STATE BOARD OF EQUALIZATION MEETING
5901 Green Valley Circle, Room 207, Culver City
February 26-28, 2013
NOTICE AND AGENDA
Meeting Agenda (as of 2/27/2013, 1:00 PM)

Agenda Changes

Webcast on Tuesday, February 26, 2013

Tuesday, February 26, 2013

9:30 a.m. Board Committee Meeting Convenes*

Board Meeting convenes upon Adjournment of the Board Committee 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.

Board Committee Meeting*

Legislative Committee ...................................................Mr. Horton, Committee Chairman

I. 2013 Legislative Proposals

Set forth below are suggestions for property taxes and business taxes legislation to be sponsored by the BOE in the first year of the 2013-14 Legislative Session.

2013 Legislative Proposals: Property Taxes

1-1 Amend Government Code Sections 15640, 15642, and 15643, related to the Assessment Practices Survey Program to allow the BOE to evaluate more thoroughly the state’s largest counties.

2013 Legislative Proposals: Business Taxes

2-3 Amend Section 6591.5 of the Revenue and Taxation Code to revise the interest calculation provisions in all BOE administered tax and fee programs. This proposal requires the rate of interest allowed on overpayment refunds to equal the rate of interest calculated on late payments.
2-4 Add Revenue and Taxation Code Sections 7153.6 and 55363.5 to the Sales and Use Tax Law and Fee Collection Procedures Law, respectively, to specify that any person who knowingly sells, purchases, installs, transfers or possesses software programs that falsify electronic sales records is guilty of a felony and subject to applicable criminal penalties.

2013 Legislative Proposals: Business Taxes: Sales and Use Taxes

3-2 Add Revenue and Taxation Code Section 6452.5 to the Sales and Use Tax Law to require that taxpayers file amended returns for specified overpayments and underpayments.

Amend Revenue and Taxation Code Section 6904 to allow taxpayers to submit claims for refund via electronic media.

II. 2013 Legislative Bills

Recommendations for Board Position

AB 143 Exempts from use tax the purchase and use of tangible personal property, other than a vehicle, vessel, or aircraft, purchased by an active duty member of the U. S. Armed Forces transferred to California. (Holden)

AB 163 Removes the January 1, 2014 sunset date related to a sales and use tax exemption for specified military-related nonprofit thrift stores. (Atkins)

Board Meeting**

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. Bret A. Curtis and Yecenia M. Curtis, 594236

For Appellants: Bret Curtis, Taxpayer

Steve Mather, Attorney

For Franchise Tax Board: Michael Cornez, Tax Counsel

Karen Smith, Tax Counsel

B2. Richard B. Pallack, 527752 +

For Appellant:

Richard B. Pallack, Taxpayer

Ronald Lynn, Representative

Carlos Morgner, Representative

For Franchise Tax Board:

Kristen Kane, Tax Counsel

Bill Hilson, Tax Counsel
B3. Brian D. Adler and Cheryl Adler, 601347 +
   For Appellants: Jonathan A. Brod, Attorney
   For Franchise Tax Board: Raul Escatel, Tax Counsel
   Bill Hilson, Tax Counsel

B4. Alfred M. Humphries and Jill Humphries, 598220 +
   For Appellants: Alfred Humphries, Taxpayer
   For Franchise Tax Board: Eric Yadao, Tax Counsel
   Karen Smith, Tax Counsel

B5a. Christopher Lim, 599567 +
B5b. Gregory J. Lim and Mya Lim, 599568 +
B5c. James E. Lim and Melinda Lim, 599575 +
B5d. Paul T. Liu and Christiana Liu, 599583 +
   For Appellants: Appearance Waived
   For Franchise Tax Board: Craig Scott, Tax Counsel
   Karen Smith, Tax Counsel

B6. Antonio Gallo, 595225 +
   For Appellant: Antonio Gallo, Taxpayer
   Kelly Ballestér, Representative
   For Franchise Tax Board: Eric Yadao, Tax Counsel
   Karen Smith, Tax Counsel

B7. Richard A. Hall, 533898 +
   For Appellant: A. Lavar Taylor, Attorney
   For Franchise Tax Board: Leah Thyberg, Tax Counsel
   Michael Cornez, Tax Counsel

B8. Gabriel Rufus and Shirley Rufus, 599989 +
   For Appellants: Gabriel Rufus, Taxpayer
   Gary Slavett, Attorney
   For Franchise Tax Board: Sonia Deshmukh, Tax Counsel
   Michael Cornez, Tax Counsel

B9. Cornelis A. Van Diepen, 560406 +
   For Appellant: Cornelis Van Diepen, Taxpayer
   For Franchise Tax Board: Eric Yadao, Tax Counsel
   Karen Smith, Tax Counsel

C. Sales and Use Tax Appeals Hearings
   These items are scheduled for Wednesday and Thursday, February 27-28, 2013.

D. Special Taxes Appeals Hearing
   This item is scheduled for Thursday, February 28, 2013.

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

F1. Property Taxes - State Assessee's Presentations on Capitalization Rates and Other Factors Affecting Values ..... Mr. Thompson
   1. State assessees’ presentations on capitalization rates and other factors and procedures affecting 2013/14 property values of California public utilities, railroads, and pipelines.
      Speaker: Peter W. Michaels, Law Offices of Peter Michaels
   2. Private railroad car assessees’ presentations on factors and procedures affecting 2013/14 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 Notices Sent – No Response
      1. Charles W. Stevens, Jr., 484491, 605459 (EA)
      2. Gary David Becker, 496519 (UT)
      3. True Care Medical Supply, 539343 (AA)
      4. Rafael Eduardo Delgado and Alexander Orantes, 549061 (AC)
      5. Bar Codes Unlimited, Inc., 523577 (FH)
      6a. Rechem International, Inc., 433605 (AP)
      6b. Q.S.M. Enterprise, Inc., 433709 (AP)
      7. Gustavo De La Rosa, 486211 (AA)
      8. Paoli’s Italian Kitchen, Inc., 381891 (AC)
      9. Techniform Metal Curving, Inc., 529775 (EH)
     10. Plattinum Boat Works, Inc., 491247 (UT)
     11. Scenario Design, Inc., 533881 (AA)
     12. Hien Thu Tran, 525183 (EA)
     13. Juan O. Martinez, 556412 (EA)
     14. Lori A. Lewandowski and David Anthony Lewandowski, 550177 (AR)
     15. Antique Portraiture, Inc., 532576 (AA)
     16. Daebak Investment, Inc., 556493 (AA)

G2. Franchise and Income Tax Matters ............................................ Mr. Epolite
   ➢ Hearing Notices Sent – No Response
      1. James W. Fletcher and Lisa M. Fletcher, 604801
      2. Jerome James, 596166
   ➢ Decisions
      3. James Cline and Vera Cline, 578466
      4. Michael D. Hellman and Kara M. Munro Hellman, 588781
      5. Gordon R. Kindschi, 594033
      6. Richard Krulik, 561672
      7. Khosrow J. Motamedi, 592901
      8. Nextgen Web, LLC, 578135
      9. Keith Ponthieux, 572392
10. Priscilla Rodriguez, 589179
11. Rogelio Rodriguez, 586119
12. William Tauchar, 573100
13. Trim-Tex, Inc., 536303
14. Christian W. Wilbert and Estate of Ilsa Wilbert (Deceased), 597671

G3. Homeowner and Renter Property Tax Assistance Matters
There are no items for this matter.

G4. Sales and Use Taxes Matters.................................................................Mr. McGuire
   ➢ Redeterminations
   1. Stephen J. Hansen, 486259 (UT)
   2. Timothy Allen Prero, 487585 (UT)
   3. Scott Michael Kmety, 624828 (FH)
   4. Rincon Industries, Inc., 604031 (GH)
   ➢ Denials of Claims for Refund
   5. GMRI, Inc., 625632 (OH)
   6. GMRI, Inc., 624783 (OH)
   ➢ Grant-One Day Interest Relief
   7. PA Acquisition Corp., 675647 (OH)
   8. Aeropostale West, Inc., 675630 (OH)
   9. Granite Construction Company, 675643 (GH)
   10. Trader Joe’s Company, 668950 (AP)
   11. Arthur Koroyan, 675633 (DF)
   12. Party City Corporation, 675651 (OH)
   13. ASML US, Inc., 675635 (OH)
   14. Process Instruments & Controls, LLC, 675653 (DF)
   15. Hyphenet, Inc., 675645 (FH)
   16. Brocca, Inc., 675637 (CH)
   17. PA Acquisition Corp., 675649 (OH)
   18. G E K Enterprises, LLC, 675640 (FH)

G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds .................................................................Mr. McGuire
   ➢ Credit and Cancellation
   1. Corjen, Inc., 665547 (FH)
   ➢ Refunds
   2. LBS Financial Credit Union, 611754 (EA)
   3. Rusnak/Pasadena, 570832 (AP)
   4. Rusnak/Westlake, 570835 (AR)
   5. Calportland Company, 601367 (AP)
   6. AMVETS Dept. – California Service Foundation, 605543 (FH)
   7. Newport Corporation, 675510 (EA)
   8. Magnuson Corporation, 612118 (OH)
   9. Coxcom, Inc., 607817 (OH)
   10. Paradise Valley Hospital, 531178 (FH)
   11. Stanford University Hospital, 570549 (GH)
   12. Inter-State Oil Co., Inc., 626166 (KH)
13. Regents of the University of California, 560151 (JH)
14. VW Credit, Inc., 531401 (OH)
15. Zenith Insurance Company, 531324 (AC)
16. Chrysler, LLC, 649566 (OH)
17. Lacerte Software Corporation, 600132 (OH)
18. PNC Equipment Finance, LLC, 605538 (OH)
19. Seagate Technology, LLC, 558351 (GH)
20. EV Group, Inc., 613813 (OH)
22. Teradyne, Inc., 654998 (OH)
23. Arrowhead Central Credit Union, 623749 (EH)
24. SchoolsFirst Federal Credit Union, 611719 (EA)
25. Americredit Financial Service, Inc., 633034 (OH)
26. Lobel Financial Corporation, 632989 (EA)
27. A-L Financial Corp., 609082 (EA)
28. Valencia B. Imports, Inc., 552837 (AR)
29. Pacific Biosciences of California, Inc., 566549 (BH)
30. Harley-Davidson Credit Corp., 611790 (OH)
31. New Albertsons, Inc., 559118 (OH)
32. Quality Financial, Inc., 549125 (AC)
33. Pacific Biosciences of California, Inc., 651376 (BH)

G6. Special Taxes Matters ......................................................... Mr. Gau
   ➢ Relief of Penalty
   1. Tesoro Refining and Marketing Co., 682019 (STF) ‘CF’

There are no items for the following 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
   ➢ Case Heard Not Decided
   1. East Coast Foods, Inc., 444779 (AS) +

H2. Franchise and Income Tax Matters ....................................... Mr. Epolite
   ➢ Case Heard Not Decided
   1. Daniel R. Marcotte, 589131
   2. James J. Martin, 574254
   3. Jimmy A. Prince, 535124
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
   There are no items for this matter.
I2. Offer in Compromise Recommendations...............................Mr. Anderson
   1. DMZ Wireless, Inc.
   2. Kimberly Michele Manko
   3. Esmaiel Sorkhpoosh
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
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. 2013/14 Excise Tax Rate Setting (Fuel Tax Swap) + (Rescheduled to February 28, 2013)
   Request approval of the new excise tax rates for motor vehicle fuel and diesel fuel (fuel tax swap) effective July 1, 2013, which are required by current law to be determined by BOE on an annual basis.
N2. Approval of 2013/14 Diesel Fuel Tax Rate for Interstate Users
Component b +
Staff recommendation for setting the 2013/14 diesel fuel tax rate for
interstate users component b.

N3. Prepayment Rate for Sales Tax on Motor Vehicle Fuel, Diesel Fuel
and Jet Fuel +
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.

O. Adoption of Board Committee Reports and Approval of Committee Actions
O1. Legislative Committee – January 15, 2013

P. Other Administrative Matters
P1. Executive Director’s Report ................................................. Ms. Bridges
1. Employee Recognition Award Program +
   Approval of nominees for the BOE Employee Recognition
   Award Program.
2. CROS Project Update and Actions ........................................Mr. Steen
   Progress on the CROS project to replace BOE’s two current
tax legacy technology systems.
3. Taxpayers’ Rights Advocate’s 2011-12 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 Deputy Director’s Report
P4. Property and Special 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

Recess - The meeting will reconvene on Wednesday, February 27, 2013, at 9:30 a.m.

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Joann Richmond, Chief
Board Proceedings Division

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+ 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.
STATE BOARD OF EQUALIZATION MEETING
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C.  Sales and Use Tax Appeals Hearings
(Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)

C1.  Rafael Wholesale & Distributor, Inc., 530276 (AA) +
For Petitioner:          Rafael Hasbun, Taxpayer
                        Laura Hasbun, Taxpayer
                        Jack P. Chaiyakam, Representative
For Department:          Cary Huxsoll, Tax Counsel

C2.  Benalex Windows & Doors, Corp., 446664 (AA) +
For Petitioner:          Elliott Speiser, Attorney
For Department:          Scott Lambert, Hearing Representative

C3.  Edward Louis Komski, 475346 (EA)
For Petitioner:          Edward Louis Komski, Taxpayer
                        Lisa Welch Silbar, Attorney
For Department:          Pamela Mash, Tax Counsel

C4.  Montana Ave Restaurant, Inc., 495272, 527587 (AS) +
For Petitioner/Claimant: Jack A. Srebnik, Taxpayer
                        Leonard G. Cruz, Attorney
For Department:          Erin Dendorfer, Tax Counsel
C5. Safwat Tawadros Salib and Wafaa Salib, 534396 (EH)
For Petitioners: Juan Guzman, Representative
For Department: Ruben Perez, Representative

C6. Jerry Pena, 478061 (EH) +
For Petitioner: Appearance Waived
For Department: Scott Lambert, Hearing Representative

C7. Deanna Robinson Interiors, Inc., 519485 (EA) +
For Petitioner: Appearance Waived
For Department: Marc Alviso, Hearing Representative

C8. Richard Festo Bwogi, 514577 (AS) +
For Taxpayer: Richard F. Bwogi, Taxpayer
For Department: Marc Alviso, Hearing Representative

C9. Life Care Home Health & Medical Supplies, Inc., 495335 (AS) +
For Petitioner: Shawn Naim, Taxpayer
For Department: Marc Alviso, Hearing Representative

C10. AF Services, LLC, 527382, 577082 (AS) +
For Taxpayer/Claimant: Ferdinand Alfajora, Representative
For Department: Erin Dendorfer, Tax Counsel

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Special Presentations 

2011/2012 Employee Recognition Award Program ............................. Ms. Herrera 

The Board will announce and congratulate recipients of the Employee Recognition Awards who work in the Southern California and Out of State District Offices. 

Administrative Session 

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N. Consent Agenda ................................................................. Ms. Richmond 

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N1. 2013/14 Excise Tax Rate Setting (Fuel Tax Swap) + (Rescheduled from February 26, 2013) 

Request approval of the new excise tax rates for motor vehicle fuel and diesel fuel (fuel tax swap) effective July 1, 2013, which are required by current law to be determined by BOE on an annual basis.
C. **Sales and Use Tax Appeals Hearings**
(Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)

**C11. T & M Steel Services, Inc., 530730 (EH) +**
For Taxpayer: Appearance Waived
For Department: Cary Huxsoll, Tax Counsel

**C12. Tri-Signal Integration, Inc., 384478 (AC) +**
For Petitioner: Robert McKibben, Representative
Dennis Furden, Representative
For Department: Marc Alviso, Hearing Representative

**C13. Stephan Sardaryan, 533112, 613435 (AS)**
For Petitioner/Claimant: Stephan Sardaryan, Taxpayer
For Department: Scott Claremon, Tax Counsel

**C14. Rafael Navarro Martinez, 587802 (AP) +**
For Taxpayer: Appearance Waived
For Department: Scott Lambert, Hearing Representative

**C15. Francis Stephan Ghosal, 445460, 464724, 468127 (FH) +**
For Petitioner: Francis Ghosal, Taxpayer
For Department: Scott Lambert, Hearing Representative

D. **Special Taxes Appeals Hearing**
(Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)

**D1. Loh Sun International, Inc., Kent La, Nancy La and John La, 480987, 480989, 506428 (STF) +**
For Petitioners: John La, Taxpayer
Nancy La, Taxpayer
For Department: Pamela Mash, Tax Counsel

**Adjourn**

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