



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
450 N Street, Room 121, Sacramento**

PRELIMINARY RECORD OF BOARD ACTION

Wednesday, September 16, 2015

The following is a preliminary record of Board actions taken at the September 16, 2015, Board Meeting. This is not an official record and is subject to correction or modification. The official record of the Board's actions is the minutes of the Board, which will be adopted at a subsequent meeting.

The Board's decision reflects only the issues resolved by the Board at the meeting. Issues resolved prior to the meeting are not reflected in this document.

If you would like specific information regarding items on this Preliminary Record of Board Action, please telephone Claudia (Madrigal) Lopez at 916-322-1931 or e-mail: Claudia.Lopez@boe.ca.gov. Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

Board Committee Meetings – Please see Page 10, O., Adoption of Board Committee Reports and Approval of Committee Actions, for voting results.

Board Meeting

Special Presentations

- BOE's Open Data Portal
- Federation of Tax Administrators Award Recipient

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

B1. Ameristar Casinos, Inc. & Subs., 605227, 841016

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Harkey	No
	Mr. Runner	No
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

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

B3. John Nafeh and Ursula G. Burger Nafeh, 785086

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

C. Sales and Use Tax Appeals Hearings

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

C2. Alan Levitz, 718640 (KH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's claim denied.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

~~C3. Prok Electric Company, 807759, 824668, 850189 (UT)~~

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*

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted the amendments as published.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

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- 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*

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted the amendments as published.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

G. Tax Program Nonappearance Matters – Consent

G1. Legal Appeals Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes – except not participating in sub-item 10

- 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'

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G2. Franchise and Income Tax Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

- 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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

- 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)

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- 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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

- 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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Not participating

- Refunds
 1. Constellation Brands US Operation, 861892 (STF) 'CF'
 2. XL Specialty Insurance Company, 864622 (STF) 'CF'

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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

H1. Legal Appeals Matters

- Hearing Notice Sent – No Response

1. Daren James D'Ambrosio and June Ella D'Ambrosio, 597646 (DF)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

H2. Franchise and Income Tax Matters

- Decisions

1. C&L Pacific Real Estate, Inc., 815463

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

2. Charlotte B. Montgomery, 807763

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

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- Section 40 (AB 2323) Matters
 - 3. Thomas E. Rubin, 461570

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal dismissed for lack of jurisdiction.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

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

I1. Property Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Not participating

- 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

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

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- 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

**J. Rulemaking
Section 100 Changes**

- J1. Property Tax Rules 284, *Retention and Revocation of Appraiser Certificate*, and 1027, *U. S. Forest Service Timber Volumes*

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

- J2. Sales and Use Tax Regulation 1533.1, *Farm Equipment and Machinery*

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

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- 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*

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

- J4. Sales and Use Tax Regulation 1584, *Membership Fees*

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

There are no items for the following matters:

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

Administrative Session

N. Consent Agenda

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
	Ms. Yee/ Ms. Stowers	Yes

- 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*

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

O1. Legislative Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein as reflected by the committee members' votes.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
For details see: www.boe.ca.gov/legdiv/legmeeting_s15.htm	Ms. Yee/ Ms. Stowers	Yes

O2. Business Taxes Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein as reflected by the committee members' votes.	Mr. Horton	Yes
	Ms. Harkey	Yes
	Mr. Runner	Yes
	Ms. Ma	Yes
For details see: www.boe.ca.gov/meetings/btc2015.htm	Ms. Yee/ Ms. Stowers	Yes

P. Other Administrative Matters

P1. Executive Director's Report

1. 2016 Volunteer Income Tax Assistance Program (VITA)
2. CROS Project Update and Actions

P2. Chief Counsel Report

There are no items for this matter.

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

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

Q. Closed Session

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