J. Hyland & Monica M. Hyland, 460067
 9. Han Suk Kim, 464310

10. Colin Macnab & Caroline Macnab, 440891
11. Daniel L. Mahnke, 473875
12. Nick A. Marquez, 444652
13. Betty Mattson, 483784
14. Serban Porumbescu & Mihaela Porumbescu, 379542
15. Darrell L. Rich, 462017
- ~~16. Barbara Talalemotu, 475326~~

G3. Homeowner and Renter Property Tax Assistance Matters

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

- Decisions
 1. Jibari Fite, 426725
 2. Theresa Hibpshman, 405006
 3. Arthur King, 463769
 4. Daisy Wachsmuth, 475485

G4. Sales and Use Taxes Matters

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--|------------------------|---|
| Approved staff recommendations. | Ms. Yee | Yes |
| | Ms. Alby | Yes |
| | Ms. Steel | Yes |
| No final determination on sub-items 7 and 8. | Mr. Horton | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes – except not participating in sub items 2 and 6 |

- Redeterminations
 1. AAA Restaurant Fire Control, Inc., 493649 (CH)
 2. Canon U.S.A., Inc., 432709 (OH)
 3. Peerless Manufacturing Co., 491320 (OH)
 4. Océ Financial Services, Inc., 473623 (OH)
- Relief of Penalty/Interest
 5. Gamestop, Inc., 521631 (OH)
- Denials of Claims For Refund
 6. Charles Schwab & Co., Inc., 465764 (BH)
 7. ~~Federal Express Corporation, 332384 (OH)~~
 8. ~~Oracle Corporation, 316909 (BH)~~

G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--|------------------------|---|
| Approved staff recommendations. | Ms. Yee | Yes |
| | Ms. Alby | Yes |
| No final determination on sub-items 5, 22, 23, 27, and 29. | Ms. Steel | Yes |
| | Mr. Horton | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes – except not participating in sub-items 1, 2, 6, 20 and 30. |

- Credit and Cancellation
- 1. Home Depot USA, Inc., 521498 (OH)
- Refunds
- 2. Target Corporation, 506509 (OH)
- 3. Southern California Graphics Corp., 288540 (AS)
- 4. The Gap Stores, Inc., 351102 (BH)
- 5. ~~Wells Fargo Auto Finance, Inc., 421052 (BH)~~
- 6. Charles Schwab & Company, Inc., 465764 (BH)
- 7. Hub Distributing, Inc., 507726 (EH)
- 8. Westside Building-Material Corp., 486325 (EA)
- 9. Los Angeles SMSA, Limited Partnership, 294952 (OH)
- 10. San Diego Unified School District, 483864 (FH)
- 11. Professional Hospital Supply, Inc., 482802 (EH)
- 12. Philips Semiconductors, Inc., 518172 (GH)
- 13. Safe Credit Union, 506176 (KH)
- 14. Kent's Oil Service, 444347 (KH)
- 15. Solarcom, Inc., 426878 (OH)
- 16. Cerner Corporation, 461707 (OH)
- 17. Merrill Corporation, 448408 (OH)
- 18. Rockwell Collins, Inc., 361940 (OH)
- 19. Oxford Instruments America, Inc., 467824 (OH)
- 20. Intel Corporation, 434861 (GH)
- 21. Royal Plywood Company, LLC, 491594 (AA)
- 22. ~~Visterra Credit Union, 484299 (EH)~~
- 23. ~~Wachovia Dealer Services, Inc., 492529 (EA)~~
- 24. Marvell Semiconductor, Inc., 356711 (GH)
- 25. AT&T Wireless Service of California, LLC, 514947 (OH)
- 26. Livingston Volkswagon, Inc., 523041 (AC)
- 27. ~~Sequoia Voting Systems, Inc., 484622 (CH)~~
- 28. International Business Machine Corp., 384571 (OH)
- 29. ~~American Airlines, Inc., 256349 (OH)~~
- 30. The Walt Disney Company, 435359 (OH)
- 31. Wescom Credit Union, 509162 (AP)
- 32. Lobel Financial Corporation, 504694 (EA)
- 33. Balboa Thrift & Loan Association, 504699 (FH)
- 34. Rancho Santa Fe Thrift & Loan, 489459 (FH)
- 35. Triad Financial Corporation, 470368 (EA)
- 36. Door Solutions, Inc., 484293 (AR)
- 37. ACC Consumer Finance, LLC, 478134 (FH)
- 38. The New York Times Sales, Inc., 493299 (OH)

G6. Special Taxes Matters

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---------------------------------|------------------------|-------------------|
| Approved staff recommendations. | Ms. Yee | Yes |
| | Ms. Alby | Yes |
| | Ms. Steel | Yes |
| | Mr. Horton | Yes |
| | Mr. Chiang/ Ms. Mandel | Not Participating |

➤ Relief of Penalty

1. Government Employees Insurance Company, 519523 (ET) 'CF'
2. Geico Indemnity Company, 519524 (ET) 'CF'
3. Geico General Insurance Company, 519529 (ET) '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

H1. Legal Appeals Matters

➤ Petition for Release of Seized Property

1. Travel Traders Hotel Stores, Inc., 514222 (ET)

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

H2. Franchise and Income Tax Matters

➤ Decision

1. Terry Jones, 420950

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---------------------------|------------------------|-------------------|
| Taxpayer's appeal denied. | Ms. Yee | Yes |
| | Ms. Alby | Yes |
| | Ms. Steel | Yes |
| | Mr. Horton | 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

➤ Redetermination

1. Bodybuilding.com, LLC, 467307 (OH)

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|------------------------------|------------------------|------------------------------|
| Taxpayer's petition granted. | Ms. Yee | Yes |
| | Ms. Alby | Yes |
| | Ms. Steel | Yes |
| | Mr. Horton | Yes |
| | Mr. Chiang/ Ms. Mandel | Absent and Not Participating |

H5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds
There are no items for this matter.

H6. Special Taxes Matters

➤ Denial of Relief of Penalty

1. Kern Oil & Refining Company, 467744 (MT) 'CF'

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|-------------------------------|------------------------|-------------------|
| No final Board determination. | Ms. Yee | |
| | Ms. Alby | |
| | Ms. Steel | |
| | Mr. Horton | |
| | Mr. Chiang/ Ms. Mandel | |

There are no items for the following 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

➤ Unitary Land Escaped Assessments

1a. AT&T Mobility, LLC (2606) 'CF'

1b. OmniPoint Communications, Inc. (2748) 'CF'

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---------------------------------|------------------------|-------------------|
| Approved staff recommendations. | Ms. Yee | Yes |
| | Ms. Alby | Yes |
| | Ms. Steel | Yes |
| | Mr. Horton | Yes |
| | Mr. Chiang/ Ms. Mandel | Not Participating |

There are no items for the following matters:

- I2. Offers in Compromise Recommendations
- I3. Local Tax Reallocation Matters

C. Sales and Use Tax Appeals Hearings

C4. Allyn F. Taylor and Georgetta Taylor, 465848 (KH)

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|-----------------------------|------------------------|-------------------|
| Taxpayer's petition denied. | Ms. Yee | Yes |
| | Ms. Alby | Yes |
| | Ms. Steel | No |
| | Mr. Horton | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

C5. Neal O'Gilvy and Deanne O'Gilvy, 434977 (UT) – Appearance Waived

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|---|------------------------|-------------------|
| Taxpayer's petition denied. Approved staff recommendation. | Ms. Yee | Yes |
| | Ms. Alby | Yes |
| | Ms. Steel | Yes |
| | Mr. Horton | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

E. Property Tax Appeals Hearing

Welfare Exemption Claims

E1.a. Alliance Member Services, Inc., 472460

E1.b. Nonprofits' Insurance Alliance of California, 472465

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|-----------------------------|------------------------|-------------------|
| Taxpayer's petition denied. | Ms. Yee | Yes |
| | Ms. Alby | No |
| | Ms. Steel | No |
| | Mr. Horton | Yes |
| | Mr. Chiang/ Ms. Mandel | Yes |

F. Public Hearings

- F1. Property Taxes – State Assessee Presentations on the Valuation of State-Assessed Properties
- F2. Business Taxpayers' Bill of Rights Hearings
- F3. Property Taxpayers' Bill of Rights Hearings

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**N. Consent Agenda**

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

- N1. Retirement Resolutions
- Khoi Nguyen
 - Mohan K. Pai
 - Dharendra M. Patel
 - Arturo P. Salbilla
 - Raymond J. Saltzman
 - Sid Zigelman

- N2. Readjustment to the Prepayment of Sales Tax on Motor Vehicle Fuel

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

- O1. Legislative Committee – March 24, 2010

| <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/legdiv/legmeetings10.htm | Ms. Yee | Yes |
| | Ms. Alby | Yes |
| | Ms. Steel | Yes |
| | Mr. Horton | Yes |
| | Mr. Chiang/Ms. Mandel | Yes |

O2. Property Tax Committee – April 13, 2010

| <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/proptaxes/p/cwplan10.htm | Ms. Yee | Yes |
| | Mr. Alby | Yes |
| | Ms. Steel | Yes |
| | Mr. Horton | Yes |
| | Mr. Chiang/Ms. Mandel | Yes |

1. Proposed Adoption of Assessors Handbook Section 215, Assessment Map Standards for Manual Systems

| <u>DECISION</u> | <u>MEMBER</u> | <u>BOARD VOTE</u> |
|--|-----------------------|-------------------|
| Adopted the recommended revisions to AH 215 as presented in Issue Paper 10-001.” | Ms. Yee | Yes |
| | Mr. Alby | Yes |
| | Ms. Steel | Yes |
| | Mr. Horton | Yes |
| | Mr. Chiang/Ms. Mandel | Yes |

2. Status Report on Laser High-Speed Production Printers

P. Other Administrative Matters

P1. Executive Director's Report

- a. Analysis of Out-of-State Offices
- b. Report on time extensions to Monterey and Sacramento Counties to complete and submit 2010/11 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155

P2. Chief Counsel Report

There are no items for this matter.

P3. Sales and Use Tax Deputy Director's Report

- a. Update on Unapplied Remittances

P4. Property and Special Taxes Deputy Director's Report

There are no items for this matter.

P5. Administration Deputy Director's Report

1. Facilities Update – These items provide information and may require Board action or direction.
 - a. Headquarters Facilities – There will be an update on the Headquarters remediation project.
 - b. Headquarters Annex - 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.
 - c. ~~Revenue generation concepts for possible inclusion in the Governor's Fiscal Year 2010-11 Budget~~
 1. ~~Underground Economy, Joint Enforcement Strike Force Augmentation~~
 2. ~~Collections Enhancement~~
 3. ~~Collections Cost Recovery Fee~~

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

Q. Closed Session