



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

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MICHELLE STEEL
Third District, Rolling Hills Estates

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Fourth District, Los Angeles

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State Controller

RAMON J. HIRSIG
Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
November 12-13, 2008

PRELIMINARY RECORD OF BOARD ACTION

Wednesday, November 12, 2008

The following is a preliminary record of Board actions taken at the November 12-13, 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 Joann Richmond at (916) 322-1931 or e-mail: Joann.Richmond@boe.ca.gov. Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

Board Committee Meetings– Please see Page 18, O. Adoption of Board Committee Reports and Approval of Committee Actions, for voting results.

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
B1a. Granite Rock Company, 420038
B1b. Bruce W. Woolpert and Rose Ann Woolpert, 420171
B1c. Bruce G. Woolpert and Mary E. Woolpert, 420181
B1d. Stephen G. Woolpert and Elizabeth M. Woolpert, 420221
B1e. Arthur Woolpert, 420187
B1f. Marianne Woolpert, 420219
B1g. Joseph Woolpert, 420222
B1h. Melissa E. Woolpert, 420223

Table with 3 columns: DECISION, MEMBER, BOARD VOTE. Row 1: Taxpayers' appeals denied, Dr. Chu, Yes. Row 2: Mr. Leonard, Yes. Row 3: Ms. Steel, No. Row 4: Ms. Yee, Yes. Row 5: Mr. Chiang/ Ms. Mandel, Yes.

B2. — Chuck Johnson, 424332

B3. — John Schultz, 421122

B4. Robert J. Oberbruner, 429326—No Appearance

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

B5. Karie E. Gibson, 337063

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied except FTB's concessions.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

**C. Sales and Use Tax Appeals Hearings**

These items are scheduled for the afternoon session and Thursday, November 13, 2008.

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

**E. Property Tax Appeals Hearings**

**Petition for Reassessment of Unitary Value**

E1. SureWest Telephone (294), 457483 – “CF” – Appearance Waived

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Dr. Chu	Yes
Approved staff recommendation.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Not participating

## E2. Golden State Water Company (101), 457748 – “CF”

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

## E3. AT&amp;T Mobility, LLC (2606), 451532 – “CF”

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

## E4. Pacific Bell Telephone Company (279), 451533 – “CF”

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

- F. Public Hearings  
There are no items for this matter.

**Special Presentation**

- Presentation of the Charles M. Mills Award of Excellence
  - Tim Ford

**C. Sales and Use Tax Appeals Hearings**

- C1. Larry M. Stenshoel, 260717, 298896, 89000147280, 89000147300, 89000147320 (GH)

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

## C2. Cheryl Gonzales, 424159 (EH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's claim denied.	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. No final determination on sub-items 2 and 4.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Hearing Notices Sent – No Response
  - 1a. Andrew J. Laspino, 393823 (GH)
  - 1b. Patricia M. Laspino, 393822 (GH)
  - ~~2. Raymond David Boyda, 349462 (CH)~~
  3. Thinkers Café, Inc., 414219 (BH)
  4. ~~Syed A. Ali, 400214 (UT)~~
- Petitions for Release of Seized Property
  5. Tuyet Thi Bach Ngo, 459748 (ET)
  6. United JFK Management, Inc., 459749 (ET)
  7. Omer Sozen, 449683 (ET)
  8. Amar Singh and Balraj Singh, 449685 (ET)

## G2. Franchise and Income Tax 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

- Decisions
  - 1a. Armine Agadjanian, 423970
  - 1b. Alfred Mahmoudly, 433127
  2. Brookes M. Bendetsen, 377406
  3. Stephen W. Bourgeois, Jr., 377392
  4. Robert Vincent Crifasi, 378325

5. Lloyd Hurlbert, 395523
6. Timothy Latham, 343104
7. Mark Alan Laythorpe, 389852
8. Andrea M. Murphy, 362700
9. Stanley E. Newton and Eunice A. Newton, 424090
10. Christopher B. Ortiz, 402206
11. Jeffrey Rosenthal and Gayle Rosenthal, 354392
12. Patrick Ryan, 388424
13. Michael S. Spiro, 397830
- Petitions for Rehearing
  14. Fred C. Haney and Jeannine A. Haney, 361322
  15. Thomas Jones, 383406
  16. Ronald C. Nelson and Marie J. Nelson, 329716
  17. Steven R. Olmos, 342009
  18. Margaret Rogers, 382827
- Hearing Notices Sent – Appearance Waiver
  19. Steven J. Goldman and Azita Etaati, 346376
  20. Melvin I. Dalrymple and Carol J. Dalrymple, 345024

### G3. Homeowner and Renter Property Tax Assistance 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

- Decisions
1. Dave Adelman, 416817
  2. Bonnie Nital-Jones, 394610
  3. James Palmore, 383752
  4. Bernadette M. Williams, 377679

### G4. Sales and Use Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations. No final determination on sub-items 6 and 8.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes – except not participating in sub-items 4 and 10.

- Redeterminations
  1. Community Television of Southern California, 415954 (AS)
  2. Ingersoll-Rand Company, 415957 (OH)
  3. Bimbo Bakeries USA, Inc., 434592 (AA)
  4. GE Engine Service-Corporation Aviation, Inc., 402643 (AS)
  5. Flamingo Sand & Gravel, Inc., 390320 (AC)
- Relief of Penalty/Interest
  - ~~6. L & W Supply Corporation, 461148 (EA)~~
  7. Miller-DM, Inc., 461138 (AS)
  - ~~8. Sally Beauty Supply, LLC, 461139 (OH)~~
- Denials of Claims for Refund
  9. Capital One Auto Finance, Inc., 430598 (OH)
  10. Citicorp Trust Bank FSB & Affiliates, 281754 (OH)
- Denial of Relief of Penalty/Interest
  11. Ford Credit Titling Trust, 444765 (OH)

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
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes – except not participating in sub-items 9, 11, 21 and 22.

- Credits and Cancellations
  1. Orna Amzaleg, 461848 (AS)
  2. Jefferson G. Prosser, 461136 (GH)
  3. Western Truck Parts & Equipment Co. 461137 (OH)
- Refunds
  4. VMP Mortgage Solutions, Inc., 399857 (OH)
  5. Primary Color Systems Corp., 400780 (EA)
  6. Elliott Turbomachinery Company, Inc., 300091 (OH)
  7. Mentor Graphics Corp., 345181 (OH)
  8. Mercedes-Benz USA, LLC, 447078 (KH)
  9. Cisco Systems Capital Corporation, 391020 (GH)
  10. Illumina, Inc., 447253 (FH)
  11. Amgen USA, Inc., 459743 (AR)
  12. Waterman Industries, Inc., 308348 (KH)
  13. Pacific Bell, 383855 (OH)
  14. Fyfe Company, LLC, 459736 (FH)
  15. First Financial Credit Union, 450876 (AP)
  16. San Diego Metropolitan Credit Union, 448806 (FH)
  17. Mullen Bros., Inc., 449991 (AC)
  18. Foreman Financial, Inc., 449990 (AC)
  19. Capital One Auto Finance, Inc., 430598 (OH)

20. Maquet, Inc., 447894 (OH)
21. Citicorp Trust Bank FSB and Affiliates, 281754 (OH)
22. Citigroup, Inc., & Subsidiaries and Affiliates, 345022 (OH)
23. Magic Mountain, LLC, 442479 (AR)

## G6. Special Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes – except not participating in sub-items 3, 4, 5 and 6.
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes – except not participating in sub-item 1.

- Relief of Penalty
  1. Connecticut General Life Insurance Co., 461539 (ET) ‘CF’
  2. Pacific Bell, 461094 (ET)
- Denials of Claims for Refund
  3. Conocophillips Company, 215850 (MT)
  4. Tosco Corporation, 264248 (MT)
  5. Conocophillips Company, 264262 (MT)
  6. Conocophillips Company, 306631 (MT)

## 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	Not participating

- Refund
  1. BP West Coast Products, LLC, 396212 (MT)

## G8. Property Tax Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Dr. Chu	Yes – except not participating in sub-item 6.
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Not participating

- Petitions for Reassessment of Unitary Value
  1. Calnev Pipe Line Company, 458197 'CF'
  2. SLO Cellular, Inc., 457484 'CF'
  3. MetroPCS California/Florida, Inc., 458204 'CF'
  4. Omnipoint Communications, Inc., 458673 'CF'
  5. Royal Street Communications California, LLC, 458203 'CF'
  6. Comcast Phone of California, 458196 'CF'
- Petition for Penalty Abatement on Unitary Value
  7. Harbor Cogeneration Company, 451084 'CF'
- Petition for Penalty Abatement on Private Railroad Car Tax
  8. Farmers Commodities Transportation Company, LLC, 458686 'CF'

There are no items for these matters:

G9. Cigarette License Fee Matters

G10. Legal Appeals Property Tax Matters

**H. Tax Program Nonappearance Matters – Adjudicatory**

H1. Legal Appeals Matters

- Petition for Rehearing
  1. Cigarettes Cheaper!, 80069 (JH)

<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

- Hearing Notice Sent – No Response
  2. Donald R. Loya, 358842 (AC)

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

## ➤ Cases Heard But Not Decided

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

<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

## 4. Spa De Soleil, Inc., 349460 (AC)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition partially granted/denied.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

## 5. Princess House, Inc., 380967 (OH)

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

## ➤ Petition for Release of Seized Property

## 6. Ibrahim Said Mekhail, 457966 (ET)

<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

- 1a. K. Muller Property Number One, LLC, 382823
- 1b. K. Muller Property Number Two, LLC, 386681
- 1c. K. Muller Property Number Three, LLC, 386683
- 1d. K. Muller Property Number Four, LLC, 386687
- 1e. K. Muller Property Number Five, LLC, 386689
- 1f. K. Muller Property Number Six, LLC, 386691
- 1g. K. Muller Property Number Seven, LLC, 386692
- 1h. K. Muller Property Number Eight, LLC, 386694
- 1i. K. Muller Property Number Nine, LLC, 386695

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' appeals denied.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

## ➤ Petitions for Rehearing

- 2. Gregory B. Duro, 354992

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

- 3. Timothy Jenkins, 348922

<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

There are no items for these matters:

- H3. Homeowner and Renter Property Tax Assistance Matters
- H4. Sales and Use Taxes 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

## ➤ Petitions for Reassessment of Unitary Value

## 1. San Diego Gas &amp; Electric Company (0141), 458198 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

## 2. Dynegy Moss Landing, LLC (1103), 458198 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

## 3. La Paloma Generating Company, LLC (1112), 457485 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

## 4. Mountainview Power Company, LLC (1119), 458202 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

## 5. Elk Hills Power, LLC (1126), 457487 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating Not participating Not participating

## 6. Delta Energy Center, LLC (1128), 457473 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

## 7. Pastoria Energy Facility, LLC (1131), 457475 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

## 8. Calpine Construction Finance Company, LP (1132), 457477 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

## 9. Metcalf Energy Center, LLC (1133), 457478 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

## 10. Qwest Communications Corporation (2463), 458009 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

## ➤ Petition-Reassessment/Penalty Abatement Unitary

## 11. Telekenex, Inc. (7957), 457471 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Yes Yes Yes Yes Not participating

## ➤ Petitions-Penalty Abatement Unitary Value

## 12. Intelsat Global Service Corporation (7969), 458199 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

## 13. Legent Communications Corporation (7978), 450873 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

## 14. Utility Telephone, Inc. (7994), 450047 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

## 15. Integrated Telemanagement Services, Inc. (7638), 457486 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Yes Yes Yes Yes Not participating

## 16. EAS Communication, Inc. (7859), 450872 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	Not participating

**I. Tax Program Nonappearance Matters**

11. Property Taxes Matters  
There are no items for this matter.

12. Offers-in-Compromise Recommendations

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

1. Ronald E. Young
2. Gary Elsey

**Chief Counsel Matters**

There are no items for the following items:

- J. Rulemaking
- K. Business Taxes
- L. Property Taxes
- M. Other Chief Counsel Matters  
This item is scheduled for Thursday, November 13, 2008.

**Administrative Session**

The following items are scheduled for Thursday, November 13, 2008.

- N. Consent Agenda
- O. Adoption of Board Committee Reports and Approval of Committee Actions
- P. Other Administrative Matters

**Q. Closed Session**

These items are scheduled for Thursday, November 13, 2008.

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**STATE BOARD OF EQUALIZATION MEETING  
450 N Street, Room 121, Sacramento  
November 12-13, 2008**

**PRELIMINARY RECORD OF BOARD ACTION**

**Thursday, November 13, 2008**

The following is a preliminary record of Board actions taken at the November 12-13, 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.

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**Board Meeting**

**C. Sales and Use Tax Appeals Hearings**

~~C3. Shu Ren Kang, 384336, 387400 (KH)~~

~~C4. R.C.P. Block & Brick, Inc., 283573, 283514 (FH)~~

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination. The Board granted taxpayer's request for postponement.	Dr. Chu Mr. Leonard Ms. Steel Ms. Yee Mr. Chiang/ Ms. Mandel	

~~C5. Zenaida Laxamana, et al., 389908 (BH)~~

**Chief Counsel Matters****M. Other Chief Counsel Matters**M1. *Yabsley v. Cingular Wireless*, Second Dist. Ct. of Appeal No. B198827

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Board authorized staff to file a brief.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	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.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

N1. Approval of Board Employee Retirement Resolutions

- James A. Atwood
- Richard Kingsbury
- Suzanne Spencer MacInnis
- Joyce Miller
- Agnes-Allys V. Roshanaee
- Jeannie Sayre
- Hong Thu Tran
- Doreen H. Watanabe

N2. Approval of Board Retirement Resolution

- Vince Minto, Glenn County Assessor

N3. Approval of Board Meeting Minutes

- August 19-20, 2008
- September 16-17, 2008
- October 1, 2008

N4. Approval of 2009 Timberland Production Zone Values

N5. Approval of Effects of Proposition 10 on Cigarette and Tobacco Products Consumption

N6. Adoption of Solar Energy System Exclusion Form

N7. Approval of Assessors' Handbook Section 531, *Residential Building Costs*N8. Approval of Assessors' Handbook Section 534, *Rural Building Costs*

**O. Adoption of Board Committee Reports and Approval of Committee Actions****O1. Legislative 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/legdiv/legmeetings08.htm">http://www.boe.ca.gov/legdiv/legmeetings08.htm</a>	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

**I. 2009 Legislative Proposals****Business Taxes - Sales and Use Taxes**

- 3-1 Amend Revenue and Taxation Code Sections 6452.1, 6453, 6487.3, and 18510 to eliminate the sunset date of December 31, 2009, to continue to require the Franchise Tax Board to provide a line for payment of use tax on the state income tax returns.

<u>POSITION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Adopt a proposal that is identical to the provisions of AB 1957 (Eng, 2008)	Dr. Chu	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- 3-2 Amend Revenue and Taxation Code Section 6069 of the Sales and Use Tax Law to increase the reinstatement fee on revoked seller's permits from fifty dollars (\$50) to one hundred dollars (\$100).

<u>POSITION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Approved staff recommendation	Dr. Chu	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- 3-3 Amend Revenue and Taxation Code Section 7054 of the Sales and Use Tax Law to authorize the Board to impose a 25% penalty when a taxpayer fails or refuses to timely or adequately furnish any information, documents, or books and records requested in writing by the Board during an examination or audit engagement, unless the failure is due to reasonable cause and is not due to willful neglect. To the extent they are applicable, similar provisions would be incorporated into the Board-administered special taxes and fees programs.

<u>POSITION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Approved staff recommendation	Dr. Chu	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- 3-4 Amend Revenue and Taxation Code Section 6248 of the Sales and Use Tax Law to clarify the definition of "California resident" and the exception for repair, retrofit, and modification for purposes of the 12-month test for out-of-state purchases of vehicles, vessels and aircraft.

<u>POSITION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Approved staff recommendation	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	No
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

## II. Table of Sections Scheduled to Sunset by January 1, 2011

### III. Final Status of Proposals for Board-Sponsored Legislation in 2008

#### 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: <a href="http://www.boe.ca.gov/meetings/btc2008.htm">http://www.boe.ca.gov/meetings/btc2008.htm</a>	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

1. Sales and Use Tax Regulation 1591, *Medicines and Medical Devices*

<u>POSITION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Approved and authorized for publication the proposed amendments to Regulation 1591, <i>Medicines and Medical Devices</i> , contained in Alternative 2.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

## O3. Property Tax Committee

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

1. Adoption of 2009 Revision of Assessors' Handbook Section 581, *Equipment Index and Percent Good Factors*

<u>POSITION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
Adopted the 2009 revision of AH 581, with the petition form removed and only a citation as to its location on the Board's website noted in the handbook.	Dr. Chu	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

## 2. Approval of Guidelines for Substantiating Additional Obsolescence for State-Assessed Telecommunication Properties.

<u>POSITION</u>	<u>MEMBER</u>	<u>COMMITTEE VOTE</u>
No final determination.	Dr. Chu	
	Mr. Leonard	
	Ms. Steel	
	Ms. Yee	
	Mr. Chiang/ Ms. Mandel	

**P. Other Administrative Matters**

## P1. Executive Director's Report

- a. State Board of Equalization 3-Year Business Plan, Fiscal year 2008-2011
- b. Reoccupancy Standards Following Remediation

## P2. Chief Counsel Report

There are no items for this matter.

## P3. Deputy Director's Report

There are no items for these matters.

- a. Sales and Use Tax
- b. Property and Special Taxes
- c. Administration
  1. Headquarters Building Update
    - Status of on-going projects at 450 N Street.
    - Report on request of DGS expenditures at Headquarters
    - Update on the relocation of 520 employees out of Headquarters

**Q. Closed Session**