



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

DAVID J. GAU
Executive Director

STATE BOARD OF EQUALIZATION MEETING
5901 Green Valley Circle, Room 207, Culver City
February 22-23, 2017
NOTICE AND AGENDA
Meeting Agenda (as of 2/22/2017, 5:00 PM)

Agenda Changes

Webcast on Wednesday, February 22, 2017

Wednesday, February 22, 2017

9:00 a.m. Pledge of Allegiance

Board Meeting*

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 or to an earlier session on the same day.

Board Committee Meeting**

This matter is scheduled for later in the day.

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 Mr. Gau

1. Approval of Fiscal Year 2017-18 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,
2017, which are required by current law to be adjusted by
BOE on an annual basis.

2. [Approval of Fiscal Year 2017-18 Diesel Fuel Tax Rate for Interstate Users Component b +](#) Mr. Durham
 Staff recommendation for setting the Fiscal Year 2017-18 diesel fuel tax rate for interstate users Component b.

3. [Approval of Fiscal Year 2017-18 Prepayment Rate for Sales Tax on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel +](#) Mr. Durham
 Request approval of Section 6480.1 of the Revenue and Taxation Code that 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.)

~~B1. [Richard R. Betchley and Kellie S. Brunk, 874758 +](#)
 For Appellants: ~~Richard R. Betchley, Taxpayer~~
~~Kellie S. Brunk-Betchley, Taxpayer~~
~~Richard H. Betchley, Witness~~
~~Jewelz Brunk, Witness~~
 For Franchise Tax Board: ~~Susanne Coakley, Tax Counsel~~
~~Adam Susz, Tax Counsel~~~~

B2. [Charles K. Lwanga, 935862 +](#)
 For Appellant: Waived Appearance
 For Franchise Tax Board: Andrew Amara, Tax Counsel
 Cynthia Kent, Tax Counsel

B3. [The Sherwin-Williams Company, 785285 +](#)
 For Appellant: Michael T. Cummins, Taxpayer
 Linda E. Carlisle, Attorney
 For Franchise Tax Board: Ian Foster, Tax Counsel
 Michael Cornez, Tax Counsel

B4. [David K. Rippey, 922990 +](#)
 For Appellant: David K. Rippey, Taxpayer
 For Franchise Tax Board: David Hunter, Tax Counsel
 Adam Susz, Tax Counsel

B5. Craig Wheeler and Dani Wheeler, 852861 +
 For Appellants: Craig Wheeler, Taxpayer
 Cris John Wenthur, Attorney
 For Franchise Tax Board: David Gemmingen, Tax Counsel
 Michael Cornez, Tax Counsel

~~B6. Jeffrey Moffatt and Staretta Moffatt, 878764 +~~
~~For Appellants: Jeffrey Moffatt, Taxpayer~~
~~Staretta Moffatt, Taxpayer~~
~~For Franchise Tax Board: Bradley Kragel, Tax Counsel~~
~~Michael Cornez, Tax Counsel~~

~~B7. Craig Fanning, 844552 +~~
~~For Appellant: Craig Fanning, Taxpayer~~
~~Paul M. Vargas, Attorney~~
~~Lory Eleene Johansson, Witness~~
~~Tena Fanning, Witness~~
~~John Brierre, Witness~~
~~Irene Dazzan, Witness~~
~~For Franchise Tax Board: David Gemmingen, Tax Counsel~~
~~Adam Susz, Tax Counsel~~
~~Andy Amara, Tax Counsel~~

Board Committee Meeting**

Legislative Committee Ms. Ma, Committee Chairwoman

2017 Legislative Bills

Recommendations for Board Position

SB 11 Business Taxes: Interest and Penalty Abatement: Web Site Disruption (Gaines)

SB 13 Sales and Use Tax: Manufacturing Exemption (Gaines)

1:30 p.m. Board Meeting Reconvenes*

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

B8. Roderick A. Harmon and Diana K. Harmon, 841164 +
 For Appellants: Waived Appearance
 For Franchise Tax Board: Brian Werking, Tax Counsel
 Cynthia Kent, Tax Counsel

B9. [Randall S. Kaplan and Madison Kaplan, 937049 +](#)
 For Appellants: Randall S. Kaplan, Taxpayer
 Howard Avery, Representative
 For Franchise Tax Board: Michael Laisne, Tax Counsel
 Marguerite Mosnier, Tax Counsel

~~B10. [Ruby P. Baylin, 905708 +](#)~~
~~For Appellant: [Gelu Cismas, Representative](#)~~
~~For Franchise Tax Board: [Brian Werking, Tax Counsel](#)~~
~~[Marguerite Mosnier, Tax Counsel](#)~~

B11. [Cesar Z. Lugo, 790947 +](#)
 For Appellant: Waived Appearance
 For Franchise Tax Board: Andy Amara, Tax Counsel
 Marguerite Mosnier, Tax Counsel

C. Sales and Use Tax Appeals Hearings
 (Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)

~~C1. [Bazaar Market, Inc., 595631 \(AC\) +](#)~~
~~For Petitioner: [Lyudmila Shishelovskaya, Taxpayer](#)~~
~~[Boris Barats, Representative](#)~~
~~[Roshni Gandhi, Attorney](#)~~
~~For Department: [Scott Lambert, Hearing Representative](#)~~

~~C2. [Yerem Khachatryan, 680999 \(RC\) +](#)~~
~~For Petitioner: [Yerem Khachatryan, Taxpayer](#)~~
~~[Varoujan Tinkjian, Representative](#)~~
~~For Department: [Nenita DeLa Cruz, Hearing Representative](#)~~

There are no items for the following matters:

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

F. Public Hearings

F1. [Proposed Adoption of Cigarette and Tobacco Products Tax Regulation 4001, Retail Stock +](#).....Ms. Mash

Public hearing regarding the proposed adoption of a new regulation defining the term “retail stock” and explaining the presumption of distribution.

F2. Property Taxes - State Assessee's Presentations on Capitalization Rates and Other Factors Affecting Values Mr. Reisinger

1. State assessee's presentations on capitalization rates and other factors and procedures affecting Fiscal Year 2017-18 property values of California public utilities, railroads, and pipelines.

Speaker: Peter Michaels, Law Office of Peter Michaels

2. Private railroad car assessee's presentations on factors and procedures affecting Fiscal Year 2017-18 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. Morgan Tire of Sacramento, Inc., 611761, 732515 (KH)
 2. Tonya Nguyen, 612685 (GH)
 3. Jose Francisco Limon Ramos and Maria Ramos Barajas, 675563 (CH)
- Hearing Notice Sent – Appearance Waived
 4. The Coffee Table, Inc., 780472 (AC)
 5. ~~Eat This, Inc., 572082 (AS)~~

G2. Franchise and Income Tax Matters Mr. Epolite

- Hearing Notice Sent – No Response
 1. Nasser Azimi and Darlene Azimi, 932229
- Decisions
 2. Meenakshi Ahuja and Rajiv Ahuja, 918155
 3. Rebecca Castro and Humberto Castro, 919196
 4. Rodolfo R. Garcia, 792059
 5. Edgar Herrera, 924934
 6. Tamara N. Lev-Alcott, 924961
 7. Guadalupe Lopez, 930790
 8. Bradford G. Murray and Lynn M. Jurich, 918638
 - 9a. Gary L. Sutter and Vera Sutter, 922962
 - 9b. Joel Axelrod and Judy Yin Shih, 923395

There are no items for the following matters:

- G3. Homeowner and Renter Property Tax Assistance Matters
- G4. Sales and Use Taxes Matters
- G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds
- G6. Special Taxes Matters
- G7. Special Taxes Matters – Credits, Cancellations, and Refunds
- 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
 - Petitions for Rehearing
 - 1. Larry John McCallum, 798989 (FH)
- H2. Franchise and Income Tax Matters Mr. Epolite
 - Petitions for Rehearing
 - 1. Andrew Russell and Lorena Russell, 852228

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. La Paloma Generating Company, LLC (1112), 961716 'CF' +
 - 2. Verizon California, Inc. (201), 962203 '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.
- I2. Offer in Compromise Recommendations Mr. Anderson
 - 1. Harry Dean Bettcher
 - 2a. MC2 Wines, Inc.
 - 2b. Michael Frank Conti
 - 3. Diplomat Fashions, Inc.

- 4a. Ellen Step, Inc.
- 4b. June Step, Inc.
- 4c. Young Jin Seo
- 4d. Hee Seon Seo
- 5. Marjorie H. Ezell
- 6. Fred Hawara
- 7a. J.H. Royal Enterprises, Inc.
- 7b. Jalil M. Haddad
- 8a. Petkus Brothers, Inc.
- 8b. Victor T. Petkus
- 8c. Deborah Alene Petkus
- 9. Simply Discount Furniture, Inc.

- I3. Local Tax Reallocation Matters
There are no items for this matter.

Chief Counsel Matters

There are no items for the following matters:

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

Administrative Session

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

- N1. [Retirement Resolution +](#)

- Raelene J. Mezzanares

- N2. Approval of Board Meeting Minutes

- [January 24-26, 2017 +](#)

- N3. [Proposed revisions to Audit Manual chapters: 2, 4, 5, 9, and 14, and Compliance Policy and Procedures Manual chapters 2, 3, and 7 +](#)

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

- O1. Legislative Committee – 2/22/17

- O2. Customer Service and Administrative Efficiency Committee – 1/25/17

P. Other Administrative Matters

P1. Executive Director’s Report Mr. Gau

4. Taxpayers’ Rights Advocate’s 2015-16 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. Business Tax and Fee Deputy Director’s Report

P4. Field Operations Department Report

P5. Property Tax Deputy Director’s Report

P6. Administration Deputy Director’s Report

P7. Technology Deputy Director’s ReportMr. Capulong

1. CROS Project Update and Actions

Progress on the CROS project to replace BOE’s two current legacy-technology tax administration systems.

P8. External Affairs Deputy Director’s Report

There are no items for this matter.

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

Recess - The meeting will reconvene on Thursday, February 23, 2017, at 9:00 a.m.

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Joann Richmond, Chief
Board Proceedings Division

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- ** 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.
- + Material is available for this item.
- 'CF' Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code section 7.9.



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[Webcast on Thursday, February 23, 2017](#)

Thursday, February 23, 2017

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C. Sales and Use Tax Appeals Hearings

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

~~C3. Stoney's Sand and Gravel, LLC, 715349 (DF) +
For Petitioners: Michael Evans, Taxpayer
Carol Evans, Taxpayer
For Department: Scott Claremon, Tax Counsel~~

~~C4. Rashad Sons, Inc., 739287 (RC) +
For Petitioner: Shahin Shaath, Taxpayer
John Sansour, Representative
For Department: Scott Lambert, Hearing Representative~~

C5. [Suri Investments, Inc., 689145 \(AA\) +](#)
For Petitioner: Parminder Singh, Taxpayer
Roy McGarrell, Representative
For Department: Scott Lambert, Hearing Representative

C6. [Ron Austin, 729239 \(EH\) +](#)
For Petitioner: Ron Austin, Taxpayer
For Department: Scott Lambert, Hearing Representative

- ~~C7.~~ ~~Yeshitila Wuhib, 728749 (AS) +~~
~~For Petitioner: Arnold J. Blanshard, Representative~~
~~For Department: Scott Lambert, Hearing Representative~~
- ~~C8.~~ ~~East Coast Foods, Inc., 613237, 613238 (AC) +~~
~~For Petitioner/Taxpayer: Sam L. White, Representative~~
~~For Department: Scott Lambert, Hearing Representative~~
- ~~C9.~~ ~~Corn Maiden Foods, Inc., 734210 (AA) +~~
~~For Petitioner: Pascal Dropsy, Taxpayer~~
~~Manuel A. Almeida, Representative~~
~~For Department: Nenita DeLaCruz, Hearing Representative~~
- ~~C10.~~ ~~James Eugene Goldstein, 442332 (AC) +~~
~~For Petitioner: James Goldstein, Taxpayer~~
~~Warren Nemiroff, Attorney~~
~~For Department: Kevin Smith, Tax Counsel~~
- C11. Isaac Peter Gharibeh, 469663 (AS) +**
For Petitioner: George M. Issa, Representative
For Department: Scott Lambert, Hearing Representative

Administrative Matter

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


Organization of the Board

1. The Board will vote to elect a Chair, effective immediately.
2. The Board will vote to elect a Vice Chair, effective immediately.

Recess - The meeting will reconvene on Friday, February 24, 2017, at 9:00 a.m.

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[Agenda Changes](#)

[Webcast on Friday, February 24, 2017](#)

Friday, February 24, 2017


9:00 a.m. Board Meeting Reconvenes*

Items agendized for a previous day of this meeting, but not concluded, may be taken up today. No items are scheduled for this day at this time.

Adjourn

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CANCELLED