

**Tuesday, March 29, 2006**

The Board met at its offices at 450 N Street, Sacramento, at 9:35 a.m., with Mr. Chiang, Chair, Mr. Parrish, Vice Chair, Ms. Yee and Mr. Leonard present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

### **SPECIAL TAXES APPEALS HEARING**

Khani & Son, Inc., 233941 (GH)

9-10-99 to 12-31-02, \$63,383.55 Fee, \$00.00 Failure to File Penalty

For Petitioner: Dan Askari, Representative

For Property and Special Taxes Department: Carolee Johnstone, Tax Counsel

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

Issues: Whether petitioner is liable for the Underground Storage Tank Maintenance fees assessed in the Notice and Demand.

Whether relief from interest is appropriate.

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

### **ADMINISTRATIVE SESSION**

#### **ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard 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 3.22).

Linda C. Barber, Business Tax Representative, Riverside District Office

Michael J. Carrari, Supervising Tax Auditor II, Norwalk District Office

Francis E. Coryell, Supervising Tax Auditor II, Santa Rose District Office

Albert F. Deets, Business Taxes Compliance Specialist, Special Procedures

Section, Headquarters

Walter A. Franzell, Associate Tax Auditor, Fresno District Office

Carolyn Geidner, District Principal Compliance Supervisor, Van Nuys District Office

Romeo G. Mendoza, Tax Technician III, Return Analysis Unit, Headquarters

Alethea Paras, Associate Tax Auditor, Houston District Office

Edna Tancioco, Tax Technician III, Consumer Use Tax, Headquarters

Action: Approve the Board Meeting Minutes of September 28, 2005 and January 31–February 1, 2006.

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Action: Approve the proposed revisions to Application for Changed Assessment (Form BOE-305-AH) (Exhibit 3.23).

#### **OTHER ADMINISTRATIVE MATTERS**

##### **Executive Director's Report**

Ramon Hirsig, Executive Director, introduced Larry Bergkamp, Supervising Tax Auditor, Audit and Information Section, Sales and Use Tax Department, who provided an update regarding the Streamlined Sales Tax Program (Exhibit 3.24).

The Board continued the matter of the Streamlined Sales Tax Program to the April 2006 Board Meeting for further discussion and possible action.

Mr. Hirsig introduced Karen Johnson, Deputy Director, Administration Department, who provided an update regarding the curtain wall (Exhibit 3.25).

Mr. Hirsig discussed the report on Public Records Act request responses issued by California Aware, and provided an update regarding the Board's procedures for responding to Public Records Act requests (Exhibit 3.26).

##### **Interagency Agreements Over \$1 Million**

Karen Johnson, Deputy Director, Administration Department, made introductory remarks regarding the approval of routine renewals of interagency agreements that expire June 30, 2006 (Exhibit 3.27).

The Board deferred considered of the contract for Department of Toxic Substances Control.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the contract for the Stephen P. Teale Data Center.

#### **SPECIAL TAXES APPEALS HEARING**

Idalia Tobar, 234092 (CH)

7-1-00 to 1-31-02, \$31,942.69 Tax, \$00.00 Failure to File Penalty

For Petitioner: Isaac Kalonji Kashsma, Representative

For Property and Special Taxes Department: Monica Brisbane, Tax Counsel

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

Issue: Whether petitioner is liable for the tax.

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

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## **ADMINISTRATIVE SESSION**

### **BOARD COMMITTEE REPORT**

#### **Business Taxes Committee**

Action: Upon motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish abstaining, the Board approved the Business Taxes Committee report (Exhibit 3.28).

### **ANNOUNCEMENT OF CLOSED SESSION**

The Board recessed at 10:35 a.m. and reconvened immediately in closed session with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

### **CLOSED SESSION**

The Board met to discuss settlements (R&T Code §§ 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Govt. Code § 11126(a)).

The Board recessed at 10:50 a.m. and reconvened immediately in open session with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

### **FINAL ACTION ON SPECIAL TAXES APPEALS HEARINGS HELD MARCH 29, 2006**

Idalia Tobar, 234092 (CH)

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

Khani & Son, Inc., 233941 (GH)

Final Action: Ms. Yee moved that the petition be redetermined as recommended by the Appeals Division. Mr. Parrish made a substitute motion that the petition be redetermined and the interest be waived for the constitutional time. The substitute motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Ms. Mandel voting no.

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

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**SPECIAL TAXES APPEALS HEARING**

Kam Yuen International, Inc., 216737 (BH)

8-1-99 to 2-28-02, \$56,054.10 Tax, \$00.00 Failure to File Penalty

For Petitioner: Appearance Waived

For Property and Special Taxes Department: Tim Treichelt, Tax Counsel

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.

Issue: Whether petitioner has presented sufficient evidence to rebut the presumption that cigarettes no longer in its possession were distributed.

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

The Board recessed at 11:30 a.m. and reconvened at 1:15 p.m. with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

**PRESS CONFERENCE****Unveiling California Tax Service Center Online**

Mr. Chiang introduced the Board of Equalization Members to the press and made introductory remarks regarding the online California Tax Service Center ([www.taxes.ca.gov](http://www.taxes.ca.gov)). This website integrates information from the Board of Equalization, Employment Development Department and Franchise Tax Board, allowing the user to easily browse resources and quickly find important information, forms and publications. (Exhibit 3.29)

Clark Kelso, State of California's Chief Information Officer, demonstrated the new website of California Tax Service Center.

The Board adjourned at 1:25 p.m. in memory of the following: Assemblyman Marco Firebaugh; Senator Alquist; Presidential Deputy Lyn Nofziger; Secretary of Defense and former Director of Finance for the State of California Casper Weinberger; and, Ken Kaess, President and CEO of DDB Worldwide.

*The foregoing minutes are adopted by the Board on June 27, 2006.*

Note: The following matter was removed from the calendar prior to the meeting: *Interagency Agreement Over \$1 Million for Department of Motor Vehicles (DMV).*