



STATE BOARD OF EQUALIZATION

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State Controller, Sacramento

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Executive Director

**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Capitol Square, Sacramento
MAY 29-30, 2002
NOTICE AND AGENDA**

WEDNESDAY, MAY 29, 2002

BOARD COMMITTEE MEETINGS* (convene at 9:30 a.m.)

❖ **Legislative Committee—Room 122**

Mr. Klehs, Chair

Staff, Ms. Margaret Shedd (916) 322-2376

➤ **Legislative Bills—Recommendations for Board Positions**

❑ **Property Taxes**

- AB 1844 Change in ownership: qualified mobilehome park
- AB 2073 Revenues derived from electric generation facilities
- AB 2662 Property tax: welfare exemptions: limited liability company
- AB 2714 Property taxation: valuation
- SB 1631 Taxation of possessory interests
- SB 2086 Property taxation: duplicate digital map
- SB 1662 Taxation: restructuring

❑ **Business Taxes**

- AB 278 Sales tax: manufacturers' exemption
- AB 2400 Transactions and use taxes: County of Monterey
- AB 2747 Tax: credits: qualified motion picture
- AB 2906 Tobacco settlement agreement: escrow compliance
- SB 1696 Hazardous materials: generator fees
- SB 1700 Tobacco products: license
- SB 1766 Tobacco products: sales
- SCA 12 Sales and use tax: munitions: tax
- SCA 13 Local government: special taxes vote requirement

❖ **Customer Services & Administrative Efficiency Committee – Room 121**

Mr. Parrish, Chair

Staff, Ms. Jerri Dale (916) 445-6188

- Authorization to publish amendment to Regulation 5075, Briefs – Revenue Impact Statements/Revenue Estimates

❖ **Business Taxes Committee—Room 121**

Mr. Chiang, Chair

Staff, Mr. Ramon Hirsig (916) 445-1441

- Proposed regulatory changes regarding optional software maintenance contracts (Regulation 1502, Computers, Programs and Data Processing)

BOARD MEETING (convenes upon adjournment of the Business Taxes Committee)—Room 121****❖ BUSINESS TAXES APPEALS HEARINGS**

- ❑ Jane Boyett, 112555
- ❑ The Bathroom, Inc., 89000691190
- ❑ Bauman Landscaping, Inc., 60814
- ❑ Edmund Wozniak, 86872
- ❑ National Superior Vending, Inc., 30065

BOARD MEETING (convenes at 1:30 p.m.)—Room 121****❖ BOARD PHOTOGRAPH****❖ PROPERTY TAX MATTER**

- Board Sets Unitary Values of State-Assessed Properties - "CF"

Annually, on or before May 31, the Board is required to value and assess all of the taxable property within the state that is to be assessed by it pursuant to Section 19 of Article XIII of the Constitution and any legislative authorization thereunder.

❖ PUBLIC HEARINGS

- PROPOSED AMENDMENT OF SALES AND USE TAX REGULATION 1528, PHOTOGRAPHERS, PHOTOCOPIERS, PHOTO FINISHERS AND X-RAY LABORATORIES

Regulation 1528 explains the application of sales and use tax to transfers of tangible personal property by photographers, photocopiers, photo finishers and x-ray laboratories. In order to alert commercial photographers who are acting as commercial artists that the application of tax to their transactions is explained in Regulation 1540, a reference to Regulation 1540 should be added to Regulation 1528.

- PROPOSED AMENDMENT OF SALES AND USE TAX REGULATION 1540, ADVERTISING AGENCIES, COMMERCIAL ARTISTS AND DESIGNERS

Regulation 1540 explains the application of sales and use tax to transfers of tangible personal property by advertising agencies, and persons who perform the functions of commercial artists. The regulation is proposed to be amended to conform Regulation 1540 to the April 2000 revisions to Regulation 1541, in regard to lump-sum billings for artwork and nontaxable services; to replace the confusing terminology of "ultimately subject to tax" with a clear explanation of the application of tax; and to reformat the discussion of special printing aids into subdivision (c)(1) through (c)(3) as it relates to a printer's and a print broker's purchase of special printing aids, the sale of these printing aids, and the application of tax to each transaction.

- PROPOSED AMENDMENT OF SALES AND USE TAX REGULATION 1541, PRINTING AND RELATED ARTS

Regulation 1541 explains the application of sales and use tax to transfers of tangible personal property by printers and persons who perform similar functions. The regulation is proposed to be amended to conform Regulation 1541 to the April 2000 revisions to Regulation 1540, in regard to lump-sum billings for artwork and nontaxable services; to replace the confusing terminology of "ultimately subject to tax" with a clear explanation of the application of tax; and to reformat the discussion of special printing aids into subdivision (c)(1) through (c)(3) as it relates to a printer's and a print broker's purchase of special printing aids, the sale of these printing aids, and the application of tax to each transaction.

➤ PROPOSED AMENDMENT TO SALES AND USE TAX REGULATION 1543, PUBLISHERS

Regulation 1543 explains the application of sales and use tax to transfers of tangible personal property by publishers. In part, it addresses activities of the graphic arts industry. The regulation is proposed to be amended to provide cross-references to, and reflect amendments made in 1999 and 2002 to Regulations 1540, Advertising Agencies, Commercial Artists and Designers, and 1541, Printing and Related Arts and recent statutory and case law changes.

❖ **PROPERTY TAX HEARING – PETITIONS FOR REASSESSMENT OF ESCAPED ASSESSMENT**

- ❑ Pac-West Telecomm, Inc. (2043), 154098 – “CF”

❖ **PROPERTY TAX HEARING – APPLICATION FOR REVIEW, EQUALIZATION AND ADJUSTMENT OF ASSESSMENTS**

- ❑ Northern California Power Agency, 19387, 27694 – “CF”

❖ **BUSINESS TAXES APPEALS HEARINGS**

- ❑ James Alan Thorne, 52796
- ❑ Arundel Green, LLC, 118310
- ❑ Lifescan, Inc., 29592, 37314, and 48966
- ❑ Empire Equipment Co., 30009
- ❑ Alpine Medical Ltd., 89000475340, 89000475350

THURSDAY, MAY 30, 2002

BOARD MEETING (convenes at 9:30 a.m.)—Room 121**

❖ **OPEN SESSION**

❖ **ANNOUNCEMENT OF CLOSED SESSION**

❖ **CLOSED SESSION**

- Discussion and action on court case— Joyce Miller v. State Board of Equalization, Sacramento Superior Court Case No. BC253531 (Govt. Code § 11126 (e))
- Discussion and approval of staff recommendations regarding settlement cases (R & T Code § 7093.5, 7093.5(b)(3), 30459.1 and 50156.11)
- Discussion and action on Personnel Matters (Govt. Code § 11126 (a))

❖ **ADMINISTRATIVE SESSION**

- Proposed Memorandum Opinion in the Appeal of Rhodia, 60469 and 78672
- **Consent Agenda**
 - ❑ Approval of Retirement Resolutions
 - Lorene Fravel
 - Walter Seger
 - John C. (Jack) Adolphson
 - Jerry Doctrow
 - ❑ Adoption of Board Meeting Minutes
 - March 12-14, 2002
 - March 26-27, 2002
 - April 17-18, 2002
 - ❑ Approval of 4-R Act Equalization Ratio for 2002-03
Rail transportation property is to be assessed at the same percentage of market value as all other commercial/industrial property.

- ❑ Approval of extensions of time to complete and submit 2002-03 Local Assessment Rolls pursuant to Revenue and Taxation Code Section 155 granted to Calaveres, Inyo, Lassen, Madera, Sierra, Tehama, and Trinity Counties
- ❑ Approval of extension of time for filing Welfare Affidavits and Financial Statements pursuant to Revenue and Taxation Code Section 155 granted to Orange County

➤ **Reallocation of Local Tax**

- City of Fremont Appeal Hearing Request

➤ **Board Committee Reports**

- ❑ Approval of the May 29, 2002 Board Committee Minutes
 - Legislative Committee
 - Customer Services and Administrative Efficiency Committee
 - Business Taxes Committee

❖ **CHIEF COUNSEL MATTERS**

A.1. Rulemaking

- Adoption of Changed Version of Sales and Use Tax Regulation
 1. Regulation 1703, Interest and Penalties

Request for the Board to authorize publication of an amendment to Regulation 1703, adding language stating that fraud or intent to evade shall be established by clear and convincing evidence.

❖ **TAX PROGRAM NON-APPEARANCE MATTERS - ADJUDICATORY**

A. Legal Appeals Matters

- Cases Heard But Not Decided
 1. Podell Industries, Inc., 76777
 2. K B Products, Inc., 34346
 3. Drew L. Hyer, 89000366970
 4. Bahram Shiralian, 89000369260
 5. Chastain Park Holdings, Inc., 89001127910
 6. Chancecarson, Inc., 89001144680

B. Franchise and Income Tax Matters

- Decisions
 1. Brian Pierce, 118227

C. Sales and Use Tax Matters – Redeterminations, Denials of Claims for Refunds

- Redeterminations
 1. Starbucks Corporation, 99802
- Denials of Claims for Refund
 2. Filco, Inc., 154541
 3. Mason Shoe Manufacturing Company, 154546

❖ **TAX PROGRAM NON-APPEARANCE MATTERS - CONSENT**

D. Appeals Matters

- Hearing Notice Sent – No Response
 1. Intl. Coffee Exchange, Inc., 80348
 2. Jerome Vincent Fernandez, 89000690750
 3. People Soft, Inc., 34259
 3. People Soft, Inc., 34260
 3. People Soft, Inc., 34261
 3. People Soft, Inc., 41341
 4. Roy Rodriguez Avila, 89002266100
 5. Jaber & Al-Hassan, Ltd., 89002266490
 6. Space, Time and Graphics, 15586
 7. K-Line Industries, Inc., 16868
 7. K-Line Industries, Inc., 62356

- Hearing Notice Sent – Appearance Waived
 8. West Hotel Partners, Ltd. Ptn., 29013
 9. Sergio Zamora, 99801
 10. Fundtech Corporation, 56167
- Hearing Request Withdrawn
 11. Northbrook Life Insurance Co., 89000902960
 11. Northbrook Life Insurance Co., 89000902970
 11. Northbrook Life Insurance Co., 89000902980
 12. Headway Technologies, Inc., 89002318650
- Petitions for Rehearing
 13. Faramarz Bibayan, 37294
 14. Francisco Alvarado Rodriguez, 90899
 15. Lawrence C. Gorfine, 49802
- Petition for Release of Seized Property
 16. Helnick, Inc., 162817

E. Franchise and Income Tax Matters

- Decisions
 1. Joseph Yunson, 110587
 2. Gary A. Kanelos, 118469
 3. Hector M. Palacio, 126827
 4. Ronald J. Stauber, 127658
 5. Johnnie D. Byrd, 129432
 6. Thomas L. Finken, 132061
 7. Jose C. Collado, 133904
 8. Eugene P. Smith, 136380
 9. Elsa Lee, 138247
 10. Ronald Galatolo, 139381
 11. Geoffrey L. Ross, 142073
 12. Ernest Kleinman, 142173
 13. Michael Schultz, 143911
 14. Michele J. Oudeans, 151548
- Petitions for Rehearing
 15. Dee Baird, 60036
 16. Richard Delgado, 129715

F. Homeowner and Renter Property Tax Assistance Matters

- Decisions
 1. Angela McBride, 135982
 2. Alicia Mueller, 140038
 3. Laura J. Murray, 141532
 4. Tony A. Robinson, 141874
 5. Ella Jenkins, 141943
 6. Yang H. Vue, 142051
 7. Joyce E. Cherney, 143105
 8. Phillip Lovelace, Jr., 143904
 9. Mitchell C. Welch, 144067
 10. Marne R. Yasay, 144109
 11. Ronald Sullivan, 144794
 12. Loreen B. Sullivan, 144804
 13. Jacqueline Williams, 144833
 14. Soledad Beltran, 145244

G. Sales and Use Tax Matters – Redeterminations Relief of Penalty, and Denials of Claims for Refunds

- Redeterminations
 1. Sybase, Inc., 142577
 2. Maxell Corporation of America, 89000821140
 3. Sunrider Corporation, 89000854530
 4. James G. Stull, 151082

- 5. Kodi Air LLC, 149835
- 6. Lloyd E. Rasner, 145959
- Relief of Penalty
 - 7. Dunn-Edwards Corporation, 164459
- Denials of Claims for Refund
 - 8. Wilsey Foods, Inc., 30809
 - 9. Portal Publications Ltd., 165291
- H. Sales and Use Tax Matters - Credits, Cancellations & Refunds**
 - Credits and Cancellations
 - 1. McCurdy Circuits, Inc., 166590
 - 2. Air Francis LLC, 167308
 - 3. Gregory H. DeLapp, 166848
 - 4. Shadowfax LLC, 167040
 - 5. Trayton Aviation LLC, 145951
 - 6. Real Estate Mort. Acct. Co., Inc., 166178
 - 7. Taylor Devices, Inc., 167252
 - Refunds
 - 8. Chevron U.S.A., Inc., 136256
 - 9. Bank of America NT & SA, 108850
 - 10. WJ Communications, Inc., 133821
 - 11. Walker & Associates, Inc., 166339
 - 12. Superior Nat'l Ins. Group, Inc., 98454
 - 13. Amwest Surety Insurance Company, 51294
 - 14. Household Automotive Financial, 104004
 - 15. M.A. Hanna Resin Distribution Co., 76813
 - 16. Bridgestone Aircraft Tire USA, Inc., 127787
 - 17. American Electronics Assoc. C.U., 115780
 - 18. Factory 2-U Stores, Inc., 135643
 - 19. Americredit Financial Service, Inc., 157714
 - 20. American President Lines Ltd., 166338
 - 21. Imation Corp., 166380
 - 22. JD Edwards World Solutions Co., 138671
- I. Special Taxes Matters - Refunds**
 - Refunds
 - 1. Ralphs Grocery Company, 168428—"CF"
 - 2. Transamerica Occidental Life Ins., 156295—"CF"
 - 3. Tokio Marine & Fire Ins. Co. Ltd., 146678—"CF"
 - 4. Tokio Marine & Fire Ins. Co. Ltd., 155159—"CF"
 - 5. Tokio Marine & Fire Ins. Co. Ltd., 155161—"CF"
 - 6. Security Life of Denver Ins. Co., 163820—"CF"
 - 7. First Capital Life Insurance Co., 89000899990—"CF"
 - 8. American Economy Insurance Co., 145969—"CF"
 - 9. Jackson National Life Ins. Co., 154312—"CF"
 - 10. Monumental Life Insurance Co., 153508—"CF"
 - 11. Amerin Guaranty Corporation, 155250—"CF"
 - 12. Fidelity & Deposit Co. of Maryland, 157913—"CF"
 - 13. Explorer Insurance Company, 156371—"CF"
 - 14. Lumber Mutual Insurance Company, 162262—"CF"
 - 15. City of Fresno, 168607
 - 16. Marten Transport Ltd., 82289
 - 17. Ultramar, Inc., 139478—"CF"
- J. Special Taxes Matters**
 - Relief of Penalty
 - 1. Los Angeles SMSA, Ltd. Ptn., 166046
 - 2. Pacific Bell Wireless, LLC, 167298

❖ **TAX PROGRAM NON-APPEARANCE MATTERS - NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**

K. Property Tax Matters

- Audit
 1. Unocap – Tosco Corporation (480)—“CF”
- Unitary and Nonunitary Escaped Assessments—“CF”
 2. Pacific Bell (279) —“CF”
 3. Union Pacific Railroad Company (843) —“CF”
- Private Railroad Car Refund Requests—“CF”
 4. Asarco, Inc. (5732) —“CF”
Rio Grande Chemical Sales Co. (5798) —“CF”
Cemex, U.S.A. (5980) —“CF”
Southdown, Inc. (6084) —“CF”

❖ **CORPORATE FRANCHISE AND PERSONAL INCOME TAX HEARINGS**

- John T. Nickel, Case ID: 104288

❖ **BUSINESS TAXES APPEALS HEARINGS**

- Ed Staub & Sons Petroleum Inc., 30361
Staub Petroleum Products Inc., 40674
- Krueger International, Inc., 89000835310
- Classic Woodworking, Inc., 89000882020
- Elva Corporation, 42201
- Stephanie Kalomiros Brown, 105412
- Bin Wang and Ai Fen Zhou, 112966
- Don Ricardo’s Restaurant, 42025
Padrino’s Inc., 42029
- Fresno Truck Center, 91442
- Whitney Construction, 104692
- TJ&F Company, 89000321320, 89000321330

If you would like specific information regarding other items on this Board Meeting Agenda Notice please telephone (916) 322-2270 or e-mail: MeetingInfo@boe.ca.gov. Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

Deborah Pellegrini, Chief
Board Proceedings Division

"CF" - Constitutional Function - The Deputy State Controller may not participate in this matter under Government Code Section 7.9.

*Public comment on any committee agenda item will be accepted at the beginning of the committee meeting.

**Public comment on any agenda item, other than a Closed Session item or an item which has already been considered by a Board Committee, will be accepted at that meeting.

If substantial revisions to the published text of the regulations are approved at the hearing, the regulations will be re-published for a new hearing date. If only revisions sufficiently related to the published text of the regulations are approved, a notice containing these revisions will be mailed to those persons that commented orally or in writing or that asked to be informed of such revisions. The notice will be mailed at least 15 days prior to the scheduled Board adoption of the regulations to allow them time for additional comments.

Agenda items occur sequentially. When circumstances warrant, the Chairman may modify the order of items as they appear on the agenda. Any committee agenda item may be brought to the Board at its next meeting. The hearing location is accessible to the disabled. If you require special assistance, please contact Gary Evans at 916-445-4394 to make special arrangements.