



STATE BOARD OF EQUALIZATION
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Third District, Los Angeles County

DIANE L. HARKEY
Fourth District, Orange County

BETTY T. YEE
State Controller

CYNTHIA BRIDGES
Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
NOTICE AND AGENDA
Meeting Agenda (as of 9/15/2015 12:00 PM)

[Agenda Changes](#)

[Webcast on Wednesday, September 16, 2015](#)

Wednesday, September 16, 2015

10:00 a.m. Pledge of Allegiance

Board Committee Meetings Convene*

Board Meeting convenes upon Adjournment of the Board Committee Meetings**

Agenda items occur in the order in which they appear on the agenda. When circumstances warrant, the Board's Chair may modify the order of the items on the agenda.

Board Committee Meetings*

[Legislative Committee](#)..... Ms. Ma, Committee Chairwoman

- I. Update on Status of 2015 Legislation Impacting the BOE
Discussion item only.

[Business Taxes Committee](#).....Ms. Harkey, Committee Chairwoman

- 1. Proposed amendments to Regulation 1432, *Other Nontaxable Uses of Diesel Fuel in a Motor Vehicle*

Request approval and authorization to publish proposed amendments to clarify the definition of highway use, clarify refund provisions, and provide safe-harbor percentages that can be used when claiming a refund for nontaxable uses of diesel fuel.
- 2. Proposed Prepaid Mobile Telephony Services Regulations 2460, 2461, and 2462; and, Proposed Amendments to Emergency Telephone Users Surcharge Regulations 2401, 2422, and 2413

Request approval and authorization to publish proposed and amended regulations to interpret, clarify and make specific the statutes regarding prepaid mobile telephony services.

Board Meeting****Special Presentations**

- BOE's Open Data Portal Ms. Bridges
Presentation on the "Best of CA" award from the California Department of Technology.
- [Federation of Tax Administrators Award Recipient +](#) Ms. Bridges
Presentation on the "Charles Mills Lifetime Achievement Award" to Lynn Bartolo from the Federation of Tax Administrators.

A. Homeowner and Renter Property Tax Assistance Appeals Hearings
There are no items for this matter.

B. Corporate Franchise and Personal Income Tax Appeals Hearings
(Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)

[B1. Ameristar Casinos, Inc. & Subs., 605227, 841016 +](#)

For Appellant: Douglas Bramhall, Attorney
Tom Bertino, Attorney

For Franchise Tax Board: Jenna Lewis, Tax Counsel
Shane Hofeling, Tax Counsel

~~B2. Larry U. Wilson and Cheryl M. Wilson, 804361 +~~

~~For Appellants: Cheryl M. Wilson, Taxpayer
Sarah K. J. Bain, Representative~~

~~For Franchise Tax Board: Andy Amara, Tax Counsel
Fred Campbell-Craven, Tax Counsel~~

[B3. John Nafeh and Ursula G. Burger Nafeh, 785086 +](#)

For Appellants: John Nafeh, Taxpayer
Gregory Robbins, Witness
David B. Porter, Attorney

For Franchise Tax Board: Judy Hirano, Tax Counsel
Ciro Immordino, Tax Counsel

C. Sales and Use Tax Appeals Hearings

(Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)

~~C1. CBC Steel Buildings, LLC, 597564 (KH) +~~

~~For Claimant: Tom Cosentino, Witness
Ron Martella, Representative
Amy Wilson, Representative~~

~~For Department: Erin Dendorfer, Tax Counsel~~

C2. Alan Levitz, 718640 (KH) +
 For Claimant: Jesse W. McClellan, Representative
 For Department: Andrew Kwee, Tax Counsel

~~C3. Prok Electric Company, 807759, 824668, 850189 (UT) +
 For Petitioner/Claimant: Elija Prok, Taxpayer
 Elena Prok, Witness
 For Department: Monica Silva, Tax Counsel~~

There are no items for the following matters:

- D. Special Taxes Appeals Hearings
- E. Property Tax Appeals Hearings

F. Public Hearings

F1. Proposed Amendments to Sales and Use Tax Regulation 1505, *Morticians* + Ms. Silva

Public hearing regarding proposed amendments to update the name of Regulation 1505 and update the information, tax rates, and examples in Regulation 1505.

F2. 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* + Mr. Heller

Public hearing regarding proposed amendments to eliminate the requirement that individuals file a separate request to be considered for other equitable relief.

G. Tax Program Nonappearance Matters – Consent

(Contribution Disclosure forms not required pursuant to Gov. Code, § 15626.)

G1. Legal Appeals Matters Mr. Angeja

- Hearing Notice Sent – No Response
 - 1. Timothy Harold Hart, 742523 (DF)
 - 2a. Thinh Huynh, 614083 (KH)
 - 2b. Thinh Huynh and Sang Thi Chau Tran, 621107 (KH)
 - 2c. Sang Thi Chau Tran, 623534 (KH)
 - 3. Abraham Kassas, 119174 (DF)
 - 4. Right Ascension, Inc., 768601 (OH)
 - 5. Sapti USA, Corp., 788620 (BH)
 - 6a. Deborah and Wilbur Brake, 736805 (STF)
 - 6b. Deborah and Wilbur Brake, 736806 (STF)

- Hearing Notice Sent – Appearance Waived
 7. Dave Quinsey Corp., 507427 (FH)
 - Petition for Release of Seized Property
 8. Double AA Corporation, 877129 (STF)
 - Petitions for Rehearing
 9. Rizza Marie Cancio Punzalan and Max Leung, 554317 (BH)
 10. Peerless Insurance Company, 250594 (STF) ‘CF’
- G2. Franchise and Income Tax Matters Mr. Epolite
- Hearing Notice Sent – No Response
 1. Gary C. Adams, 768605, 812256
 - Decisions
 2. Johnathan Alarcon, 812193
 3. Alrich, Inc., 764610
 4. Rony Azouz, 770981
 5. Michael Barker, 837587
 6. John Sutton, Inc., 737725, 763606
 7. Neoptx, LLC, 716184
 8. Mark A. Staggs, 807998
 9. Arlene Ursino, 788761
 10. Selina Wheat, 846173
 11. Vince Winters and Pauline Allen Winters, 837042
 12. Brenda S. Yost and Shaun Dearman, 846180
- G3. Homeowner and Renter Property Tax Assistance Matters
There are no items for this matter.
- G4. Sales and Use Taxes Matters Ms. Bartolo
- Redeterminations
 1. Interstate Electronics Corp., 842301 (EA)
 2. Owens-Brockway Glass Cntr., Inc., 846281 (OH)
 3. Syed A. Ali, 734835 (CH)
 4. John Dunn, 738921 (CH)
 5. Syed Waqar Ali, 737321 (CH)
 6. Susan Deming, 739211 (CH)
 7. Oren Hayun, 744183 (AC)
 8. JS Foods, LLC, 841966 (AP)
 - Relief of Penalty/Interest
 9. Scholastic, Inc., 879328 (OH)
 - Denials of Claims for Refund
 10. Noraier Ghazarian, 845686 (AC)
 - Grant One-Day Interest Relief
 11. Motion Industries, Inc., 883456 (OH)
 12. Farouk Yousef Diab, 883461 (KH)
 13. Conergy Projects, Inc., 883464 (OH)
 14. Fremont Auto Retailing Group, Inc., 883467 (CH)
 15. NW Wine Company, LLC, 883470 (OH)

- G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds Ms. Bartolo
- Credits and Cancellations
 1. Pedro Alejandro Miranda, 786196 (CH)
 2. Frank P. Gutierrez, 881706 (AA)
 - Refunds
 3. Rain Bird Corporation, 869845 (OH)
 4. Meda Pharmaceuticals, Inc., 865178 (OH)
 5. County of Riverside Aud-Controller, 635428 (EH)
 6. Mitsubishi Heavy Indst. Amer., Inc., 866385 (OH)
 7. Mercedes-Benz USA, LLC, 881710 (KH)
 8. BMW of North America, 873819 (OH)
 9. BMW of North America, 874743 (OH)
 10. San Jose Healthcare System, LP, 624819 (GH)
 11. Ultramar, Inc., 863266 (OH)
 12. Northrop Grumman Systems, Corp., 570696 (OH)
 13. Office Depot, Inc., 800049 (OH)
 14. Oracle USA, Inc., 884035 (CH)
 15. Meru Networks, Inc., 862172 (GH)
 16. Stella & Dot, LLC, 855902 (BH)
 17. Tektronix Texas, LLC, 878716 (OH)
 18. SO Folger Detention Equipment Company, 850067 (OH)

G6. Special Taxes Matters
There are no items for this matter.

- G7. Special Taxes Matters – Credits, Cancellations, and Refunds Ms. Bartolo
- Refunds
 1. Constellation Brands US Operation, 861892 (STF) ‘CF’
 2. XL Specialty Insurance Company, 864622 (STF) ‘CF’

There are no items for the following matters:

- G8. Property Tax Matters
G9. Cigarette License Fee Matters
G10. Legal Appeals Property Tax Matters

H. Tax Program Nonappearance Matters – Adjudicatory

(Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)

- H1. Legal Appeals Matters Mr. Angeja
- Hearing Notice Sent – No Response
 1. [Daren James D’Ambrosio and June Ella D’Ambrosio, 597646 \(DF\) +](#)
- H2. Franchise and Income Tax Matters Mr. Epolite
- Decisions
 1. C&L Pacific Real Estate, Inc., 815463
 2. Charlotte B. Montgomery, 807763
 - Section 40 (AB 2323) Matters
 3. Thomas E. Rubin, 461570

There are no items for the following 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

I. Tax Program Nonappearance Matters

(Contribution Disclosure forms not required pursuant to Gov. Code, § 15626.)

- I1. Property Taxes Matters..... Mr. Kinnee
 - Unitary Land Escaped Assessment
 - 1. Pacific Gas and Electric Company (135) 'CF'
 - 2. MCI Communications Services, Inc. (2274) 'CF'
 - 3. AT&T Mobility, LLC (2606) 'CF'
 - 4. Sprint Telephony PCS, L.P. (2720) 'CF'
 - 5. Digital West Networks, Inc. (8148) 'CF'
- I2. Offer in Compromise Recommendations Mr. Anderson
 - 1a. Alice Marrion Chavez
 - 1b. Allen Benjamin Chavez
 - 2a. Felixberto M. Garcia
 - 2b. FJMM, Inc.
 - 3. John Eldridge Groth
 - 4. Oma Haiderzada
 - 5. Elena Jurado
 - 6. James Patrick Karabian
 - 7. Rana Irfan Khalid
 - 8a. Byung S. Kim
 - 8b. KJAB Corp.
 - 9. Elie Eli Maroun
 - 10. Lynn P. Nguyen
 - 11a. Daljit Singh Sidhu
 - 11b. Nanak, Inc.
 - 12. Bob Spaulding
 - 13. Gregory Martin Stephenson
 - 14. Gerardo Zendejas
- I3. Local Tax Reallocation Matters
There are no items for this matter.

Chief Counsel Matters

Items that appear under these matters provide information to the Members and may require Board action or direction.

J. Rulemaking

Section 100 Changes

- J1. [Property Tax Rules 284, *Retention and Revocation of Appraiser Certificate*, and 1027, *U. S. Forest Service Timber Volumes* +.....](#)Mr. Heller

Staff request for authorization to complete section 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.”

- J2. [Sales and Use Tax Regulation 1533.1, *Farm Equipment and Machinery* +](#)Mr. Heller

Staff request for authorization to complete section 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.

- J3. [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* +](#)Mr. Heller

Staff request for authorization to complete section 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.

- J4. [Sales and Use Tax Regulation 1584, *Membership Fees* +](#)Mr. Heller

Staff request for authorization to complete section 100 changes to update the definition in Regulation 1584 of the term “nominal amount” in accordance with the regulation’s existing provisions.

There are no items for the following matters:

- K. Business Taxes
- L. Property Taxes
- M. Other Chief Counsel Matters

Administrative Session

Items that appear under these matters provide information to the Members and may require Board action or direction.

N. Consent Agenda Ms. Richmond (Contribution Disclosure forms not required pursuant to Gov. Code, § 15626.)

N1. Retirement Resolution +

- Vickie Philips

N2. Approval of Board Meeting Minutes

- July 28, 2015 +
- August 11, 2015 +

N3. Proposed revisions to Compliance Policy and Procedures Manual (CPPM) Chapter 3, *Account Maintenance*; Chapter 7, *Collections*; and, Chapter 9, *Miscellaneous* +

O. Adoption of Board Committee Reports and Approval of Committee Actions

- O1. Legislative Committee
- O2. Business Taxes Committee

P. Other Administrative Matters

P1. Executive Director's Report Ms. Bridges

1. 2016 Volunteer Income Tax Assistance Program (VITA)
Report on Plan Promoting California's New Earned Income Tax Credit through the 2016 VITA Program.
2. CROS Project Update and Actions
Progress on the CROS project to replace BOE's two current legacy tax administration systems.

P2. Chief Counsel Report There are no items for this mater.

P3. Sales and Use Tax and Special Tax and Fees Deputy Director's Report..... Ms. Bartolo

1. Informational Report on the 2016 Hazardous Substances Fees and Occupational Lead Poisoning Prevention Fee Rates +
Report on the rate setting for calendar year 2016 Hazardous Substances Program Fees and the Occupational Lead Poisoning Prevention Fee.
2. Revenue and Taxation Code Section 6355, *Coins and Bullion*, "Bulk" Sale Threshold for 2016 +
Report on 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.

There are no items for the following matters:

- P4. Property Taxes Deputy Director’s Report
- P5. Administration Deputy Director’s Report
- P6. Technology Deputy Director’s Report
- P7. External Affairs Deputy Director’s Report

Announcement of Closed Session Ms. Richmond

Q. Closed Session

- Q1. Discussion and approval of staff recommendations regarding settlement cases (Rev. & Tax. Code, §§ 6901, 7093.5, 30459.1, 50156.11).
- Q2. Discussion and action on personnel matters (Gov. Code, § 11126(a)).

Announcement of Open Session..... Ms. Richmond

Adjourn

General information regarding Board and Committee Meetings can be found at www.boe.ca.gov/meetings/boardcomm.htm. If you would like specific information regarding items on this Notice and Agenda, please telephone (916) 322-2270 or email: MeetingInfo@boe.ca.gov. Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

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The hearing location is accessible to people with disabilities. Please contact Rose Smith at (916) 323-9656, or email Rose.Smith@boe.ca.gov if you require special assistance.

Joann Richmond, Chief
Board Proceedings Division

- * Public comment on any committee agenda item will be accepted at the beginning of the committee meeting. Subsequent to committee meetings, committee agenda items may be taken up separately during the Board 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.
- + Material is available for this item.
- ++ Material will be available at a later date.
- ‘CF’ Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code section 7.9.