Wednesday, June 11, 2003

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:00 a.m., with Ms. Migden, Chairwoman, Mr. Leonard and Mr. Chiang present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE CLAIM HEARINGS

Harvey Morris, 194158
2002, $316.00 Claim for Credit
For Claimant: Harvey Morris
For Franchise Tax Board: Suzanne Small, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issue: Whether respondent properly denied appellant's claim for property tax assistance.
Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Parrish absent, the Board submitted the appeal for decision.

Virginia M. Larson, 170719
2000, $600.00 Claim for Credit
For Claimant: Virginia M. Hilton (Larson)
For Franchise Tax Board: Suzanne Small, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issue: Whether respondent properly denied appellant's claim for property tax assistance.
Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Anthony E. Graham, 166415
2001, $1.00 or more Claim for Credit
For Claimant: Anthony E. Graham
For Franchise Tax Board: Suzanne Small, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issue: Whether respondent properly denied appellant's claim for property tax assistance.
Appellant's Exhibit: Verification of Benefits (Exhibit 6.7)
Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision, directing staff to provide claimant with the correct form for proof of disability and assign a staff member to help claimant.

Exhibits to these minutes are incorporated by reference.

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CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Timothy B. Leach, 181679
1999, $865.00 Assessment
For Appellant: Timothy B. Leach
For Franchise Tax Board: Jozell Brunett, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issue: Whether appellant is entitled to use head of household filing status.
Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board modified the action of the Franchise Tax Board, allowing the appellant to claim the girlfriend as an additional dependent.

Kenneth A. Sauer, 190269
1998, $1,729.00 Tax, $528.25 Notice and Demand Penalty, $432.25 Late Filing Penalty
Eliza B. Sauer, 190269
1998, $1,621.00 Tax, $883.00 Notice and Demand Penalty, $405.25 Late Filing Penalty
For Appellant: Kenneth A. Sauer
For Franchise Tax Board: Mark McEvilly, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issues: Whether appellants have met their burden to prove error in the proposed assessments.
Whether appellants have shown reasonable cause for relief from the notice and demand and late filing penalties.
Whether frivolous appeal penalties should be imposed.
Appellant's Exhibit: Miscellaneous Documents (Exhibit 6.8)
Respondent's Exhibit: Miscellaneous Documents (Exhibit 6.9)
Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Robert A. Lelito, 187221
1993, $39,970.22 Claim for Refund
For Appellant: Peter D. Prescott, CPA
Robert A. Lelito
For Franchise Tax Board: Jozell Brunett, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issue: Whether appellant's claim for refund is barred by the applicable statute of limitations.
Appellant's Exhibit: Miscellaneous Documents and Letters (Exhibit 6.10)
Action: Mr. Parrish moved to grant the claim for refund. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

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Upon motion of Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Joseph Leggett, 187170
2001, $2,610.19 Claim for Refund
For Appellant: Joseph Leggett
For Franchise Tax Board: Craig Scott, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issue: Whether appellant establishes reasonable cause for abatement of the late payment penalty.
Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Thomas P. Lynch, 36691
1994, $15,586.60 Claim for Refund
For Appellant: Thomas P. Lynch
Claudine F. Lynch
For Franchise Tax Board: Jozell Brunett, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issue: Whether respondent abused its discretion in refusing to refund interest.
Appellant's Exhibit: 1994 Tax Year Chronology and Miscellaneous Documents (Exhibit 6.11)
Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

John Laszloffy, 181677
1999, $3,063.00 Assessment, $765.75 Late Filing Penalty
For Appellant: John Laszloffy
For Franchise Tax Board: Craig Scott, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issues: Whether appellant has demonstrated error in respondent's proposed assessment of tax.
Whether appellant has demonstrated reasonable cause for the abatement of the late filing penalty.
Whether the Board should impose a frivolous appeal penalty.
Appellant's Exhibit: Miscellaneous Documents (Exhibit 6.12)
Action: Upon motion of Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

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Mark C. DeVries, 171222
1998, $ 2,754.00 Assessment, 688.50 Late Filing Penality
For Appellant: Mark C. DeVries
Paul E. Ballmer, Representative
For Franchise Tax Board: Mark McEvilly, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issues: Whether appellant has demonstrated error in respondent's proposed assessment of tax.

Whether appellant has demonstrated reasonable cause for the abatement of the late filing penalty.

Whether the Board should impose a frivolous appeal penalty.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

FINAL ACTION ON CLAIMS HEARD JUNE 11, 2003

Upon motion of Ms. Migden, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, in the appeal of *Harvey Morris, 194158*, the Board sustained the action of the Franchise Tax Board.

Mr. Leonard moved to reverse the action of the Franchise Tax Board in the appeal of *Virginia M. Larson, 170719*. The motion failed for lack of a second.

Upon motion of Ms. Migden, seconded by Mr. Parrish and duly carried, Ms. Migden, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang and Ms. Mandel voting no, the Board modified the action of the Franchise Tax Board, granting 50 percent of the claim for refund.

FINAL ACTION ON APPEALS HEARD JUNE 11, 2003

Upon motion of Ms. Migden, seconded by Mr. Parrish and duly carried, Ms. Migden, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang and Ms. Mandel voting no, in the appeal of *Kenneth A. Sauer, 190269*, the Board sustained the action of the Franchise Tax Board and imposed a $2,500.00 frivolous appeal penalty on each appellant.

Upon motion of Ms. Migden, seconded by Ms. Mandel and duly carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, in the appeal of *Robert A. Lelito, 187221*, the Board sustained the action of the Franchise Tax Board.

Upon motion of Ms. Migden, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, in the appeal of *Joseph Leggett, 187170*, the Board sustained the action of the Franchise Tax Board.

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Upon motion of Ms. Migden, seconded by Mr. Chiang and duly carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Leonard voting no, Mr. Parrish abstaining, in the appeal of *Thomas P. Lynch, 36691*, the Board sustained the action of the Franchise Tax Board.

Upon motion of Ms. Migden, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, in the appeal of *John Laszloffy, 181677*, the Board sustained the action of the Franchise Tax Board and imposed a $2,500.00 frivolous appeal penalty.

Upon motion of Mr. Chiang, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, in the appeal of *Mark C. DeVries, 171222*, the Board sustained the action of the Franchise Tax Board and imposed a $2,500.00 frivolous appeal penalty.

The Board adjourned at 11:05 a.m.

The foregoing minutes are adopted by the Board on August 6, 2003.

Note: The following case was removed from the calendar prior to the meeting: *OII Third Partial Consent Decree Cash Account Escrow, 139239.*

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