



STATE BOARD OF EQUALIZATION

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BETTY T. YEE  
First District, San Francisco

BILL LEONARD  
Second District, Ontario/Sacramento

MICHELLE STEEL  
Third District, Rolling Hills Estates

JUDY CHU, Ph.D.  
Fourth District, Los Angeles

JOHN CHIANG  
State Controller

RAMON J. HIRSIG  
Executive Director

**STATE BOARD OF EQUALIZATION MEETING  
450 N Street, Room 121, Sacramento  
June 24, 2008**

**PRELIMINARY RECORD OF BOARD ACTION**

The following is a preliminary record of Board actions taken at the June 24, 2008 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 Rose Smith at (916) 323-9656 or e-mail: [Rose.Smith@boe.ca.gov](mailto:Rose.Smith@boe.ca.gov) Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

**Board Committee Meetings** Please see Page 11, Item O., Adoption of Board Committee Reports and Approval of Committee Actions, for voting results.

**Board Meeting**

Special Presentation of Retirement Resolution to Joseph D. Young

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

**B. Corporate Franchise and Personal Income Tax Hearings**

B1. Carlos M. Alcala and Norma Alcala, 259159

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' Appeal Denied	Dr. Chu	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

## B2. Kyle Rosier, 397169

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Appeal Denied	Dr. Chu	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

## C. Sales and Use Tax Appeals Hearings

## C1. Linkus Enterprises, Inc., 334425 (KH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Denied	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	No
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

## C2. James Asher Finegold and Dana Lee Finegold, 351626 (UT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination. The Board ordered that the petition be submitted for decision, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the petitioner's supporting documents, the Department's response and provide its recommendation to the Board.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

## C3. Ferede Beyene Negash and Lielti Desta Mesfi, 336999 (GH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination. Continued to July.	Dr. Chu	
	Mr. Leonard	
	Ms. Steel	
	Ms. Yee	
	Mr. Chiang/Ms. Mandel	

There were no items for the following matters:

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

**F. Public Hearing**

**F1. Timber Harvest Values**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

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

**G1. Legal Appeals Matters**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Petitions for Rehearing
  - 1a. Cigars By Chivas, Inc., 334787 (AP)
  - 1b. Cigars By Chivas, Inc., 334876 (ET)
- Hearing Notices Sent – No Response
  - 2a. Douglas Wayne Wright Jr., 351528 (CH)
  - 2b. Monica Laurene Bezore, 358675 (CH)
  - 3. Cargo Airline Transport, Inc., 350445 (UT)
  - 4a. AM-Farjo International, Inc., 360093 (AR)
  - 4b. Mian S. Qureshi and Farhat B. Pervaiz, 361774 (AR)
  - 5. Brett Carson Haynes, 333836 (KH)
- Petition for Release of Seized Property
  - 6. Ammar Gaber Said Awnallah, 429325 (ET)

**G2. Franchise and Income Tax Matters**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Dr. Chu	Yes
No Final Determination on sub-items 2 and 3	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Decisions
  1. Alvina Bannister, 327650
  2. ~~Terry N. Black, 355231~~
  3. ~~Sandras Clark, 355234~~
  4. David L. Danek and Pimolmas Danek, 347639
  5. Seth D. Ehrlich and Cindy A. Ehrlich, 361464
  6. Robert O. Garner, 380431
  7. Jami Gibson, 395425
  8. Fred C. Haney and Jeannine A. Haney, 361322
  9. Duck Kim and Ingyu Kim, 357020
  10. Martin Ortiz, 358670
  11. William Simpkins, 250998
  12. Loc B. Ta, 383531
- Decisions on Petitions for Rehearing
  13. Vivian Fontenot, 391245
  14. John Nelson and Ivy C. Nelson, 393411
- Hearing Notices Sent – No Response
  15. William Amonette Anderson, 397348
  16. Brandon J. Gaffney, 381176
  17. Greg Galaski, 383410
  18. Anthony Long, 383389

### **G3. Homeowner and Renter Property Tax Assistance Matters**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Dr. Chu	Yes
No Final Determination on sub-item 8	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Decisions
  1. Jose Amezola, 346692
  2. Deborah Davis, 387815
  3. Arlene Fleck, 389593
  4. Roger Hoffman, 399438
  5. Richard Lopez, Sr., 359734
  6. Sandra Love, 387479
  7. Mary K. Martin (Deceased), 394348
  8. ~~Diane J. Reed, 333196~~
  9. Rolfe Simonsen, 403756
  10. Enrico Varricchio, 386505

**G4. Sales and Use Taxes Matters**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Dr. Chu	Yes
No Final Determination on sub-items 5 and 6	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Redeterminations
  1. Ludlow Coated Products, LP, 414214 (OH)
  2. Rocky Mountain Log Homes, 288216 (OH)
- Relief of Penalty/Interest
  3. Hussmann Corporation, 441206 (OH)
  4. Fedex Kinko's/Print Services, Inc., 441208 (OH)
- Denials of Claims for Refund
  5. ~~John Raymond Collins, 399683 (UT)~~
  6. ~~Robert L. Reynolds, 424795 (KH)~~

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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Dr. Chu	Yes
No Final Determination on sub-items 5 and 32	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes – except not participating in sub-items 7 and 24

- Credits and Cancellations
  1. O'Neil Group, Inc., 441800 (EH)
  2. Wireless Retail, Inc., 439843 (OH)
  3. Dot Hill Systems Corporation, 442263 (FH)
  4. Apex Design Technology, Inc., 439778 (EA)
  5. ~~Clear Vision Management, Inc., 440337 (EH)~~
- Refunds
  6. Mike Campbell & Associates, Ltd., 442334 (AP)
  7. Nissan North America, Inc., 421912 (OH)
  8. Oakley, Inc., 336750 (EA)
  9. I-Flow Corporation, 441176 (EA)
  10. Sharper Image Corporation, 439856 (BH)
  11. Schwing America, Inc., 381465 (OH)
  12. Lone Oak Veterinary Clinic, Inc., 401313 (KH)
  13. Gottschalks, Inc., 441170 (KH)
  14. Cart Mart, Inc., 405440 (FH)
  15. First Future Credit Union, 416572 (FH)
  16. J-M Manufacturing Company, Inc., 425717 (OH)
  17. Valley First Credit Union, 383236 (KH)

18. Compuware Corporation, 386557 (OH)
19. Dresser Rand Company, 243917 (OH)
20. Nellson Nutraceutical, Inc., 442338 (AP)
21. Larry Green Chrysler Plymouth Dodge Eagle, Inc., 434821 (EH)
22. Palomar Technologies, Inc., 432419 (FH)
23. Home Shopping, LP, 318294 (OH)
24. Infineon Technologies Corporation, 423699 (GH)
25. Paper Machinery Corporation, 421801 (OH)
26. Amtek (USA) Enterprises, Inc., 437740 (GH)
27. Owens & Minor Distribution, Inc., 346670 (OH)
28. Six Leasing, Inc., 439789 (EH)
29. Convergent Media Systems Corporation, 316349 (OH)
30. Guardian Building Products Distribution, Inc., 421812 (OH)
31. United Auto Credit Corporation, 430063 (EA)
- ~~32. Water & Power Community Credit Union, 334165 (AS)~~
33. County Schools Federal Credit Union, 331821 (AR)
34. Kern Schools Federal Credit Union, 432422 (AR)
35. Newegg, Inc., 432588, (AP)

#### **G6. Special Taxes Matters**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendation	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

➤ Relief of Penalty

1. Ralphps Grocery Company, 431287 (ET)

#### **G7. Special Taxes Matters – Credits, Cancellations, and Refunds**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes – except not participating in sub-items 2, 3, 4 and 5

➤ Credit and Cancellation

1. Hunsaker & Sons, Inc., 388737 (MT)

➤ Refunds

2. Sentry Life Insurance Company, 397178 (ET) 'CF'
3. The Wine Group, LLC, 417145 (ET) 'CF'
4. Metropolitan Life Insurance Company, 433462 (ET) 'CF'
5. Standard Life Insurance Company of Indiana, 431684 (ET) 'CF'

There were 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

➤ Hearing Notices Sent – No Response

1. ~~International Investment Properties, Inc., 313013 (KH)~~
2. K.V.L., Inc., 263001 (AR)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Denied	Dr. Chu	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

➤ Cases Heard But Not Decided

3. The Coca Cola Company, 286352, 193081, 288534 (OH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition 286352 Denied, Claim 193081 Partially Granted/Denied, Claim 288534 Denied	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	No
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

4. Tarek Anwar Nada, 305290 (CH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Denied	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

**H2. Franchise and Income Tax Matters**

## ➤ Decisions

## 1. Byron Hoffman, 381469

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Appeal Denied A \$2,500.00 frivolous appeal penalty was ordered.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

## 2. Thomas Jones, 383406

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Appeal Denied A \$2,500.00 frivolous appeal penalty was ordered.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

## 3. Steven R. Olmos, 342009

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Appeal Denied A \$1,500.00 frivolous appeal penalty was ordered.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

## 4. Margaret Rogers, 382827

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Appeal Denied A \$2,500.00 frivolous appeal penalty was ordered.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

## 5. Robin J. Steele, 342595

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

**H4. Sales and Use Taxes Matters**

- Denial of Relief of Penalty/Interest
  1. Atlantic Richfield Company, 433808 (AA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Denied	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

There were no items for the following matters:

- H5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds
- 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	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Not Participating

- Private Railroad Car Tax Refunds
  - 1a. Mallard Transportation Company (603) “CF”
  - 1b. Rocky Mountain Transportation (6062) “CF”

**I2. Offers-in-Compromise Recommendations**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendation	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

1. Barton Magner

**Chief Counsel Matters****J. Rulemaking****Section 100 Change to Regulation**

J1. Proposed Amendments to Hazardous Substances Tax Regulation 3000, *Generator of Hazardous Waste*

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved amendments as recommended by staff.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

There were no items for the following matters:

- 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	Dr. Chu	Yes
No Final Determination on sub-item N3	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

N1. Retirement Resolutions

- Tella R. Barreda
- Dennis W. Ensley
- Bonnie Jeanene Geller
- Carol A. Holman
- Jim Loman

N2. Approval of Board Meeting Minutes

- May 13-15, 2008
- May 28-29, 2008

N3. Adoption of Property Tax Forms

**O. Adoption of Board Committee Reports and Approval of Committee Actions****O1. Business Taxes Committee**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein.	Dr. Chu	Yes
	Mr. Leonard	Yes
For details see:	Ms. Steel	Yes
<a href="http://www.boe.ca.gov/meetings/btc2008.htm">http://www.boe.ca.gov/meetings/btc2008.htm</a>	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Proposed regulatory changes to clarify application of tax to sales of meal replacement products - Sales and Use Tax Regulation 1591, *Medicines and Medical Devices* and Regulation 1602, *Food Products*

<u>DECISION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Authorized to publish as recommended by Staff.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

**O2. Customer Services and Administrative Efficiency Committee**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein.	Dr. Chu	Yes
	Mr. Leonard	Yes
For details see:	Ms. Steel	Yes
<a href="http://www.boe.ca.gov/meetings/custsrv/custsrv08.htm">http://www.boe.ca.gov/meetings/custsrv/custsrv08.htm</a>	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Administrative Settlement Program Report and Recommendations

<u>DECISION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Approved Alternative 2 without the option for the Chair to waive the deadline.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Report on Procedures for Unclaimed Property Being Held by State Controller in Board of Equalization's Name

## O3. Property Tax Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein.	Dr. Chu	Yes
	Mr. Leonard	Yes
For details see:	Ms. Steel	Yes
<a href="http://www.boe.ca.gov/proptaxes/p/cwplan08.htm">http://www.boe.ca.gov/proptaxes/p/cwplan08.htm</a>	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

1. Discussion of Future Valuation Factor Studies for Specific Industries and Equipment

**P. Other Administrative Matters****P1. Executive Director's Report**

- a. Report on time extensions to Calaveras, Colusa, Lassen, Los Angeles, Madera, Orange, Plumas, San Diego, Sutter, Tehama, Trinity and Yuba Counties to complete and submit 2008-09 Local Assessment Roll, pursuant to Revenue and Taxation Code Section 155

**P2. Chief Counsel Report**

There were no items for this matter.

**P3. Deputy Director's Report**

There were no items for this matter:

- a. Sales and Use Tax

**b. Property and Special Taxes**

1. Status Report on Flavored Malt Beverage Regulations

**c. Administration**

1. Proposed Fiscal Year 2008-2009 Budget Update

Feedback on the final Senate and Assembly Fiscal Sub-Committee budget actions

2. BOE Headquarters Building Update

Updated information regarding remediation projects

**Q. Closed Session**