

Wednesday, October 1, 2008

The Board met at its offices at 450 N Street, Sacramento, at 9:37 a.m., with Dr. Chu, Chair, Ms. Yee, Vice Chairwoman, Mr. Leonard and Ms. Steel present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

SALES AND USE TAX APPEALS HEARINGS

International Investment Properties, Inc., 313013 (KH)

4-1-01 to 3-31-04, \$122,472.74 Tax, \$12,247.27 Negligence Penalty

For Petitioner: Abe Golomb, Representative

For Sales and Use Tax Department: Mariflor Jimenez, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether adjustments are warranted to the audited understatement of reported taxable sales.

Whether petitioner was negligent.

Action: The Board deferred the matter to later in the day.

Gilberto Gonzalez Perez, 396030 (AR)

1-1-03 to 6-30-06, \$3,395.03 Tax, \$343.18 Negligence Penalty

For Petitioner: Gilberto Gonzalez Perez, Taxpayer

For Sales and Use Tax Department: Mariflor Jimenez, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the audited amount of sales established on a markup basis is excessive.

Whether petitioner was negligent.

Action: The Board postponed this matter.

SPECIAL TAXES APPEALS HEARING

Ravi Singh Sekhon, 329682 (ET)

7-1-01 to 2-29-04, \$0.00 Tax, \$0.00 Penalty

Ravi Singh Sekhon, 329684 (ET)

10-17-01 to 6-30-04, \$55,537.00 Tax, \$0.00 Penalty

For Petitioner: Ravi Sekhon, Taxpayer

For Property and Special Taxes Department: Stephen Smith, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioner has established that he reasonably relied on advice from the Board regarding the taxability of destroyed cigarettes entitling him to relief from the applicable tax.

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

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SALES AND USE TAX APPEALS HEARING

International Investment Properties, Inc., 313013 (KH)¹

4-1-01 to 3-31-04, \$122,472.74 Tax, \$12,247.27 Negligence Penalty

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

PUBLIC HEARING

Proposed Amendments to Sales and Use Tax Regulation 1602.5, *Reporting Methods for Grocers*

Cary Huxsoll, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the proposed amendments to Sales and Use Tax Regulation 1602.5, which would eliminate language related to Board approval of an electronic scanning method, modified purchase ratio method, or cost plus markup method before the method is used to report tax. (Exhibit 10.1.)

Speakers were invited to address the Board, but there were none.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board adopted the proposed amendments to Sales and Use Tax Regulation 1602.5, *Reporting Methods for Grocers*, as recommended by staff.

Exhibits to these minutes are incorporated by reference.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matters: *Cigarettes Cheaper!*, 80069 (JH); and, *Ibrahim Said Mekhail*, 457966 (ET).

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

Ameritrans, Inc., 315414, 315417 (KH)

10-1-99 to 9-30-03, \$47,724.07 Tax, \$5,006.12 Late Payment Penalty, \$5,352.16 Amnesty Interest Penalty

Ameriwest, Inc., 281204, 315418 (KH)

4-1-95 to 9-30-03, \$236,352.10 Tax, \$16,455.41 Late Payment Penalty, \$36,301.30 Amnesty Interest Penalty

Action: Deny the petition for rehearing as recommended by the Appeals Division.

¹ Continued from earlier in the day.

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Cigarettes Cheaper!, 80069 (JH)
10-1-96 to 9-30-99, \$544,021.75 Tax
Action: The Board took no action.

Jamshid Malakouti, 308952 (EH)
7-1-01 to 9-30-04, \$54,695.07 Tax, \$5,469.56 Negligence Penalty, \$3,100.53 Amnesty Interest
Penalty
Action: Deny the petition for rehearing as recommended by the Appeals Division.

Dinerland, 379964 (CH)
1-1-03 to 3-31-06, \$9,421.26 Tax
Action: Redetermine as recommended by the Appeals Division.

Ibrahim Said Mekhail, 457966 (ET)
April 23, 2008, \$438.00 Approximate Value
Action: The Board took no action.

Ajmer Singh Nijjar, 449686 (ET)
April 2, 2008, \$237.60 Approximate Value
Action: Determined that staff properly seized the tobacco products.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matters: *K. Muller Property Number One, LLC, 382823*; and, *John Stroup and Judith Stroup, 354089*.

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

Patricia Cairns, 340155
2004, \$939.84 Claim for Refund, \$174.52 Late Payment Penalty
Action: Sustain the action of the Franchise Tax Board.

K. Muller Property Number One, LLC, 382823
2004, \$50.00 Late Filing Penalty, \$84.00 Late Payment Penalty
Action: The Board took no action.

Ronald C. Ladrech and Melissa A. Ladrech, 381604
2001, \$29,337.00 Tax
Auditorium Travel Inn, Inc., 382893
2001, \$65,646.00 Tax
Action: Sustain the action of the Franchise Tax Board in regards to Auditorium Travel Inn, Inc., and sustain the modified action of the Franchise Tax Board in regards to Ronald C. Ladrech and Melissa A. Ladrech.

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Scott Lockard, 377163

2004, \$1,064.00 Assessment

Action: Sustain the action of the Franchise Tax Board and impose a \$1,500.00 frivolous appeal penalty.

John Stroup and Judith Stroup, 354089

1999, \$1,363.00 Innocent Spouse Relief Granted

2000, \$2,074.00 Innocent Spouse Relief Granted

Action: The Board took no action.

Manuel Velazquez De Leon and Mayra Velazquez De Leon, 379668

2004, \$2,094.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

With respect to the Homeowner and Renter Property Tax Assistance Matters Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board made the following orders:

Hui X. Zhao, 377652

2006, \$347.50

Action: Sustain the action of the Franchise Tax Board.

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

With respect to the Sales and Use Tax Matters, Redeterminations and Denials of Claims for Refund, Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board made the following orders:

Karen L. Dore, 345458 (EH)

7-1-03 to 2-4-04, \$131,518.25

Action: Approve the redetermination as recommended by staff.

Abner Witherspoon, Inc., 380586 (EH)

7-15-05 to 7-15-05, \$58,231.00

Action: Approve the redetermination as recommended by staff.

Aero Transit, Inc., 445500 (UT)

2-24-03 to 2-24-03, \$56,562.10

Action: Approve the denial of claim for refund as recommended by staff.

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**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. Yee, seconded by Ms. Steel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board made the following orders:

Angela McCormack, 423332 (EH)

7-1-03 to 2-4-04, \$177,050.49

Action: Approve the credit and cancellation as recommended by staff.

Gary Lee Watkins, 450953 (KH)

1-1-04 to 8-31-06, \$96,545.04

Action: Approve the credit and cancellation as recommended by staff.

P & R Paper Supply, Inc., 420984 (EH)

7-1-05 to 6-30-07, \$72,950.79

Action: Approve the refund as recommended by staff.

Therma-Wave, Inc., 449194 (CH)

10-1-03 to 9-30-07, \$307,647.16

Action: Approve the refund as recommended by staff.

Quest Media & Supplies, Inc., 457798 (KH)

4-1-02 to 3-31-05, \$60,263.16

Action: Approve the refund as recommended by staff.

Mercedes-Benz Credit Corp, 316758 (OH)

4-1-98 to 11-30-01, \$446,126.35

Action: Approve the refund as recommended by staff.

Merillat Corporation, 357435 (OH)

1-1-02 to 12-31-04, \$107,098.75

Action: Approve the refund as recommended by staff.

Shelter Products, Inc., 445330 (OH)

1-1-07 to 3-31-07, \$127,337.88

Action: Approve the refund as recommended by staff.

Packaging Plus, LLC, 424085 (AA)

10-1-06 to 6-30-07, \$76,388.92

Action: Approve the refund as recommended by staff.

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Wescom Credit Union, 445776 (AP)

1-1-08 to 3-31-08, \$74,594.99

Action: Approve the refund as recommended by staff.

Schawk Holdings, Inc., 392159 (AA)

1-1-04 to 12-31-05, \$118,719.79

Action: Approve the refund as recommended by staff.

Balboa Thrift & Loan Association, 446217 (FH)

1-1-08 to 3-31-08, \$122,031.98

Action: Approve the refund as recommended by staff.

Ciena Communications, Inc., 449437 (OH)

1-1-06 to 3-31-06, \$135,975.96

Action: Approve the refund as recommended by staff.

Solar Integrated Technological, Inc., 341979 (AA)

1-1-03 to 12-31-06, \$810,324.55

Action: Approve the refund as recommended by staff.

Netezza Corporation, 442180 (OH)

1-1-05 to 12-31-05, \$70,102.81

Action: Approve the refund as recommended by staff.

Schawk USA, Inc., 394849 (OH)

1-1-06 to 3-31-07, \$297,217.35

Action: Approve the refund as recommended by staff.

**SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS,
CONSENT**

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Steel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following order:

T.F. Louderback, Inc., 405473 (ET)

11-1-06 to 3-31-07, \$121,878.55

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

LEGAL APPEALS MATTERS, ADJUDICATORYSpeaker: John O'Connor, Representative for *Justin F. McJones and Madeline A. McJones*

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Vector Design, Inc., 255265 (AC)

4-1-00 to 3-31-03, \$74,492.36 Tax, \$7,449.29 Negligence Penalty, \$9,834.65 Amnesty Interest Penalty

Considered by the Board: May 14, 2008

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

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

Vista Café, Inc., 328978, 332208 (AS)

1-1-01 to 12-31-03, \$66,748.21 Tax, \$6,674.85 Negligence Penalty, \$5,079.35 Double Negligence Penalty, \$6,644.83 Amnesty Interest Penalty

1-1-01 to 12-31-03, \$2,000.00 Claim for Refund

Considered by the Board: May 14, 2008

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petition and claim for refund be redetermined as recommended by the Appeals Division.

Viktor Benes Continental Pastries, Inc., 336688 (AC)

7-1-97 to 6-30-05, \$42,898.86 Tax, \$0.00 Penalties

Considered by the Board: May 13, 2008

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

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

Markos Demitrios Kaffatos, 255852 (ET)

7-1-02 to 10-31-02, \$191,574.00 Tax, \$19,157.40 Negligence Penalty

Considered by the Board: February 27, 2008

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Ms. Steel moved that the petition for rehearing be granted. The motion was seconded by Mr. Leonard but failed to carry, Mr. Leonard and Ms. Steel voting yes, Dr. Chu, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Dr. Chu, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no, the Board ordered that the petition for rehearing be denied.

The Customer Company, 113119 (JH)

4-5-97 to 3-31-00, \$46,082.70 Tax, \$19,771.33 Amnesty Interest Penalty

Considered by the Board: March 18, 2008

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and duly carried, Dr. Chu, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no, the Board ordered that the petition for rehearing be denied.

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Quick Pick Food Stores Liquor, Inc., 254339 (EA)

10-1-99 to 10-31-03, \$1,756.16 Tax

Considered by the Board: Hearing Notice Sent – No Response

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and duly carried, Dr. Chu, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Tobacco Retailing USA, Inc., 139097 (AA)

1-1-98 to 9-30-00, \$12,937.09 Tax

Considered by the Board: Hearing Notice Sent – No Response

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Dr. Chu, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Justin F. McJones and Madeleine A. McJones, 311626 (UT)

April 9, 2003, \$7,344.00 Tax

Considered by the Board: May 14, 2008

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Ms. Steel moved that the petition be granted. The motion was seconded by Mr. Leonard but failed to carry, Mr. Leonard and Ms. Steel voting yes, Dr. Chu, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Dr. Chu, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Ms. Mandel stated that she would not participate in the matters of *Norman P. Shockley, Jr.*, 306953; and, *Acclaim Technology, Inc.*, 341204, in accordance with Government Code section 87105, and left the Boardroom.

Norman P. Shockley, Jr., 306953 (GH)

7-1-03 to 9-30-03, \$51,488.23 Tax, \$11,728.85 Failure to Pay Penalty

Acclaim Technology, Inc., 341204 (GH)

10-1-00 to 12-31-02, \$64,067.00 Claim for Refund

Considered by the Board: May 28, 2008

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Ms. Yee moved to deny staff's recommendation, but to hold the matter in abeyance and pursue GE Access. The motion was seconded by Dr. Chu but failed to carry, Dr. Chu and Ms. Yee voting yes, Mr. Leonard and Ms. Steel voting no, Ms. Mandel absent and not participating in accordance with Government Code section 87105.

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Ms. Yee moved that the claim and petition be redetermined as recommended by the Appeals Division and to hold the action to grant in abeyance and pursue GE Access. The motion failed for lack of a second.

The Board postponed this matter.

Ms. Mandel returned to the Boardroom.

**CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS,
ADJUDICATORY**

Kayla L. Williams, 397041

2005, \$1,114.00 Assessment

Considered by the Board: April 8, 2008

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel voting no, the Board adopted a decision sustaining the action of the Franchise Tax Board.

Mr. Leonard directed staff to contact Ms. Williams to explain her options after the Board decision.

Boyd Holdings, 362328

1999, \$101,587.00 Claim for Refund

2000, \$154,708.00 Claim for Refund

2002, \$30,553.00 Claim for Refund

Considered by the Board: March 19, 2008

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel voting no, the Board adopted a decision denying the petition for rehearing.

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

Clear Vision Management, Inc., 440337 (EH)

10-1-06 to 3-31-07, \$62,207.65

Considered by the Board: June 24, 2008

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the credit and cancellation as recommended by staff.

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Redwood Credit Union, 426890 (JH)

10-1-04 to 3-31-06, \$230,261.36

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the refund as recommended by staff.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

PROPERTY TAX MATTERS

Board Roll Changes

2005, 2006, 2007 and 2008 State-Assessed Property Rolls

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Steel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board approved corrections to the 2005, 2006, 2007 and 2008 Board Rolls of State-Assessed Property as recommended by staff. (Exhibit 10.2.)

OFFERS-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the Offers in Compromise of *Tom Sargon Jillo* as recommended by staff.

Ms. Mandel left the Boardroom and Mr. Chivaro entered on behalf of Mr. Chiang in accordance with Government Code section 7.9.

OTHER CHIEF COUNSEL MATTERS

***Loeffler v. Target Corp.*, Second District Court of Appeal No. B199287 Los Angeles Superior Court No. 360004**

Robert Lambert, Assistant Chief Counsel, Legal Affairs Division, Legal Department, made introductory remarks regarding the request for authorization to file an Amicus Curiae brief in opposition to the brief filed by the Attorney General. (Exhibit 10.3.)

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Mr. Chivaro voting yes, the Board authorized staff to file the Amicus Curiae brief.

Mr. Chivaro left the Boardroom and Ms. Mandel entered on behalf of Mr. Chiang in accordance with Government Code section 7.9.

Wednesday, October 1, 2008

ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

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

Action: Adopt the following resolutions extending its best wishes on their respective retirements and its appreciation for their service to the State Board of Equalization and the State of California. (Exhibit 10.4.)

Doug Heinz, Business Taxes Specialist I, Petitions Sections, Sales and Use Tax Department, Headquarters

Larry V. Hopkin, Supervising Tax Auditor II, Motor Carrier Section, Property and Special Taxes Department, Headquarters

Judith Jackson, Tax Technician II, Excise Taxes Division, Property and Special Taxes Department, Headquarters

Linda Kirkham, Tax Technician III, Return Analysis Unit, Sales and Use Tax Department, Headquarters

Robert O'Neill, Jr., Business Taxes Specialist I, Fuel Industry Section, Property and Special Taxes Department, Headquarters

Action: Adopt a resolution to Bruce Dear, Placer County Assessor, extending its best wishes on his retirement and its appreciation for his service to the citizens of Placer County. (Exhibit 10.5.)

Action: Adopt the 2008-09 Emergency Telephone Users Surcharge Rate of 0.50 percent and publish the rate in these Board meeting minutes. (Exhibit 10.6.)

Action: Approve the Summons to Annual Meeting of the Board and County Assessors. (Exhibit 10.7.)

Action: Approve the proposed revisions to Audit Manual Chapter 2, Preparation of Field Audit Reports, Chapter 3, Audit Working Papers, and Chapter 4, General Audit Procedures. (Exhibit 10.8.)

Action: Approve the proposed revisions to Compliance Policy and Procedures Manual Chapter 4, Section 405.035, Release and Refund of Security - Active Accounts. (Exhibit 10.9.)

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

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Action: Adopt calendar B of the 2009 Board Workload Plan and direct staff to produce quarterly updates on the status of pending cases in Board Proceedings Division, Appeals and in Appeals Conferences. (Exhibit 10.10.)

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS

Property Tax Committee

Action: Upon motion of Ms. Steel, seconded by Mr. Leonard and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the Property Tax Committee report and the actions therein. (Exhibit 10.11.)

Committee vote was as follows:

The committee adopted the staff-recommended valuation factors and trending procedures, with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes.

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Ramon Hirsig, Executive Director, introduced the Governor's Employee Safety Awards (GESA). (Exhibit 10.12.)

Dr. Chu presented the Governor's Employee Safety Awards to John Hamlin, Data Processing Manager, Technology Services Division; Ron Lee, Staff Programmer Analyst, Technology Services Division; and, Roy Warren, Associate Programmer Analyst, Technology Services Division. She thanked them for going above and beyond their call of duty to save another persons life.

Deputy Directors Reports

Elizabeth Houser, Deputy Director, Administration Department, provided a headquarters facility update.

Mr. Leonard directed staff to assign an audit team to oversee the allocation of the \$4.6 million transferred from BOE's remaining funds of FY 2007/2008 to the Department of General Services Architectural Revolving Fund for the continued investigation and repair projects at Headquarters.

Elizabeth Houser, Deputy Director, Administration Department, provided a fiscal year 2008/09 budget update.

Mr. Leonard directed staff to revisit the Homeowner and Renter Property Tax Assistance Program to determine its efficiency and the possibility for improvement.

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**FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD
OCTOBER 1, 2008**

International Investment Properties, Inc., 313013 (KH)

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, Board ordered that the petition be redetermined in accordance with the revised recommendation of the Appeals Division.

SALES AND USE TAX APPEALS HEARING

Balbir Singh Dhillon and Ranbir K. Dhillon, 127834 (GH)

4-1-97 to 12-31-99, \$5,368.87 Tax, \$1,699.12 Amnesty Interest Penalty

For Petitioner: Appearance Waived

For Sales and Use Tax Department: Mariflor Jimenez, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Issues: Whether adjustments are warranted to the audited understatement established on a markup basis.

Whether cigarette rebates petitioner received from manufacturers are subject to tax.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petition be redetermined in accordance with the revised recommendation of the Appeals Division.

FINAL ACTION ON SPECIAL TAXES APPEALS HEARING HELD OCTOBER 1, 2008

Ravi Singh Sekhon, 329682 (ET)

Ravi Singh Sekhon, 329684 (ET)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Dr. Chu, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

SPECIAL PRESENTATION

Ms. Yee announced that the Board would like to extend its best wishes to Bruce Dear in his retirement as the Placer County Assessor. The Board would like to recognize the tremendous changes he has made in Placer County and would like to thank him for his great partnership and leadership while part of the California Assessors' Association.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 12:32 p.m. and reconvened immediately in closed session with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel present.

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CLOSED SESSION

The Board met to discuss pending litigation (Gov. Code § 11126(e)(2)(B)(i)), settlements (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 1:24 p.m. and reconvened immediately in open session with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel present.

The Board adjourned at 1:25 p.m.

The foregoing minutes are adopted by the Board on November 13, 2008.

Note: The following matters were removed from the calendar prior to the meeting: *Terry M. Furst, 309733; Larrie R. Furst, 342121; Petition to Adopt a Regulation to Designate Qualified Veteran Itinerant Vendors as Consumers of Tangible Personal Property; and, Approval of the Sales Tax Prepayment Rate on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel.*