Tuesday, March 25, 2014

The Board met in the Auditorium Room, at the California Public Utilities Commission’s headquarters building at 505 Van Ness Avenue, Auditorium, San Francisco, at 10:10 a.m., with Mr. Horton, Chairman, Ms. Steel, Vice Chairwoman, Ms. Yee and Mr. Runner present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

PUBLIC COMMENT

Speaker: William M. Connell, Military Veteran and owner of All American Surf Dog

The Board recessed at 10:15 a.m. and reconvened at 11:43 a.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

SPECIAL PRESENTATION

Ms. Yee made introductory remarks regarding First District accomplishments, and introduced Wayne Mashihara, Chief, Sales and Use Taxes Field Operations; John Huk, Business Taxes Administrator, San Francisco District Office; James Goan, Business Taxes Administrator, Santa Rosa District Office; Henry Wong, Business Taxes Administrator, Oakland District Office; and, Veronica Santillanes, Business Taxes Administrator, San Jose District Office. Each of the administrators presented accomplishments of their respective district office employees (Exhibit 3.1).

Members made many complimentary remarks, thanking staff for their hard work, strong work ethic and progressive results. Mr. Horton commended Ms. Yee for her visionary leadership.

Exhibits to these minutes are incorporated by reference.

SALES AND USE TAX APPEALS HEARING

Loucas Savvas Kakoullis, 571124 (CH)  
07/01/07 to 06/30/10, $18,942.27 Tax, $1,894.23 Negligence Penalty

For Petitioner: Loucas Savvas Kakoullis, Taxpayer  
For Sales and Use Tax Department: Scott Lambert, Hearing Representative

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

Issues: Whether adjustments are warranted to the amount of unreported taxable sales.  
Whether petitioner was negligent.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.
PUBLIC HEARINGS

Proposed Adoption of Amendments to Sales and Use Tax Regulation 1603,
Taxable Sales of Food Products

Cary Huxsoll, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the proposed amendments, which provide that mobile food vendors’ sales of items subject to tax, on or after July 1, 2014, are presumed to be made on a tax-included basis (Exhibit 3.2).

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

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted the amendments to Sales and Use Tax Regulation 1603, Taxable Sales of Food Products, as recommended by staff.

Proposed Adoption of Amendments to Sales and Use Tax Regulation 1699,
Permits

Erin Dendorfer, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the proposed amendments, which incorporate and clarify Revenue and Taxation Code section 6070.5’s provisions authorizing the Board to refuse to issue seller’s permits under specified circumstances (Exhibit 3.3).

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

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted the amendments to Regulation 1699, Permits, as recommended by staff.

LEGAL APPEALS MATTERS, CONSENT

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Mr. Runner, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

Tim Byrd, 602305 (UT)
02/01/06, $1,550.00 Tax, $0.00 Failure to File Penalty
Action: Redetermine as recommended by the Appeals Division.

Jason Chow, 526540 (EH)
11/29/05, $1,751.00 Tax
Action: Redetermine as recommended by the Appeals Division.
Breadstick's LA Wine Bar Café, LLC, 546527 (AS)
10/01/05 to 09/30/08, $40,303.87, $4,030.42 Negligence Penalty, $4,030.39 Finality Penalty
Action: Redetermine as recommended by the Appeals Division.

Duane Fitzgerald Corporation, 563219 (EA)
06/20/06 to 12/31/06, $1,615.00 Tax
Action: Redetermine as recommended by the Appeals Division.

Salvador Escareno and Irving Arnold Sofen and Alonzo Christopher Clark, 568565 (EH)
09/22/09 to 06/30/10, $5,695.00 Tax, $569.50 Failure-to-File Penalty
Action: Redetermine as recommended by the Appeals Division.

Hillcrest Travel Plaza, LLC, 558082 (DF)
07/01/07 to 12/31/09, $550,642.08 Tax, $230,274.51 Penalty
Action: Redetermine as recommended by the Appeals Division.

Hot's Tacos Restaurants, LLC, 495796 (AC)
07/01/05 to 06/30/08, $116,289.35 Tax
Action: Redetermine as recommended by the Appeals Division.

Jesse's Auto Mart, Inc., 513014 (AC)
10/01/04 to 09/30/07, $44,548.50 Tax
Action: Redetermine as recommended by the Appeals Division.

Carl Marantz and Nelly Marantz, 595738 (EA)
07/01/08 to 06/30/11, $261,807.38 Tax, $26,180.76 Negligence Penalty
Action: Redetermine as recommended by the Appeals Division.

Abel Orozco and Athala Orozco, 380684 (AA)
01/01/04 to 03/31/06, $222,054.51 Tax, $55,513.67 Fraud Penalty, $22,205.45 Finality Penalty
Action: Redetermine as recommended by the Appeals Division.

Choon S. Park and Cecilia Park, 600481 (EH)
04/01/08 to 03/31/11, $69,752.86 Tax, $6,975.31 Penalty
Action: Redetermine as recommended by the Appeals Division.

Platinum Auto Sports, Inc., 576207 (EH)
10/01/06 to 09/30/09, $60,753.25 Tax, $6,075.33 Penalty
Action: Redetermine as recommended by the Appeals Division.

Michael Ray Sears, 547013, 548285, 548287, 559962, 559963 (DF)
01/01/06 to 03/31/06, $3,093.88 Tax
04/01/06 to 03/31/07, $15,076.94 Tax
Action: Redetermine as recommended by the Appeals Division.

Michael Ray Sears and Mike Dirker, 548283 (DF)
04/01/06 to 12/31/08, $74,202.14 Tax, $7,420.21 Negligence Penalty
Action: Redetermine as recommended by the Appeals Division.
Tabitha Denille Williams, 574283 (EH)
10/01/07 to 12/31/10, $82,577.26 Tax, $8,257.77 Penalties
Action: Redetermine as recommended by the Appeals Division.

Star Wireless, Inc., 564432 (AC)
07/01/07 to 03/31/10, $493,706.28 Tax, $49,370.67 Negligence Penalty, $49,370.63 Finality Penalty
Action: Redetermine as recommended by the Appeals Division.

Willy Motors, LLC, 529890 (AP)
07/01/05 to 06/30/08, $15,457.82 Tax
Action: Redetermine as recommended by the Appeals Division.

Jeto, Inc., 745238 (STF)
March 12, 2013 Seizure Date, $420.00 Approximate Value
Action: Determined that staff properly seized the tobacco products.

Michael Josphine, Inc., 745229 (STF)
May 8, 2013 Seizure Date, $988.15 Approximate Value
Action: Determined that staff properly seized the tobacco products.

Mohinder Singh Nahal, 745230 (STF)
April 9, 2013 Seizure Date, $140.00 Approximate Value
Action: Determined that staff properly seized the tobacco products.

Shayan’s Trading, Inc., 745232 (STF)
May 22, 2013 Seizure Date, $240.00 Approximate Value
Action: Determined that staff properly seized the tobacco products.

Bay Area High Reach, Inc., 374287 (CH)
04/01/02 to 03/31/05, $470,359.76 Tax
Action: Deny the petition for rehearing as recommended by the Appeals Division.

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. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

Lauren J. Glass, 728284
2007, $397.00 Late Filing Penalty, $3,496.00 Demand Penalty, $100.00 Filing Enforcement 2008, $928.75 Late Filing Penalty, $4,507.00 Demand Penalty, $100.00 Filing Enforcement, $170.00 Collection Cost Fee
Action: Sustain the action of the Franchise Tax Board.
Sergei Goncharoff and Ingrid Goncharoff, 574870
2006, $24,172.00 Assessment, $4,834.40 Accuracy-Related Penalty
Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

Steven T. Waltner and Sarah V. Waltner, 729266
2007, $2,412.00 Assessment
Action: Sustain the action of the Franchise Tax Board and impose a $2,500.00 frivolous appeal penalty.

Pamela Willis, 620761
2008, $216.00 Assessment
Action: Sustain the action of the Franchise Tax Board.

Mario Benitez and Fausta Robles, 624515
2003, $648.00 Claim for Refund
Action: Sustain the action of the Franchise Tax Board.

Allen G. Bennett, 717448
2008, $2,180.00 Assessment
Action: Sustain the action of the Franchise Tax Board.

Robert L. Botello and Anselma Botello, 607350
2006, $1,139.40 Assessment
2007, $702.00 Assessment
2008, $337.40 Assessment
Action: Sustain the action of the Franchise Tax Board as modified by its concessions.

Roberto Chavez and Estella O. Chavez, 694026
2006, $4,724.00 Assessment, $1,181.00 Late Filing Penalty
Action: Sustain the action of the Franchise Tax Board.

David Crawley, 606545
2007, $372.00 Assessment
Action: Sustain the action of the Franchise Tax Board.

Goldfish (DE) LP, 675642
2011, $200.00 Late Filing Penalty, $432.00 Late Filing Penalty Partnership Return
Action: Sustain the action of the Franchise Tax Board.

Ronald Herrera, 626169
2010, $1,109.00 Assessment
Action: Sustain the action of the Franchise Tax Board.

Christopher Hogan, 639477
2007, $705.00 Assessment
Action: Sustain the action of the Franchise Tax Board.
Carl W. Holm and Carolyn V. Holm, 701952
2011, $4,078.12 Claim Refund of Penalties
Action: Sustain the action of the Franchise Tax Board as modified by its concessions.

Donald M. Jinks and Sandra Jinks, 614126
2006, $112,957.00 Tax
Action: Sustain the action of the Franchise Tax Board.

Pamela Judice, 627120
2007, $2,995.00 Assessment
Action: Sustain the action of the Franchise Tax Board.

Maria Teresa Estandarte Mabugat, 563598
2004, $122,056.00 Assessment, $22,411.20 Accuracy-Related Penalty
Action: Sustain the action of the Franchise Tax Board.

Sherie L. Mclean, 601797
2007, $2,160.00 Assessment
Action: Sustain the action of the Franchise Tax Board.

Menmar Entertainment, Inc., 589300
2006, $200.00 Late Filing Penalty, $51.20 Estimated Tax Penalty, $22.00 Lien Fee, $352.00 Collection Cost Recovery
2007, $200.00 Late Filing Penalty, $58.70 Estimated Tax Penalty
2008, $200.00 Late Filing Penalty, $49.55 Estimated Tax Penalty
Action: Sustain the action of the Franchise Tax Board.

Merrill L. Mago Trust 14, 627298
2002, $12,588.75 Assessment
Action: Sustain the action of the Franchise Tax Board as modified by its concessions.

Matthew S. Mitchell, 570291
2005, $21,445.06 Assessment
2008, $3,149.23 Assessment
Action: Sustain the action of the Franchise Tax Board.

Monsterops, LLC, 620341
2009, $1,700.00 Assessment, $137.50 Late Payment Penalty, $225.00 Late Filing Penalty, $425.00 Demand Penalty, $100.00 Late Return Penalty, $88.00 Filing Enforcement Fee
Action: Sustain the action of the Franchise Tax Board as modified by its concessions.

Pilar Nevaredez and Fernando Peniche, 608110
2004, $10,445.99 Tax and Applicable Interest
2005, $17,810.32 Applicable Interest
Action: Sustain the action of the Franchise Tax Board.
Walter M. O’Grodnick, 646220  
2010, $1,304.00 Assessment  
Action: Sustain the action of the Franchise Tax Board.

Barry Rossum and Darlene Rossum, 695903  
2000, $9,512.00 Assessment, $3,804.80 Accuracy-Related Penalty, $1,796.28 Estimated Post-Amnesty Penalty  
Action: Sustain the action of the Franchise Tax Board.

Edward Salgado and Susana Salgado, 693074  
2008, $1,179.00 Assessment  
Action: Sustain the action of the Franchise Tax Board.

William R. Taylor, 605380  
2010, $648.96 Claim for Refund  
Action: Sustain the action of the Franchise Tax Board.

Glen Steward and Jill Steward, 631064  
2006, $101,471.00 Assessment, $43,715.95 Penalties  
Gregory Bischoff and Bonita Bischoff, 635970  
2006, $78,311.00 Assessment, $29,631.00 Penalties  
Action: Dismiss for lack of jurisdiction.

Doyle Whitcomb, 634737  
2008, $943.00 Assessment  
Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

Victor Lee White and Dawn Teresa White-Gatewood, 612740  
2009, $3,282.12 Unpaid Final Balance Due  
2010, $1,982.43 Unpaid Final Balance Due  
Action: Sustain the action of the Franchise Tax Board.

Robert Zaragoza, 711969  
2010, $1,009.00 Assessment  
Action: Sustain the action of the Franchise Tax Board.

Richard J. Oleksa, Jr. and Michelle Oleksa, 600511  
2008, $15,501.10 Claim For Refund  
Action: Deny the petition for rehearing.
SALES AND USE TAX MATTERS, REDETERMINATIONS, DENIALS OF CLAIMS FOR REFUND, CONSENT

With respect to the Sales and Use Tax Matters, Redeterminations, Denials of Claims for Refund, Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in Ericsson, Inc., 405617 (OH), the Board made the following orders:

Viking Ready Mix Co. Inc., 557497(DF)
01/01/06 to 12/31/08, $407,265.46
Action: Approve the redetermination as recommended by staff.

Advanced Cleanup Technologies, Inc., 521950 (UT)
04/20/04 to 04/20/04, $129,490.80
Action: Approve the redetermination as recommended by staff.

Advanced Cleanup Technologies, Inc., 521952 (UT)
06/28/05 to 06/28/05, $136,125.00
Action: Approve the redetermination as recommended by staff.

Frank C. Girardot, Jr., 586549 (GH)
07/01/02 to 12/31/06, $188,017.11
Action: Approve the redetermination as recommended by staff.

EDS Information Services, LLC, 505939 (OH)
04/01/04 to 12/31/07, $2,397,786.04
Action: Approve the redetermination as recommended by staff.

Vertis, Inc., 716415 (OH)
04/01/08 to 06/30/11, $3,360,619.56
Action: Approve the redetermination as recommended by staff.

TRE, Inc., 572002 (EH)
04/01/07 to 03/31/10, $101,386.31
Action: Approve the redetermination as recommended by staff.

Ericsson, Inc., 405617 (OH)
04/01/05 to 06/30/09, $972,592.82
Action: Approve the denial of claim for refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

MSC Group, Inc., 785276 (OH)
10/01/08 to 09/30/11, $386,390.00
Action: Approve the denial of claim for refund 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. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in Cisco Systems, Inc., 620545 (CH); Diageo North America, Inc., 522406 (OH); Ericsson, Inc., 405617 (OH); and, Google, Inc., 711136 (GH); the Board made the following orders:

Suzanne Hoo, 547290 (BH)
07/01/95 to 09/30/98, $155,060.38
Action: Approve the credit and cancellation as recommended by staff.

Alcan Global Phrmctl Pckng, Inc., 694941(OH)
01/01/07 to 12/31/09, $1,286,286.30
Action: Approve the credit and cancellation as recommended by staff.

Pacifica Petroleum, Inc., 788783 (AP)
04/01/09 to 06/30/09, $112,851.67
Action: Approve the credit and cancellation as recommended by staff.

ECI Mobile, Inc., 786953 (BH)
04/01/09 to 09/30/09, $136,367.00
Action: Approve the credit and cancellation as recommended by staff.

ECI Mobile, Inc., 786954 (BH)
10/01/09 to 04/30/12, $258,757.71
Action: Approve the credit and cancellation as recommended by staff.

Initial R. Corp., 789933 (AP)
01/01/05 to 04/30/06, $141,049.28
Action: Approve the refund as recommended by staff.

Wells Fargo Auto Finance, Inc., 614191 (CH)
01/01/08 to 06/30/10, $6,931,089.82
Action: Approve the refund as recommended by staff.

Cisco Systems, Inc., 620545 (GH)
07/01/08 to 12/31/12, $6,923,072.90
Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

California Casualty Management, Co., 741188 (OH)
01/01/09 to 12/31/12, $197,282.63
Action: Approve the refund as recommended by staff.
Tuesday, March 25, 2014

Diageo North America, Inc., 522406 (OH)
10/01/06 to 06/30/08, $193,191.22
Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Hill’s Pet Nutrition Sales, Inc., 660113 (OH)
07/01/09 to 09/30/12, $343,271.32
Action: Approve the refund as recommended by staff.

Hughes Circuits, Inc., 557548 (FH)
07/01/07 to 09/30/09, $122,395.51
Action: Approve the refund as recommended by staff.

Ericsson, Inc., 405617 (OH)
04/01/05 to 06/30/09, $2,609,823.68
Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Google, Inc., 711136 (GH)
07/01/06 to 06/30/08, $833,573.83
Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Liebherr Cranes, Inc., 738980 (OH)
04/01/13 to 06/30/13, $382,980.35
Action: Approve the refund as recommended by staff.

Behr Paint Corporation, 745445 (OH)
10/01/07 to 09/30/10, $132,017.23
Action: Approve the refund as recommended by staff.

Ocean Alexander of California, LLC, 774374 (EA)
01/01/12 to 03/31/12, $328,125.00
Action: Approve the refund as recommended by staff.

Peritus Portfolio Services, LLC, 606054 (OH)
10/01/11 to 12/31/11, $230,328.67
Action: Approve the refund as recommended by staff.

LEGAL APPEALS MATTERS, ADJUDICATORY

Speaker: Moti Balyan, Agent, Nirvair Corporation, 529714

Labeau, LLC, 556888, 558475, 608117 (AS)
10/01/04 to 08/31/08, $9,752.01 Tax
10/01/04 to 08/31/08, $3,348 Claim for Refund
10/01/04 to 08/31/08, $4,010 Claim for Refund
Considered by the Board: Hearing Notice Sent – No Response
Tuesday, March 25, 2014

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Terry D. Eaves, 475767, 515719 (AC)
07/01/00 to 06/30/03, $0.00 Tax, $0.00 Penalty
Gordon W. Kelley, 475764, 515722 (AC)
07/01/00 to 06/30/03, $0.00 Tax, $0.00 Penalty
Considered by the Board: October 30, 2013
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Nirvair Corporation, 529714 (EA)
04/01/05 to 03/31/08, $57,186.78 Tax, $12,914.60 Penalty
Considered by the Board: July 18, 2013
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Action: Ms. Yee moved that the petition be redetermined as recommended by the Appeals Division. The motion was seconded by Mr. Horton. Ms. Steel made a substitute motion to reduce the audited taxable mini-mart sales for each of the three quarters from April 1, 2005, through December 31, 2005, to 50 percent of average quarterly audited taxable mini-mart sales for 2006, and reduce the markup used to establish audited taxable fuel sales for 2007 to 1.77 percent, and that the petition otherwise be redetermined as recommended by the Appeals Division. The substitute motion was seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Barry L. Weiss and Dorraine Gilbert Weiss, 605043
1993, $524.00 Claim for Refund
1994, $7,380.31 Claim for Refund
1996, $26,453.34 Claim for Refund
1997, $25,543.44 Claim for Refund
1998, $11,879.00 Claim for Refund
2000, $35,344.86 Claim for Refund
2001, $5,542.91 Claim for Refund
2003, $1,351.86 Claim for Refund
2004, $1,303.36 Claim for Refund
2005, $1,609.50 Claim for Refund
2006, $619.55 Claim for Refund
Considered by the Board: May 22, 2013
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted a decision denying the petition for rehearing.

LEGAL APPEALS PROPERTY TAX MATTERS, ADJUDICATORY

Verizon California, Inc. (201), 742936
2013, $2,681,300,000.00 Unitary Value
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. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted the written summary decision as amended.

La Paloma Generating Company, LLC (1112), 742923
2013, $333,300,000.00 Unitary Value
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 Mr. Runner, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted the written summary decision as presented by staff.

GWF Energy, LLC – Hanford (1122), 743424
2013, $41,100,000.00 Unitary Value
GWF Energy, LLC – Henrietta (1123), 743425
2013, $35,800,000.00 Unitary Value
GWF Energy, LLC – Tracy (1124), 743427
2013, $266,400,000.00 Unitary Value
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. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Ms. Steel and Mr. Runner voting no, the Board adopted the written summary decision as presented by staff.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

Offer-in-Compromise Recommendations

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Offer in Compromise Recommendations of Aloha Community Collective Association; Michael Beurer; Wireless Plaza, Inc.; Yen Bond Chyau; Katie Chyau; Sergio Gabriel DePhilippis; Timothy O. Finnerty; Harper Enterprises, Inc.; Gregory D. Harper; Mobile 2 Mobile USA, Inc.; Geoffrey Crispin Stout; and, Geoffrey Crispin Stout; as recommended by staff.
The Board recessed at 1:51 p.m. and reconvened at 2:04 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

CHIEF COUNSEL MATTERS

OTHER CHIEF COUNSEL MATTERS

Report on Property Tax Rule 21, Taxable Possessory Interests-Valuation

Richard Moon, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff’s recommendation for the Board to issue a Letter to Assessors regarding the stated term of possession used to value taxable possessory interests (Exhibit 3.4).

Speaker: Richard N. Benson, Marin County Assessor

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board authorized the drafting of the Letter to Assessors as recommended by staff.

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

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

Action: Adopt the following resolutions, extending its sincere and grateful appreciation to the retirees for their dedicated service to the State Board of Equalization and to the State of California, their congratulations on each retiree's well-earned retirement, and best wishes to them and their families for continued success, happiness and good health in the years to come (Exhibit 3.5).

Kathryn Hale, Business Taxes Representative, Centralized Collection Section, Headquarters
Timothy Munz, Business Taxes Specialist II, Special Operations Branch, Investigations and Special Operations Division, Legal Department
Rosemary Noriega, Tax Technician III Lead, Ventura District Office
John W. O’Brien, Business Taxes Specialist II, Sales and Use Tax Department, Chicago Office
Celia Gail Stormes, Business Taxes Specialist I, Sales and Use Tax Department, Riverside District Office
Theresa Vina, Tax Service Specialist, Outreach Services Division, Headquarters

Action: Approve the Board Meeting Minutes of November 19-20, 2013; December 17, 2013; and January 16, 2014.
Tuesday, March 25, 2014

Action: Approve the proposed revisions to the Compliance Policy and Procedures Manual, Chapter 2, Registration (Exhibit 3.6).

Action: Approve the proposed revisions to the Compliance Policy and Procedures Manual, Chapter 7, Collections (Exhibit 3.7).

Action: Approve the proposed revisions to the Compliance Policy and Procedures Manual, Chapter 8, Consumer Use Tax (Exhibit 3.8).

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS

Legislative Committee – March 25, 2014

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Legislative Committee report and the actions therein (Exhibit 3.9).

Property Tax Committee – January 16, 2014

Action: Upon motion of Ms. Steel, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Property Tax Committee report and the actions therein (Exhibit 3.10).

OTHER ADMINISTRATIVE MATTERS

Executive Director’s Report

Cynthia Bridges, Executive Director, provided a report regarding the organization of the various Board functions related to customer service.

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

Chief Counsel’s Report

Randy Ferris, Chief Counsel, introduced Randy Silva, Chief, Investigations Division, Legal Department who provided a status report on the Revenue Recovery and Collaborative Enforcement Act, and the Tax Recovery and Criminal Enforcement Team (Pilot Project).

Sales and Use Tax Deputy Director’s Report

Jeff McGuire, Deputy Director, Sales and Use Tax Department, provided an update regarding the Sales and Use Tax Department’s Audit Program (Exhibit 3.11).
Tuesday, March 25, 2014

Property and Special Taxes Deputy Director’s Report

David Gau, Deputy Director, Property and Special Taxes Department, made introductory remarks regarding the approval of the 2014 Timber Advisory Committee (TAC) appointments, and staff’s recommendation to approve TAC members for four-year terms starting in 2015 (Exhibit 3.12).

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the 2014 Timber Advisory Committee and four-year terms starting in 2015 as recommended by staff.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD MARCH 25, 2014

Loucas Savvas Kakoullis, 571124 (CH)

Final Action: Upon motion of Mr. Runner, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the audited taxable sales ratio of credit card sales be increased to 85 percent, and that the petition otherwise be redetermined as recommended by the Appeals Division.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 2:37 p.m. and reconvened immediately in closed session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel 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 2:44 p.m. and reconvened immediately in open session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Mr. Horton announced the appointment of Debra Kalfsbeek to the position of Chief, Special Taxes Audit, Appeals and Motor Carrier Division.

The Board adjourned at 2:45 p.m.

The foregoing minutes are adopted by the Board on April 22, 2014.

Note: The following matters were removed from the calendar prior to the meeting: Kenneth Dean, 62012; and, Enyinnaya Christian Ojogho, 396268, 414889, 610607.