



STATE BOARD OF EQUALIZATION
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0080
(916) 322-2270 • FAX (916) 324-3984
www.boe.ca.gov

SEN. GEORGE RUNNER (Ret.)
First District, Lancaster

FIONA MA, CPA
Second District, San Francisco

JEROME E. HORTON
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
5901 Green Valley Circle, Room 207, Culver City
February 23-24, 2016
NOTICE AND AGENDA
Meeting Agenda (as of 2/23/2016, 11:30 PM)

[Agenda Changes](#)

[Webcast on Tuesday, February 23, 2016](#)

Tuesday, February 23, 2016

9:30 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. Items may be postponed to a subsequent day; however, items will not be moved to an earlier day.

Board Committee Meetings*

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

I. 2016 Legislative Proposals

Set forth below are suggestions for legislation to be sponsored by the BOE in the second year of the 2015-16 Legislative Session.

2016 Legislative Proposals: Business Taxes

2-4 Add Revenue and Taxation Code Section 6010.15 of the Sales and Use Tax Law to exclude from the computation of sales or use tax, the transfer of tangible personal property by a pawnbroker back to the person that pledged the property, under specified conditions.

2-5 Amend Revenue and Taxation Code (RTC) Section 42022 to provide that sellers with de minimis sales of prepaid mobile telephony services (prepaid MTS) are not required to register as prepaid MTS sellers with the Board of Equalization (BOE). Amend RTC Section 42014 to align the prepaid MTS surcharge known-transaction qualifying circumstances to the local prepaid MTS.

Customer Service and Administrative Efficiency Committee.....

Mr. Runner, Committee Chairman

- 1. 2016 Annual Education and Outreach Plan
Presentation of the Annual Board of Equalization Education and Outreach Plan for 2016.

Board Meeting**

Administrative Session

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

P. Other Administrative Matters

P1. Executive Director's Report Ms. Bridges

- 1. Approval of Fiscal Year 2016-17 Excise Tax Rate Adjustment for Motor Vehicle Fuel and Diesel Fuel (Fuel Tax Swap) + Mr. Durham

Request approval of the new excise tax rates for motor vehicle fuel and diesel fuel (fuel tax swap) effective July 1, which are required by current law to be adjusted by BOE on an annual basis.

- 2. Approval of Fiscal Year 2016-17 Diesel Fuel Tax Rate for Interstate Users Component b + Mr. Durham

Staff recommendation for setting the Fiscal Year 2016-17 diesel fuel tax rate for interstate users component b.

- 3. Approval of Fiscal Year 2016-17 Prepayment Rate for Sales Tax on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel + Mr. Durham

Section 6480.1 of the Revenue and Taxation Code requires the Board to determine annually by March 1, the rate at which sales tax on motor vehicle fuel, diesel fuel, and jet fuel is to be collected at the time such fuel is first distributed in the state during the twelve-month period beginning the following July 1.

- 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.)

- B1a. [Curtice R. Booth and Evelyn Booth, 824057 +](#)
- B1b. [Patrick J. O'Grady and Laurel O'Grady, 848643 +](#)
For Appellants: Gregory G. Wilson, Representative
For Franchise Tax Board: Eric Yadao, Tax Counsel
Marguerite Mosnier, Tax Counsel
- ~~B2. [Craig Wheeler and Dani Wheeler, 852861 +](#)
For Appellants: [Craig Wheeler, Taxpayer](#)
[Cris J. Wenthur, Attorney](#)
For Franchise Tax Board: [Susanne Coakley, Tax Counsel](#)
[David Gemmingen, Tax Counsel](#)~~
- ~~B3. [Brenda J. Daly, 854545 +](#)
For Appellant: [Brenda J. Daly, Taxpayer](#)
[Katherine Castro, Representative](#)
For Franchise Tax Board: [Eric Brown, Tax Counsel](#)
[Diane Ewing, Tax Counsel](#)~~
- B4. [John M. Kling, 847081 +](#)
For Appellant: A. Lavar Taylor, Attorney
For Franchise Tax Board: Marguerite Mosnier, Tax Counsel
Maria Brosterhous, Tax Counsel
- B5. [Edward Lavi, 861784 +](#)
For Appellant: Edward Lavi, Taxpayer
For Franchise Tax Board: Bradley Kragel, Tax Counsel
Michael Cornez, Tax Counsel
- ~~B6. [Rodney L. Gleicher and Renay Gregg, 877786 +](#)
For Appellants: [Rodney L. Gleicher, Taxpayer](#)
[Richard H. Ellwood, Representative](#)
For Franchise Tax Board: [Brad Coutinho, Tax Counsel](#)
[Natasha Page, Tax Counsel](#)~~
- ~~B7. [Larry Russ, 731267 +](#)
For Appellant: [Larry Russ, Taxpayer](#)
For Franchise Tax Board: [Brian Miller, Tax Counsel](#)
[Ciro Immordino, Tax Counsel](#)~~

~~B8. Joseph A. Sciarretta, 809250 +
 For Appellant: Joseph A. Sciarretta, Taxpayer
 For Franchise Tax Board: Brian Werking, Tax Counsel
 Fred Campbell Craven, Tax Counsel~~

~~B9. Cesar Z. Lugo, 790947 +
 For Appellant: Cesar Z. Lugo, Taxpayer
 For Franchise Tax Board: Andy Amara, Tax Counsel
 Diane Ewing, Tax Counsel~~

B10. [David Haller and Vanessa Chau Haller, 872918 +](#)
 For Appellants: David Haller, Taxpayer
 Bich Loan Nguyen, Representative
 For Franchise Tax Board: Maria Brosterhous, Tax Counsel
 Marguerite Mosnier, Tax Counsel

~~B11. Aadonix Corporation, 892108 +
 For Appellant: Oleg Tulkoff, Taxpayer
 For Franchise Tax Board: Joel Smith, Tax Counsel
 Natasha Page, Tax Counsel~~

~~B12. Marvin E. Catchings and Winnie V. Catchings, 881694 +
 For Appellants: Marvin E. Catchings, Taxpayer
 Winnie V. Catchings, Taxpayer
 Valerie D. Catchings, Representative
 For Franchise Tax Board: Brad Coutinho, Tax Counsel
 Marguerite Mosnier, Tax Counsel~~

C. Sales and Use Tax Appeals Hearing

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

C1. [West Coast Storm, Inc., 627343, 805282 \(EH\) +](#)
 For Taxpayer/Claimant: Waived Appearance
 For Department: Nenita DeLaCruz, Hearing Representative

D. Special Taxes Appeals Hearing

This item is scheduled for Wednesday, February 24, 2016.

E. Property Tax Appeals Hearings
 There are no items for this matter.

F. Public Hearings

- F1. [Proposed Amendments to Sales and Use Tax Regulation 1668, Sales for Resale +](#) Mr. Heller

Public hearing regarding proposed amendments to clarify that a sale or purchase of counterfeit goods by a convicted seller or purchaser is subject to tax, regardless of whether the sale or purchase was for resale.

- F2. Property Taxes - State Assesseees' Presentations on Capitalization Rates and Other Factors Affecting Values Mr. Thompson

1. State assesseees' presentations on capitalization rates and other factors and procedures affecting Fiscal Year 2016-17 property values of California public utilities, railroads, and pipelines.

Speaker: Peter Michaels, Law Office of Peter Michaels

2. Private railroad car assesseees' presentations on factors and procedures affecting Fiscal Year 2016-17 taxable values of private railroad cars.

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. Pisces International, Incorporated, 358265, 792538 (STF)

- G2. Franchise and Income Tax Matters Mr. Epolite

- Hearing Notice Sent – No Response
 1. Cheryl A. Savage, 874840
- Decisions
 2. Berc Agopoglu, 848646
 3. David Brennan, 852170
 4. Yanina Cartagena, 762688
 5. Ryan L. Harkey and Jennifer R. Harkey, 812721
 - 6a. Richard Liqun He and Sheri Xiaochun Liu, 663709
 - 6b. Sheri Xiaochun Liu and Richard Liqun He, 744889
 7. Jennifer Herbert, 839022
 8. Stanley A. Kopp and Kimberly A. Kopp, 807700
 9. Eric Lee, 835871
 10. Priscilla V. Ludd, 740007
 11. Peter H. Nguyen and Kimphung T. Nguyen, 856885
 12. Marie Prevot, 852525
 - ~~13. James Strizich, 852251~~
 14. Kevin S. Tait, 792430
 15. Brantley W. White, 857550

- 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. Mark J. Miller, 509262 (AP)
 2. David McMillan Garthwaite, 569157 (EH)
 3. Lourdes Maria Garthwaite, 569159 (EH)
 4. David McMillan Garthwaite, 569165 (EH)
 5. Lourdes Maria Garthwaite, 569166 (EH)
 6. Jerel Berkov, 611182 (CH)
 7. Darrin Scott Mirolla, 780906 (AA)
 8. El Rancho Steak House, Inc., 551913 (CH)
 9. Enterprise FM Trust, 668125 (OH)
 - Denials of Claims for Refund
 10. IGT, 838764 (OH)
- G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds Ms. Bartolo
- Credits and Cancellations
 1. Abdul Ardekani, 926471 (EA)
 2. Mark J. Wattles, 868368 (EH)
 3. Farmost Insuring Company, 927297 (SO)
 4. Super Products, LLC, 873247 (OH)
 - Refunds
 5. Childrens Hospital of Los Angeles, 608447 (AC)
 6. Karl Storz Imaging, Inc., 874046 (GH)
 7. Professional Hospital Supply, Inc., 849388 (EH)
 8. Sharp Memorial Hospital, 817213 (FH)
 9. Grossmont Hospital Corporation, 817211 (FH)
 10. Safety-Kleen Systems, Inc., 775230 (OH)
 11. BMW of North America, 925697 (OH)
 12. Presidio Networked Solutions, Inc., 554765 (OH)
 13. Good Samaritan Hospital, LP, 850438 (GH)
 14. Total Renal Care, Inc., 926646 (OH)
 15. Niagara Bottling, LLC, 881245 (RC)
 16. Raytheon Company, 918686 (OH)
 17. DVA Healthcare Renal Care, Inc., 926648 (OH)
 18. Mission Pharmacal Company, 920671 (OH)
 19. Advanced Lab Concepts, Inc., 926269 (EA)
 20. RMS Lifeline, Inc., 927222 (OH)
 21. IGT, 838764 (OH)
 22. Harley-Davidson Credit Corp., 917688 (OH)
 23. Optimedica Corporation, 841647 (GH)
 24. Citigroup, Inc. & Subsidiaries and Affiliates, 717884 (OH)
 25. QG, LLC, 851234 (OH)
 26. Dailycandy Commerce, LLC, 777660 (OH)

- G6. Special Taxes Matters
There are no items for this matter.
- G7. Special Taxes Matters – Credits, Cancellations, and Refunds Ms. Bartolo
- Refunds
 1. Nationwide Mutual Insurance Co., 863428 (STF) ‘CF’
 2. Nationwide Mutual Fire Insurance Co., 864799 (STF) ‘CF’

There are no items for the following matters:

- G8. Property Tax Matters
G9. Cigarette License Fee Matter
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
- Petition for Rehearing
 1. G & C Equipment Corporation, 373826 (AS)
- H2. Franchise and Income Tax Matters Mr. Epolite
- Decisions
 1. DeVetus Jones and Samantha Jones, 841654
 - Cases Heard Not Decided
 2. Robert H. Lowe and Sheryl L. Berkoff, 571973

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 Mr. Ambrose
- Section 40 (AB 2323) Matters
 1. [Liberty Utilities \(Calpeco Electric\), LLC \(163\), 903788 ‘CF’ +](#)
 2. [Verizon California, Inc. \(201\), 903737 ‘CF’ +](#)
 3. [Panoche Energy Center, LLC \(1152\), 908350 ‘CF’ +](#)

I. Tax Program Nonappearance Matters

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

- I1. Property Taxes Matters
There are no items for this matter.

12. Offer in Compromise Recommendations Mr. Anderson
1. Alma J. Abouraya
 2. Syed Khizer Ahmed
 3. Dan Eugene Craig
 - 4a. Darren Tyler Daily
 - 4b. Crystal E. Daily
 - 4c. Daily Enterprises, Inc.
 - 5a. Dino-Co, Inc.
 - 5b. Bashar Jamil Alhajjar
 - 6a. Charlene Marie Duarte
 - 6b. Manolo Duarte
 7. Hyduke's Valley Motors, Inc.
 8. Brian O'Connor
 9. Puro Nundi, Inc.
 10. Jesus Saldana
 11. Dick Wolfgang Saller
 12. Ransford Maurice Samuda
 13. San Diego Sports Flyers
 - 14a. Krishna P. Vemuri
 - 14b. K & N, Inc.
 15. Phuong Bich Vu
13. 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. [Rules for Tax Appeals Regulations 5600, Definitions, Board Hearing Procedures; Taxes Affected by This Article, 5601, Eligible Claims, and 5603, Claim Procedure +](#) Mr. Heller
- Staff request for authorization to complete Section 100 changes to update and clarify cross references in Regulation 5600, and make Regulations 5601 and 5603 consistent with Revenue and Taxation Code section 21013.

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 +
 - Linda S. Knox
- N2. Adoption of Board Resolution
 - William M. Connell +
- N3. Approval of Board Meeting Minutes
 - January 26, 2016 +
- N4. Proposed revisions to Audit Manual Chapter 1, *General Information*; Compliance Policy and Procedures Manual Chapter 1, *General* and Chapter 7, *Collections* +
- N5. Proposed revisions to Audit Manual Chapter 4, *General Audit Procedures* and Chapter 5, *Penalties*; Compliance Policy and Procedures Manual Chapter 7, *Collections* +

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

- O1. Legislative Committee
- O2. Customer Service and Administrative Efficiency Committee

P. Other Administrative Matters

- P1. Executive Director's Report Ms. Bridges
 - 4. Update on Resolution of State Controller's Office (SCO) Board of Equalization Review
Update on actions to resolve the findings in the SCO Review Report of the Board of Equalization's Internal Accounting and Administrative Controls.
 - 5. CROS Project Update and Actions Mr. Gau
Progress on the CROS project to replace BOE's two current legacy tax administration systems.

- 6. **Taxpayers' Rights Advocate's 2014/15 Property and Business Taxes Annual Report +**Mr. Gilman
 Presentation of Annual Report highlighting Taxpayers' Rights Advocate Office accomplishments, involvement in projects, current issues, and examples of cases illustrating services provided.

There are no items for the following matters:

- P2. Chief Counsel Report
- P3. Sales and Use Tax and Special Taxes and Fees Deputy Director's Report
- P4. Property Tax Deputy Director's Report
- P5. Administration Deputy Director's ReportMs. Murphy
 - 1. Recruitment and Retention Efforts Mr. Gau
 Improving recruitment, retention, and upward mobility opportunities.

There are no items for the following matters:

- 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. Pending Litigation: *Verizon California, Inc. v. State Bd. of Equalization*, Sacramento County Superior Court (Case No. 34-2011-00116029-CU-MC-GDS, consolidated with 34-2013-00138191; 34-2014-00171512; 34-2015-00175631; 34-2015-00175609; 34-2015-00175621; 34-2015-00175627) (Gov. Code, § 11126(e)).~~
- ~~Q3. Pending Litigation: *Lucent Technologies, Inc., and AT&T Corp. v. State Bd. of Equalization*, Superior Court of Los Angeles (Case No. BC402036) (Lucent I), consolidated with *Lucent Technologies, Inc., v. State Bd. of Equalization*, Superior Court of Los Angeles (Superior Court Case No. BC448715) (Lucent II), Second District Court of Appeal Case No. B257808 (Gov. Code, § 11126(e)).~~
- Q4. Discussion and action on personnel matters (Gov. Code, § 11126(a)).

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

Recess - The meeting will reconvene on Wednesday, February 24, 2016, at 9:30 a.m.

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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.



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C. Sales and Use Tax Appeals Hearings

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

C2. [Jantex Inks & Beyond, Inc., 712415, 797612, 816214 \(AP\) +](#)

For Petitioner/Claimant: Janet Springer, Taxpayer
Opal Mata, Taxpayer
Jesse W. McClellan, Attorney
For Department: Monica Silva, Tax Counsel

~~C3. [Hector Ramirez Navarro, 578948 \(AP\) +](#)~~

~~For Petitioner: Hector Ramirez Navarro, Taxpayer
Gerardo Huerta, Witness
Steven P. Chang, Attorney
For Department: Scott Lambert, Hearing Representative~~

C4. [Brian Scott Gerstein, 606328 \(EA\) +](#)

For Petitioner: Brian Scott Gerstein, Taxpayer
James M. Garbo, Representative
For Department: Scot Claremon, Tax Counsel

C5. [PCS Wireless, Inc., 572015 \(EA\) +](#)

For Petitioner: Andrew B. Mai, Taxpayer
Hai V. Dang, Representative
For Department: Scott Lambert, Hearing Representative

- ~~C6. Paedick Gharapanianse, 568598 (AC) +
For Petitioner: Paedick Gharapanianse, Taxpayer
George H. Lazarian, Representative
For Department: Scott Lambert, Hearing Representative~~
- C7. [Allied Modular Building Systems, Inc., 506774 \(EA\) +](#)
For Petitioner: Kevin Peithman, Taxpayer
Fred Ketcho, Taxpayer
Frances Sullivan Lewis, Taxpayer
Jim Fier, Representative
For Department: Andrew Kwee, Tax Counsel
- ~~C8. Yeshitila Wuhib, 728749 (AS) +
For Petitioner: Yeshitila Wuhib, Taxpayer
Arnold J. Blanshard, Representative
For Department: Scott Lambert, Hearing Representative~~
- C9a. [Phillip Andres Anacker, Maura Stanley Harrington, and Jake Anthony Whiteley, 611321 \(JH\) +](#)
- C9b. [Phillip Andres Anacker, Maura Stanley Harrington, and Jake Anthony Whiteley, 611322 \(JH\) +](#)
For Petitioners: Graham Hoad, Representative
For Department: Scott Lambert, Hearing Representative
- C10. [Robert Ramos, 612720 \(EA\) +](#)
For Petitioner: Robert Ramos, Taxpayer
Joseph Swift, Jr., Representative
For Department: Scott Lambert, Hearing Representative
- C11. [Elton Justin Hoiles, 794727 \(AS\) +](#)
For Petitioner: Michael W. Hoiles, Taxpayer
For Department: Scott Lambert, Hearing Representative

D. Special Taxes Appeals Hearing

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

Petition for Release of Seized Property Hearing

- D1. [Kerolos H. Guirguis, 873783 \(STF\) +](#)
For Petitioner: Kerolos Guirguis, Taxpayer
Elizabeth Elgergawe, Representative
For Department: Pamela Mash, Tax Counsel


Organization of the Board

1. The Board will vote to elect a Chair, effective at the March Board Meeting.
2. The Board will vote to elect a Vice Chair.
3. The Board may take possible action in the following order regarding:
 - a. [Rotating the office of Chair between the various Members +](#)
 - b. Board committee chair assignments, and
 - c. Procedures for a Member to have items placed on a Board meeting agenda for consideration by all Members.

Adjourn

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