

Tuesday, April 25, 2017

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:03 a.m., with Ms. Harkey, Chairwoman, Mr. Runner, Vice Chair, Ms. Ma and Mr. Horton present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code section 7.9.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Sergeant Authurine “Bunny” Clay, Army National Guard and Tax Technician, Field Operations Department, Culver City District Office.

**CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS**

Mario Kattan, 926313  
2009, \$235,974.00 Assessment  
For Appellant:

Mario Kattan, Taxpayer  
Jeffrey S. Helfer, Attorney  
Neo Kattan, Witness

For Franchise Tax Board:

Ronald Hofsdal, Tax Counsel  
Jason Riley, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.  
Issue: Whether appellant abandoned his California domicile and residency during 2009.  
Action: Upon motion of Ms. Stowers, seconded by Mr. Horton and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board sustained the action of the Franchise Tax Board.

**SALES AND USE TAX APPEALS HEARINGS**

Isa & Est, Inc., 713394 (EA)  
04/01/09 to 03/31/12, \$00.00 Tax, \$46,577.29 Failure to Remit Collected Tax Reimbursement Penalty

For Petitioner:

Tony Garcia, Taxpayer  
Marc Brandeis, Representative  
Greg Reynolds, Representative

For Business Tax and Fee Department:

Monica Silva, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.  
Issue: Whether the 40-percent penalty for failure to timely remit tax for which sales tax reimbursement was collected is supported by clear and convincing evidence.  
Action: Ms. Harkey moved to reduce the Failure to Remit Collected Tax Reimbursement Penalty to 25 percent and otherwise redetermine as recommended by the Appeals Division. The motion failed for lack of a second.

Upon motion of Ms. Stowers, seconded by Mr. Horton and duly carried, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, Ms. Harkey voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

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**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES  
HEARING HELD APRIL 25, 2017**

Bozena B. Wrobel, 948233

2012, \$11,661.00 Claim for Refund

For Appellant:

Waived Appearance

For Franchise Tax Board:

Asaf Kletter, Tax Counsel

Marguerite Mosnier, Tax Counsel

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

Issue: Whether appellant has shown reasonable cause for failing to reply to the Franchise Tax Board's Demand for Tax Return.

Action: Upon motion of Ms. Stowers, seconded by Mr. Horton and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board sustained the action of the Franchise Tax Board.

The Board recessed at 10:50 a.m. and reconvened at 11:00 a.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

**SPECIAL PRESENTATIONS**

David Gau, Executive Director, presented the awards for the 2015-16 cycle. Robert McPherson, Associate Information Systems Analyst, Project Management Division, Technology Services Department, and Brooke Jones, Staff Services Analyst, Human Resources Division, Administration Department, read the names of the award recipients and their achievements into the record. Each Member of the Board gave a special thanks to the awardees for their hard work and efficiency.

**ANNOUNCEMENT OF CLOSED SESSION**

The Board recessed at 11:13 a.m. and reconvened immediately in closed session with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers 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 11:59 a.m. and reconvened immediately in open session with Ms. Harkey, Mr. Runner, Ms. Ma and Ms. Stowers present.

The Board recessed at 12:00 p.m. and reconvened at 1:33 p.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

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**SALES AND USE TAX APPEALS HEARING**

Kaktis Productions, Inc., 386875, 944673 (AS)

04/01/03 to 03/31/06, \$132,637.94 Tax

For Petitioner/Claimant:

Fida Attieh, Taxpayer

For Business Tax and Fee Department:

Andrew Kwee, Tax Counsel

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

Issue: Whether additional adjustments are warranted to the amount of disallowed claimed exempt sales.

Action: Upon motion of Ms. Harkey, seconded by Mr. Horton and duly carried, Ms. Harkey, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, Mr. Runner voting no, the Board ordered that the petition and claim be redetermined as recommended by the Appeals Division. The Board directed staff to inform the taxpayer of the Offer in Compromise program.

The Board recessed at 2:30 p.m. and reconvened at 3:49 p.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

**ADMINISTRATIVE SESSION****OTHER ADMINISTRATIVE MATTERS****Field Operations Department Report**

Wayne Mashihara, Chief, Field Operations Department, provided a report regarding possible alternatives for accepting cash payments from taxpayers.

Speaker: Regina Johnson, SEIU Local 1000, and Tax Technician II, Field Operations Department, Norwalk District Office

**PUBLIC HEARINGS****Property Taxes - State Assesseees' Presentations on the Valuation of State-Assessed Properties**

Richard Reisinger, Chief, State-Assessed Properties Division, Property Tax Department, made introductory remarks regarding state assesseees' presentations on the valuation of state-assessed properties.

Speakers: Peter W. Michaels, Law Offices of Peter Michaels, representing State Assessed Gas/Electric, Intercounty Pipeline, Telephone and Railroad Companies

**LEGAL APPEALS MATTERS, CONSENT**

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

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Golden Island Chinese Cuisine, Inc., 851192 (GH)  
01/01/10 to 12/31/12, \$228,224.64 Tax, \$22,824.45 Negligence Penalty  
Action: Redetermine as recommended by the Appeals Division.

Passage Yachts, Inc., 539252 (CH)  
10/01/04 to 09/30/07, \$292,775.24 Tax, \$29,335.08 Negligence Penalty, \$29,335.07 Finality Penalty  
Action: Redetermine as recommended by the Appeals Division.

Universal Auto Sales, Inc., 514272 (AC)  
04/01/05 to 12/31/07, \$286,499.72 Tax, \$00.00 Penalty  
Action: Redetermine as recommended by the Appeals Division.

RHDM Oil, Inc., 990154 (STF)  
10/20/16 Seizure Date, \$85.00 Tax  
Action: Determined that staff properly seized the tobacco products.

Carlos Fernando Bosch, 511605 (EH)  
01/01/97 to 10/31/08, \$547,107.60 Tax, \$84,416.38 Negligence Penalty, \$77,216.33 Finality Penalty, \$7,329.20, Late-Payment Penalty  
Carlos Fernando Bosch, 511606 (EH)  
07/01/00 to 11/30/08, \$1,019,238.56 Tax, \$93,414.73 Negligence Penalty, \$95,183.17 Finality Penalty, \$11,044.90 Late-Payment Penalty  
Action: Grant the petition for rehearing as recommended by the Appeals Division.

#### **CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT**

The Board deferred consideration of the following matter: *iProtean, LLC*, 927235.

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Mr. Horton, seconded by Ms. Stowers and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board made the following orders:

Efren V. Ancheta, 919653  
2010, \$404.00 Tax  
Action: Sustain the action of the Franchise Tax Board.

Kathleen G. Andersen, 924407  
2006, \$112.00 Claim for Refund  
2007, \$243.00 Claim for Refund  
2008, \$246.00 Claim for Refund  
Action: Sustain the action of the Franchise Tax Board.

Francisco Aquila, 843064  
2012, \$1,365.00 Tax  
Action: Sustain the action of the Franchise Tax Board.

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Angel Dealba, 856098

2009, \$2,627.00 Tax, \$656.75 Late Filing Penalty, \$656.75 Demand Penalty, \$82.00 Filing Enforcement Fee

Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

Brentwood Park Apartments, A CA Ltd. Partnership, 859540

2015, \$1,523.55 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Thomas I. Chew, Jr., 933549

2013, \$1,826.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Elaine Fong, 845146

2012, \$2,246.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Sherry R. Hensey and Michael S. Hensey, 797348

2007, \$2,176.00 Tax

Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

iProtean, LLC, 927235

2012, \$2,396.85 Claim for Refund

Action: The Board took no action.

Archimedes N. Labarcon and Froilana Labarcon, 835864

2008, \$1,239.00 Tax

2009, \$1,618.00 Tax

2010, \$1,547.00 Tax

2011, \$1,728.00 Tax

Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

Agustin Lombera, 822549

2012, \$662.00 Tax

Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

Lot 26, LLC, 841427

2010, \$800.00 Tax, \$11,790.00 Limited Liability Company (LLC) Penalty, \$3,147.50 Demand Penalty, \$2,947.50 Late Filing Penalty, \$432.00 LLC Late Filing Penalty, \$82.00 Filing Enforcement Fee

Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

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Mariposa Enterprises, III, A CA Limited Partnership, 850182  
2012, \$637.87 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Richard A. Mondello and Wipapan Konchom Mondello, 891345  
2007, \$5,047.00 Tax, \$1,009.46 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Murphys Enterprises, A CA Ltd. Partnership, 881018  
2012, \$637.29 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

David Urbanus, 915696

1994, \$7,145.00 Tax, \$1,786.25 Late Filing Penalty, \$1,786.25 Demand Penalty, \$114.00 Filing Enforcement Recovery Fee

Action: Sustain the action of the Franchise Tax Board.

William G. Westbrook and Frances D. Westbrook, 930060  
2014, \$1,104.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

Paula Wilson, 920480

2010, \$3,521.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Wai Man Wong, 930054

2014, \$10,275.18 Claim for Refund

Action: Modify the action of the Franchise Tax Board.

Richard M. Zichichi, 910369

2006, \$693.00 Tax

Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

### **LEGAL APPEALS MATTERS, ADJUDICATORY**

Public Motors Orange County, LLC, 569627 (EA)

04/01/05 to 03/31/08, \$550,738.26 Tax, \$55,073.83 Negligence Penalty

Considered by the Board: January 24, 2017 Summary Decision (Rev. & Tax. Code, § 40)

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Ms. Stowers, seconded by Mr. Horton and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board adopted the written summary decision as presented by staff.

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**CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS,  
ADJUDICATORY**

Laura D. Muller, 835863

2012, \$8,068.19 Claim for Refund

Considered by the Board: Hearing Notice Sent – Appearance Waived

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

Action: Upon motion of Ms. Stowers, seconded by Mr. Horton and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

**TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION  
DISCLOSURE STATUTE****OFFER-IN-COMPROMISE RECOMMENDATIONS**

Action: Upon motion of Mr. Runner, seconded by Mr. Horton and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board approved the Offer in Compromise Recommendations of *Cargo Vans and Commercial Trucks, LLC*; *Cindy Hyun Choi*; *Hokkaido Corporation*; *La Casuela Mexican Restaurant, Inc.*; *Ben Lahlou*; *Joseph J. Lal*; *Manilaville, LLC*; *Aubrey Eugene O'Bryan*; *Sandra Ryder*; and, *Gary Suchow*; as recommended by staff.

**ADMINISTRATIVE SESSION****ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Mr. Runner, seconded by Ms. Ma and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers 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 4.1](#)).

Keith Christensen, Business Taxes Administrator I, Compliance Branch,  
Headquarters

Catherine Gonzalez, Business Taxes Compliance Specialist, Riverside District  
Office

Tony Hernandez, Associate Business Management Analyst, Administration  
Department, Facility Services Unit, Headquarters

Deborah Self, Legal Secretary, Litigation Division, Legal Department,  
Headquarters

Action: Approve the Board Meeting Minutes of March 28-29, 2017.

Action: Approve proposed revisions to Compliance Policy and Procedures Manual chapters 2, *Registration* and 7, *Collections* and Audit Manual chapter 4, *General Audit Procedures*, as recommended by staff ([Exhibit 4.2](#)).

Exhibits to these minutes are incorporated by reference.

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**OTHER ADMINISTRATIVE MATTERS****Business Tax and Fee Deputy Director's Report**

Sandy Barrow, Supervising Tax Auditor, Business Tax and Fee Department, made introductory remarks regarding staff's recommendation for setting the Fiscal Year 2017-18 Tobacco Products Tax Rate ([Exhibit 4.3](#)).

Action: Upon motion of Mr. Horton, seconded by Mr. Runner and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board set the tobacco products tax rate at 65.08 percent for Fiscal Year 2017-18 as recommended by staff.

**Technology Deputy Director's Report**

Scott Capulong, Acting Chief Technology Officer, provided a report regarding the progress on the CROS project to replace BOE's two current legacy-technology tax administration systems.

The Board recessed at 4:56 p.m.

*The foregoing minutes are adopted by the Board on May 23, 2017.*

Note: The following matters were removed from the calendar prior to the meeting: *Technicorp International II, Inc., 93302; Atieh Meskin Tehrani, 566439; Mary Jo Robinson and Deborah Ann Ibey, 607538 and Arrangements Unlimited, Inc., 607541; Trust Carpet and Tile, Inc., 740706; and Letter to Legislature.*



**Wednesday, April 26, 2017**

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:00 a.m., with Ms. Harkey, Chairwoman, Mr. Runner, Vice Chair, Ms. Ma and Mr. Horton present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code section 7.9.

### **SALES AND USE TAX APPEALS HEARINGS**

Van Xen Luu, 717667 (UT)

05/14/11 Delivery Date, \$3,680.00 Tax

For Petitioner:

Van Xen Luu, Taxpayer

For Business Tax and Fee Department:

Andrew Kwee, Tax Counsel

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

Issue: Whether petitioner's purchase and use of the vehicle is subject to use tax.

Action: Upon motion of Mr. Horton, seconded by Ms. Stowers and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

High Desert Food Mart, Inc., 594562 (RC)

07/01/07 to 06/30/10, \$86,543.45 Tax, \$00.00 Penalty

For Petitioner:

Juan Guzman, Representative

Emad Hamdan, Representative

For Business Tax and Fee Department:

Scott Lambert, Hearing Representative

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

Issue: Whether additional adjustments to the amount of unreported taxable sales are warranted.

Action: Upon motion of Mr. Horton, seconded by Ms. Stowers and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Richard D. Hecht, 918035 (UT)

05/27/15 Delivery Date, \$5,734.00 Tax

For Petitioner:

Richard Hecht, Taxpayer

Travers Morgan, Representative

For Business Tax and Fee Department:

Kevin Smith, Tax Counsel

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

Issue: Whether petitioner's purchase and use of the vehicle is subject to use tax.

Action: Upon motion of Mr. Runner, seconded by Ms. Ma and duly carried, Ms. Harkey, Mr. Runner and Ms. Ma voting yes, Mr. Horton and Ms. Stowers voting no, the Board ordered that the petition be granted. The Board referred the matter of Regulation 1610 to the Business Tax Committee.

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Doomid, Inc., 416893, 552763 (DF)

04/01/05 to 09/30/08, \$118,830.40 Tax, \$00.00 Negligence Penalty

04/01/05 to 09/30/08, \$67,859 Claim for Refund

Doomid, Inc., 626011, 681012 (DF)

01/01/09 to 06/30/12, \$355,622.45 Tax, \$35,562.26 Negligence Penalty

01/01/09 to 06/30/12, \$532.00 Claim for Refund

For Petitioners/Claimants: Shawn Nazari, Representative

For Business Tax and Fee Department: Nenita DeLaCruz, Hearing Representative

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

*Issues in the matters of 416893, 552763:*

Whether adjustments are warranted to the amount of unreported taxable sales.

Whether petitioner has made an overpayment of \$67,859, representing prepayments of sales tax on sales of diesel fuel that petitioner was unable to collect from the purchaser

*Issues in the matters of 626011, 681012:*

: Whether further adjustments are warranted to the amount of unreported taxable sales.

Whether petitioner was negligent.

Action: Upon motion of Ms. Harkey, seconded by Mr. Runner and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board ordered the cases be unconsolidated and that the unconsolidated hearings be continued to a later date, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board.

The Board recessed at 12:41 p.m. and reconvened at 1:32 p.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

Ronald Allan Ilano, 765850 (AA)

10/01/08 to 09/30/11, \$50,050.87 Tax, \$00.00 Penalty

For Petitioner: Dan E. Nino, Representative

For Business Tax and Fee Department: Scott Lambert, Hearing Representative

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

Issue: Whether adjustments to the amount of unreported taxable sales are warranted.

Action: Ms. Harkey moved to adjust the credit card ratio by combining the 13-day test and the June 14, 2012 observation test, and that the petition otherwise be redetermined as recommended by the Appeals Division. The motion was seconded by Mr. Runner but failed to carry, Ms. Harkey and Mr. Runner voting yes, Ms. Ma, Mr. Horton and Ms. Stowers voting no.

Upon motion of Ms. Ma, seconded by Mr. Horton and duly carried, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, Ms. Harkey and Mr. Runner voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

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GPS Enterprise, Inc., 825500 (AP)

04/01/10 to 03/31/13, \$67,527.89 Tax, \$00.00 Penalty

For Petitioner: Nabil Saad, Taxpayer  
Stephen W. Berger, Attorney

For Business Tax and Fee Department: Scott Lambert, Hearing Representative

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

Issues: Whether any further adjustments to the amounts of unreported taxable sales or unreported costs of self-consumed taxable merchandise are warranted.

Whether any adjustments to the amount of unreported taxable cigarette rebates are warranted.

Action: Upon motion of Ms. Stowers, seconded by Mr. Horton and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Juan Manuel Rios and Cindy Lynn Rios, 739367 (EH)

01/01/10 to 12/31/12, \$13,730.55 Tax, \$1,373.05 Negligence Penalty

For Petitioners: Juan Manuel Rios, Taxpayer  
Cindy Lynn Rios, Taxpayer  
Raul Robles, Attorney

For Business Tax and Fee Department: Nenita DeLaCruz, Hearing Representative

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

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

Action: Upon motion of Mr. Runner, seconded by Ms. Stowers and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board ordered that the negligence penalty be deleted, a 5 percent bad-debt deduction be credited, and that the petition otherwise be redetermined as recommended by the Appeals Division. The Board directed staff to inform the taxpayer of the Offer in Compromise program.

### **SPECIAL TAXES APPEALS HEARING**

Terri Haas, 627370 (STF)

07/01/07 to 12/31/09, \$1,549.00 Tax

Terri Haas, 627371 (STF)

07/01/07 to 12/31/09, \$551.00 Tax

For Petitioner: Terri Haas, Taxpayer  
Ted Haas, Representative

For Business Tax and Fee Department: Pamela Bergin, Tax Counsel

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

Issues: Whether petitioner is liable for use tax on the cost of cigarettes purchased from an out-of-state vendor for consumption in California.

Whether petitioner is liable for the California cigarette and tobacco products tax (excise tax) because she distributed in California untaxed cigarettes purchased from an out-of-state vendor.

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Whether the Notice of Determination (NOD) was timely for use tax imposed for 2007 and 2008.

Action: Ms. Harkey moved to abate the interest, and that the petition otherwise be redetermined as recommended by the Appeals Division. The motion was seconded by Mr. Runner. Ms. Harkey offered an amendment to abate interest through the Notice of Determination, August 31, 2012, and that the petition otherwise be redetermined as recommended by the Appeals Division. The amended motion was seconded by Mr. Runner and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes.

### **ADMINISTRATIVE SESSION**

#### **ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS**

##### **Customer Services and Administrative Efficiency Committee**

Action: Mr. Runner moved to approve the Customer Services and Administrative Efficiency Committee report and the actions therein as reflected by the committee members' votes. The motion failed for lack of a second.

The Board deferred consideration of the matter to a later date.

Ms. Stowers made a request on behalf of Ms. Yee, that the Organization of the Board be put on the May 23, 2017 Board agenda for discussion and action.

Ms. Ma made a request to have a nepotism policy discussion item added to the May 23-25, 2017 Board agenda.

The Board adjourned at 4:54 p.m.

*The foregoing minutes are adopted by the Board on May 23, 2017.*

Note: The following matter was removed from the calendar prior to the meeting: *Gourmet 88 Management, Inc., 850780, 870558, 907579, 908779.*