

Wednesday, September 16, 2015

The Board met at its offices at 450 N Street, Sacramento, at 10:04 a.m., with Mr. Horton, Chairman, Mr. Runner, Vice Chairman, Ms. Ma and Ms. Harkey present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code section 7.9.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Jim Vossen, Executive Director, Seaside, Sand City, Del Rey Oaks, and Monterey Chamber of Commerce

PUBLIC COMMENT

Speaker: Jim Vossen, Executive Director, Seaside, Sand City, Del Rey Oaks, and Monterey Chamber of Commerce ([Exhibit 9.1](#))

Exhibits to these minutes are incorporated by reference.

The Board recessed at 10:11 a.m. and reconvened at 10:49 a.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

SPECIAL PRESENTATIONS

Cynthia Bridges, Executive Director, presented the “*Best of CA*” award from the California Department of Technology to the Board of Equalization recipients.

Members made complimentary remarks about how proud they are of the recipients and how they demonstrated outstanding teamwork to make the “Open BOE Data Portal” project successful. The program is now a model for all other government agencies.

Cynthia Bridges, Executive Director, presented the “*Charles Mills Lifetime Achievement Award*” from the Federation of Tax Administrators to Lynn Bartolo, Acting Deputy Director, Sales and Use Tax and Special Taxes Department ([Exhibit 9.2](#)).

Members congratulated Ms. Bartolo on being 1 of 6 recipients of the “*Charles Mills Lifetime Achievement Award*,” complimenting her on her dedicated service and her ability to be diligent in solving problems quickly and efficiently, making her a real model of the Board of Equalization.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Ameristar Casinos, Inc. & Subs., 605227, 841016

2003, \$24,825.00 Assessment

2004, \$69,390.00 Assessment

2005, \$107,962.00 Assessment

2007, \$31,019.00 Assessment

2008, \$57,310.00 Assessment

For Appellant:

Douglas Bramhall, Attorney

Tom Bertino, Attorney

For Franchise Tax Board:

Jenna Lewis, Tax Counsel

Shane Hofeling, Tax Counsel

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

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Issue: Whether appellant is entitled to a deduction for various “wagering taxes” paid to other states for the years at issue.

Respondent’s Exhibit: Agreement on Amounts in Dispute ([Exhibit 9.3](#))

Action: Upon motion of Ms. Stowers, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board submitted the appeal for decision.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 12:14 p.m. and reconvened immediately in closed session with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee present.

CLOSED SESSION

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

The Board recessed at 1:00 p.m. and reconvened in open session at 2:10 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

John Nafeh and Ursula G. Burger Nafeh, 785086
2007, \$58,481.00 Assessment

For Appellants:

John Nafeh, Taxpayer
Ursula Burger Nafeh, Taxpayer
David B. Porter, Attorney
Judy Hirano, Tax Counsel
Ciro Immordino, Tax Counsel

For Franchise Tax Board:

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

Issue: Whether appellants have shown that their corporation was a “qualified trade or business” under Revenue and Taxation Code (R&TC) section 18152.5, subdivision (e)(3).

Appellant’s Exhibit: Miscellaneous Documents ([Exhibit 9.4](#))

Action: Upon motion of Ms. Stowers, seconded by Mr. Runner and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board submitted the appeal for decision.

PUBLIC HEARINGS

Proposed Amendments to Sales and Use Tax Regulation 1505, *Morticians*

Monica Silva, Tax Counsel, Tax & Fee Programs Division, Legal Department, made introductory remarks regarding proposed amendments to update the name of Regulation 1505 and update the information, tax rates and examples in Regulation 1505 ([Exhibit 9.5](#)).

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

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Action: Upon motion of Mr. Runner, seconded by Ms. Stowers and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board adopted the amendments to Regulations 1505 as published.

Proposed Amendments to Sales and Use Tax Regulation 1705.1, *Innocent Spouse or Registered Domestic Partner Relief from Liability*, Special Taxes and Fees Regulation 4903, *Innocent Spouse or Registered Domestic Partner Relief from Liability*, and Rules for Tax Appeals Regulations 5240, *Persons Who May File, Contents of, and Manner of Filing Requests for Innocent Spouse Relief, 5241, Acknowledgement and Review of Requests for Innocent Spouse Relief, and 5242, Requests for Reconsideration by the Board*

Bradley Heller, Tax Counsel, Tax & Fee Programs Division, Legal Department, made introductory remarks regarding proposed amendments to eliminate the requirement of individuals having to file a separate request to be considered for other equitable relief ([Exhibit 9.6](#)).

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

Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board adopted the amendments to Regulations 1705.1, 4903, 5240, 5241 and 5242 as published.

SALES AND USE TAX APPEALS HEARING

Alan Levitz, 718640 (KH)

04/01/08 to 04/10/09, \$42,406.72 Claim for Refund

For Claimant: Alan Levitz, Taxpayer
Jesse W. McClellan, Representative

For Sales and Use Tax Department: Andrew Kwee, Tax Counsel

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

Issues: Whether claimant is personally liable as a responsible person for the unpaid liabilities of Room Source pursuant to Revenue and Taxation Code section 6829.

Whether claimant has established reasonable cause sufficient for relieving the late-payment and late prepayment penalties originally assessed against Room Source.

Whether claimant has established reasonable cause for relief from the collection cost recovery fee.

Action: Upon motion of Ms. Stowers, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board ordered that the petition be submitted for decision.

The Board recessed at 4:42 p.m. and reconvened at 4:54 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

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LEGAL APPEALS MATTERS, CONSENT

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9 in *Peerless Insurance Company, 250594 (STF)*, the Board made the following orders:

Timothy Harold Hart, 742523 (DF)

04/01/09 to 12/31/09, \$16,820.40 Tax, \$1,317.40 Failure-to-File Penalty, \$1,303.14 Finality Penalty, \$378.90 Late Payment of Return Penalty

Action: Redetermine as recommended by the Appeals Division.

Thinh Huynh, 614083 (KH)

10/01/08 to 09/30/11, \$37,484.86 Tax, \$3,748.52 Negligence Penalty

Thinh Huynh and Sang Thi Chau Tran, 621107 (KH)

10/01/08 to 09/30/11, \$118,911.84 Tax, \$11,891.21 Negligence Penalty

Sang Thi Chau Tran, 623534 (KH)

10/01/08 to 09/30/11, \$43,903.49 Tax, \$4,390.35 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Abraham Kassas, 119174 (DF)

10/01/96 to 12/31/99, \$42,296.14 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Right Ascension, Inc., 768601 (OH)

01/01/05 to 12/31/12, \$1,631,517.78 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Sapti USA, Corp., 788620 (BH)

04/01/10 to 03/31/13, \$46,404.32 Tax

Action: Redetermine as recommended by the Appeals Division.

Deborah and Wilbur Brake, 736805 (STF)

01/01/09 to 12/31/09, \$409.00 Tax, \$40.90 Finality Penalty

Deborah and Wilbur Brake, 736806 (STF)

01/01/09 to 12/31/09, \$57.00 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Dave Quinsey Corp., 507427 (FH)

10/01/02 to 09/30/05, \$8,253.37 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Double AA Corporation, 877129 (STF)

April 7, 2015 Seizure Date, \$18.96 Approximate Value

Action: Determined that staff properly seized the tobacco products.

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Rizza Marie Cancio Punzalan and Max Leung, 554317 (BH)

01/01/07 to 12/31/09, \$30,433.48 Tax, \$3,043.33 Negligence Penalty

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

Peerless Insurance Company, 250594 (STF)

01/01/01 to 12/31/02, \$756,878.00 Tax

Action: Denied the petition for rehearing and approved the adjustments as recommended by the Appeals Division. Ms. Stowers not participating in accordance with Government Code section 7.9.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Ms. Harkey, seconded by Ms. Stowers and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board made the following orders:

Gary C. Adams, 768605, 812256

2005, \$24,425.00 Tax

2006, \$15,091.00 Tax

2007, \$16,798.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Johnathan Alarcon, 812193

2009, \$869.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Alrich, Inc., 764610

2010, \$216.00 Late Filing Penalty, \$0.98 Accrued Interest

2011, \$980.00 Tax, \$93.10 Late Payment Penalty, \$27.03 Estimated Tax Penalty, \$24.07 Accrued Interest

Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

Rony Azouz, 770981

2000, \$1,287.38 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Michael Barker, 837587

2010, \$291.00 Tax

Action: Sustain the action of the Franchise Tax Board.

John Sutton, Inc., 737725, 763606

2007, \$800.00 Claim for Refund

2008, \$800.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

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Neoptx, LLC, 716184

2010, \$13,403.03 Tax, \$3,350.75 Late Filing Penalty, \$3,350.75 Notice and Demand Penalty,
\$2,000.00 Forfeited (NQS) Penalty, \$89.00 Filing Enforcement FeeAction: Sustain the action of the Franchise Tax Board as modified by its concessions on
appeal.

Mark A. Staggs, 807998

2007, \$65,585.00 Tax

2008, \$74,728.00 Tax

2009, \$82,465.00 Tax, \$19,629.50 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

Arlene Ursino, 788761

2007, \$457.00 Tax

2008, \$457.00 Tax

Action: Sustain the action of the Franchise Tax Board as modified by its concessions on
appeal.

Selina Wheat, 846173

1999, \$3,266.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Vince Winters and Pauline Allen Winters, 837042

2009, \$3,105.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Brenda S. Yost and Shaun Dearman, 846180

2010, \$300.00 Tax, \$54.25 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

**SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES,
DENIALS OF CLAIMS FOR REFUND, AND, GRANT-ONE DAY INTEREST RELIEF,
CONSENT**

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties, Denials of Claims for Refund, and, Grant-One Day Interest Relief, Consent Agenda, upon a single motion of Ms. Harkey, seconded by Mr. Runner and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board made the following orders:

Interstate Electronics Corp., 842301 (EA)

10/01/08 to 09/30/11, \$211,926.22

Action: Approve the redetermination as recommended by staff.

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Owens-Brockway Glass Cntr., Inc., 846281 (OH)

10/01/08 to 09/30/11, \$104,597.28

Action: Approve the redetermination as recommended by staff.

Syed A. Ali, 734835 (CH)

01/01/09 to 10/31/09, \$434,056.70

Action: Approve the redetermination as recommended by staff.

John Dunn, 738921 (CH)

01/01/09 to 10/31/09, \$434,056.70

Action: Approve the redetermination as recommended by staff.

Syed Waqar Ali, 737321 (CH)

01/01/09 to 10/31/09, \$434,056.70

Action: Approve the redetermination as recommended by staff.

Susan Deming, 739211 (CH)

01/01/09 to 10/31/09, \$434,056.70

Action: Approve the redetermination as recommended by staff.

Oren Hayun, 744183 (AC)

04/01/09 to 03/31/10, \$200,081.86

Action: Approve the redetermination as recommended by staff.

JS Foods, LLC, 841966 (AP)

04/01/11 to 03/31/14, \$100,418.11

Action: Approve the redetermination as recommended by staff.

Scholastic, Inc., 879328 (OH)

04/01/08 to 03/31/11, \$100,328.07

Action: Approve the relief of penalty as recommended by staff.

Noraier Ghazarian, 845686 (AC)

04/01/93 to 03/31/95, \$164,178.76

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

Motion Industries, Inc., 883456 (OH)

01/01/15 to 03/31/15, \$5,153.82

Action: Approve the one day interest relief as recommended by staff.

Farouk Yousef Diab, 883461 (KH)

02/01/15 to 02/28/15, \$159.31

Action: Approve the one day interest relief as recommended by staff.

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Conergy Projects, Inc., 883464 (OH)

10/01/14 to 12/31/14, \$740.27

Action: Approve the one day interest relief as recommended by staff.

Fremont Auto Retailing Group, Inc., 883467 (CH)

04/01/15 to 04/30/15, \$2,913.58

Action: Approve the one day interest relief as recommended by staff.

NW Wine Company, LLC, 883470 (OH)

01/01/15 to 01/31/15, \$264.89

Action: Approve the one day interest relief as recommended by staff.

**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. Harkey, seconded by Ms. Stowers and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board made the following orders:

Pedro Alejandro Miranda, 786196 (CH)

10/01/03 to 12/13/08, \$2,101,144.95

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

Frank P. Gutierrez, 881706 (AA)

07/01/08 to 12/31/11, \$300,382.71

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

Rain Bird Corporation, 869845 (OH)

07/01/11 to 06/30/14, \$167,405.63

Action: Approve the refund as recommended by staff.

Meda Pharmaceuticals, Inc., 865178 (OH)

01/01/12 to 03/31/12, \$137,396.00

Action: Approve the refund as recommended by staff.

County of Riverside Aud-Controller, 635428 (EH)

04/01/06 to 09/30/09, \$114,763.26

Action: Approve the refund as recommended by staff.

Mitsubishi Heavy Indst. Amer., Inc., 866385 (OH)

10/01/14 to 12/31/14, \$131,310.00

Action: Approve the refund as recommended by staff.

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Mercedes-Benz USA, LLC, 881710 (KH)

11/25/14 to 05/11/15, \$294,537.11

Action: Approve the refund as recommended by staff.

BMW of North America, 873819 (OH)

05/05/14 to 08/15/14, \$1,149,232.20

Action: Approve the refund as recommended by staff.

BMW of North America, 874743 (OH)

10/09/14 to 10/21/14, \$440,070.14

Action: Approve the refund as recommended by staff.

San Jose Healthcare System, LP, 624819 (GH)

04/01/09 to 12/31/12, \$205,061.33

Action: Approve the refund as recommended by staff.

Ultramar, Inc., 863266 (OH)

04/01/10 to 12/31/13, \$589,972.80

Action: Approve the refund as recommended by staff.

Northrop Grumman Systems, Corp., 570696 (OH)

01/01/08 to 03/31/11, \$1,604,891.83

Action: Approve the refund as recommended by staff.

Office Depot, Inc., 800049 (OH)

01/01/11 to 12/31/13, \$104,978.05

Action: Approve the refund as recommended by staff.

Oracle USA, Inc., 884035 (CH)

04/01/02 to 09/30/05, \$466,990.56

Action: Approve the refund as recommended by staff.

Meru Networks, Inc., 862172 (GH)

04/01/10 to 03/31/13, \$175,338.72

Action: Approve the refund as recommended by staff.

Stella & Dot, LLC, 855902 (BH)

01/01/13 to 12/31/13, \$109,405.34

Action: Approve the refund as recommended by staff.

Tektronix Texas, LLC, 878716 (OH)

07/01/10 to 12/31/12, \$174,364.65

Action: Approve the refund as recommended by staff.

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SO Folger Detention Equipment Company, 850067 (OH)
01/01/13 to 06/30/14, \$268,384.06

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. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board made the following orders:

Constellation Brands US Operation, 861892 (STF)
10/01/14 to 10/31/14, \$183,459.40

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

XL Specialty Insurance Company, 864622 (STF)
01/01/11 to 12/31/12, \$124,247.00

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

LEGAL APPEALS MATTER, ADJUDICATORY

Daren James D'Ambrosio and June Ella D'Ambrosio, 597646 (DF)
04/01/08 to 12/31/10, \$22,557.42 Tax, \$1,118.33 Failure-to-File Penalty

Considered by the Board: Hearing Notice Sent – No Response

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

Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

C&L Pacific Real Estate, Inc., 815463
2011, \$432.00 Claim for Refund

Considered by the Board: June 23, 2015

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

Action: Upon motion of Ms. Harkey, seconded by Mr. Runner and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

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Charlotte B. Montgomery, 807763

2012, \$6,230.44 Claim for Refund

Considered by the Board: January 21, 2015

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

Action: Upon motion of Ms. Harkey, seconded by Mr. Runner and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

Thomas E. Rubin, 461570

2000, \$2,901,733.00 Claim for Refund

Considered by the Board: Summary Decision (Rev. & Tax. Code, § 40)

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

Action: Upon motion of Ms. Harkey, seconded by Mr. Runner and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board dismissed the appeal for lack of jurisdiction, adopting the written summary decision as presented by staff.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

PROPERTY TAX MATTERS

Unitary Land Escaped Assessments

Pacific Gas and Electric Company (135)

2012 to 2014, \$992,736.00 Value

Action: Upon motion of Mr. Runner, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the unitary land escaped assessment as recommended by staff.

MCI Communications Services, Inc. (2274)

2012 to 2014, \$42,221,787.00 Value

Action: Upon motion of Mr. Runner, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the unitary land escaped assessment as recommended by staff.

AT&T Mobility, LLC (2606)

2014, \$498,724.00 Value

Action: Upon motion of Mr. Runner, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the unitary land escaped assessment as recommended by staff.

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Sprint Telephony PCS, L.P. (2720)

2012 to 2014, \$2,507,257.00 Value

Action: Upon motion of Mr. Runner, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the unitary land escaped assessment as recommended by staff.

Digital West Networks, Inc. (8148)

2014, \$925,000.00 Value

Action: Upon motion of Mr. Runner, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the unitary land escaped assessment as recommended by staff.

OFFER-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Ms. Stowers, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board approved the Offer in Compromise Recommendations of *Alice Marrion Chavez* and *Allen Benjamin Chavez; Felixberto M. Garcia* and *FJMM, Inc.; John Eldridge Groth; Oma Haiderzada; Elena Jurado; James Patrick Karabian; Rana Irfan Khalid; Byung S. Kim* and *KJAB Corp.; Elie Eli Maroun; Lynn P. Nguyen; Daljit Singh Sidhu* and *Nanak, Inc.; Bob Spaulding; Gregory Martin Stephenson;* and, *Gerardo Zendejas;* as recommended by staff.

CHIEF COUNSEL MATTERS**RULEMAKING****Section 100 Changes****Property Tax Rules 284, Retention and Revocation of Appraiser Certificate, and 1027, U. S. Forest Service Timber Volumes**

Bradley Heller, Tax Counsel, Tax & Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to make Rule 100 changes to update Rule 284 to refer to the Deputy Director of the "Property Tax Department," and update Rule 1027 to refer to the "Timber Tax Section" ([Exhibit 9.7](#)).

Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board approved authorization to make Rule 100 changes to Property Tax Rules 284 and 1027 as recommended by staff.

Sales and Use Tax Regulation 1533.1, Farm Equipment and Machinery

Bradley Heller, Tax Counsel, Tax & Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to make Rule 100 changes to incorporate provisions in Regulation 1533.1 into footnotes 1 and 2 to the partial exemption certificate in Appendix B of the regulation ([Exhibit 9.8](#)).

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Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board approved authorization to make Rule 100 changes to Regulation 1533.1 as recommended by staff.

Sales and Use Tax Regulations 1532, *Teleproduction or Other Postproduction Service Equipment*; 1533.1, *Farm Equipment and Machinery*; 1533.2, *Diesel Fuel Used in Farming Activities or Food Processing*; 1534, *Timber Harvesting Equipment and Machinery*; and, 1535, *Racehorse Breeding Stock*

Bradley Heller, Tax Counsel, Tax & Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to make Rule 100 changes to amend the specified regulations to make them consistent with the expiration of the one-quarter percent tax imposed by Revenue and Taxation Code sections 6051.5 and 6201.5, operative January 1, 2016 ([Exhibit 9.9](#)).

Action: Upon motion of Mr. Runner, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board approved authorization to make Rule 100 changes to Regulations 1532, 1533.1, 1533.2, 1534 and 1535 as recommended by staff.

Sales and Use Tax Regulation 1584, *Membership Fees*

Bradley Heller, Tax Counsel, Tax & Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to make Rule 100 changes to update the definition in Regulation 1584 of the term "nominal amount" in accordance with the regulation's existing provisions ([Exhibit 9.10](#)).

Action: Upon motion of Ms. Harkey, seconded by Ms. Stowers and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board approved authorization to make Rule 100 changes to Regulation 1584 as recommended by staff.

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board made the following orders:

Action: Adopt the following resolution, extending its sincere and grateful appreciation to the retiree for her dedicated service to the State Board of Equalization and to the State of California, their congratulations to the retiree's well-earned retirement, and best wishes to her and her family for continued success, happiness and good health in the years to come ([Exhibit 9.11](#)).

Vickie Philips, Staff Information Systems Analyst, Technology Services
Department, Headquarters

Action: Approve the Board Meeting Minutes of July 28, 2015 and August 11, 2015.

Action: Adopt proposed revisions to Compliance Policy and Procedures Manual (CPPM) Chapter 3, *Account Maintenance*; Chapter 7, *Collections*; and, Chapter 9, *Miscellaneous* ([Exhibit 9.12](#)).

Wednesday, September 16, 2015

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS**Legislative Committee**

Action: Upon motion of Ms. Harkey, seconded by Mr. Runner and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board approved the Legislative Committee report and the actions therein as reflected by the committee members' votes ([Exhibit 9.13](#)).

Business Taxes Committee

Action: Upon motion of Ms. Ma, seconded by Mr. Runner and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board approved the Business Taxes Committee report and the actions therein as reflected by the committee members' votes ([Exhibit 9.14](#)).

OTHER ADMINISTRATIVE MATTERS**Executive Director's Report**

Cynthia Bridges, Executive Director, introduced Bill Hain, Acting Chief, Outreach Services Section, External Affairs Department, who provided a report regarding the plan promoting California's New Earned Income Tax Credit through the 2016 Volunteer Income Tax Assistance Program (VITA) ([Exhibit 9.15](#)).

Cynthia Bridges, Executive Director, provided a report regarding the progress on the CROS project to replace BOE's two current tax legacy technology systems.

Sales and Use Tax and Special Tax and Fees Deputy Director's Report

Lynn Bartolo, Acting Deputy Director, Sales and Use Tax and Special Tax and Fees Department, provided a report regarding the calendar year 2016 Hazardous Substances Program Fees and the Occupational Lead Poisoning Prevention Fee Rates ([Exhibit 9.16](#)).

Lynn Bartolo, Acting Deputy Director, Sales and Use Tax Department, provided a report regarding the continuation of the current bulk sale exemption threshold of \$1,500 in Sales and Use Tax Regulation 1599, *Coins and Bullion* (Rev. & Tax. Code, § 6355) for 2016 ([Exhibit 9.17](#)).

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD SEPTEMBER 16, 2015

Ameristar Casinos, Inc. & Subs., 605227, 841016

Final Action: Ms. Harkey moved to reverse the action of the Franchise Tax Board. The motion was seconded by Mr. Runner but failed to carry, Mr. Runner and Ms. Harkey voting yes, Mr. Horton, Ms. Ma, and Ms. Stowers voting no.

Upon motion of Ms. Stowers, seconded by Ms. Ma and duly carried, Mr. Horton, Ms. Ma and Ms. Stowers voting yes, Mr. Runner and Ms. Harkey voting no, the Board sustained the action of the Franchise Tax Board.

Wednesday, September 16, 2015

John Nafeh and Ursula G. Burger Nafeh, 785086

Final Action: Upon motion of Ms. Stowers, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board sustained the action of the Franchise Tax Board.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD
SEPTEMBER 16, 2015**

Alan Levitz, 718640 (KH)

Final Action: Ms. Harkey moved to delete the collection cost recovery fee, late payment and late prepayment penalties and that the claim for refund otherwise be denied as recommended by the Appeals Division. The motion was seconded by Ms. Stowers. Ms. Harkey withdrew her motion.

Upon motion of Ms. Harkey, seconded by Ms. Stowers and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board ordered that the claim for refund be denied as recommended by the Appeals Division.

The Board adjourned at 5:30 p.m.

The foregoing minutes are adopted by the Board on October 27, 2015.

Note: The following matters were removed from the calendar prior to the meeting: *Larry U. Wilson and Cheryl M. Wilson, 804361; CBC Steel Buildings, LLC, 597564 (KH); and, Prok Electric Company, 807759, 824668, 850189 (UT).*