

**FRANCHISE TAX BOARD  
MINUTES  
MARCH 6, 2002**

The Franchise Tax Board met in open session at 1:30 p.m. at the State Board of Equalization, 450 N Street, Hearing Room 121, Sacramento, California. Present were Hon. Kathleen Connell, Hon. John Chiang, and Annette Porini, representing Hon. B. Timothy Gage.

**Franchise Tax Board**

**Staff Participating:**

Gerald H. Goldberg, Brian W. Toman, Donald L. Buxton, Titus Toyama, Brian Putler, Geoff Way, Dale Isaac, Debbie Petersen, Lisa Crowe, Frank Lanza, Tim Shea, Ben Miller, Jon Jensen, and Claudette Romo.

**Others Participating:**

Richard E.V. Harris, attorney; Chris Micheli, from Carpenter Snodgrass; Dave Doerr, from the California Taxpayers' Association; Jeffrey M. Vesely, Pillsbury, Winthrop, representing Chevron Corporation; Alexander Ashford, from Chevron Corporation; Martin Helmke, from the California Senate Revenue and Taxation Committee; Gina Rodriquez, from Spidell Publishing; Robert Naylor and Eric Miethke, from Nielsen, Merksamer; Fred Main, from the California Chamber of Commerce; James Clark, from the California Bankers Association; Lenny Goldberg, from Lenny Goldberg & Associates; Timur Taluy, from FileYourTaxes.Com; Bernard McKay and Whitney MacDougall, from Intuit; Scott Baugh, from Manatt & Phelps; Robert Weinberger, from H & R Block; Joseph Galasso, from VI&A; Elena Lopez-Gusman, from the office of California State Senator Joseph Dunn; David Dawson, Chief Information Officer, State Controller's Office; and Gus Khouri, from the office of California State Assembly Member Rebecca Cohn.

Chair Connell made two announcements regarding Board procedures. One described requirements resulting from amendments to the Bagley-Keene Open Meeting Act requiring the distribution of written materials prior to final action by the Board. The second described procedures with respect to approval of administrative settlements, voluntary disclosure agreements, and offers in compromise formally submitted to the Board.

**Item 1. - Approval of Board Minutes**

- a. The minutes of the June 27, 2001, Franchise Tax Board meeting, as amended, were unanimously approved.
- b. The minutes of the December 18, 2001, Taxpayers' Bill of Rights hearing, as amended, were unanimously approved.

**Item 2. – E-Filing – Form 540 EZ**

After a presentation by staff, comment from members of the public, and consideration by Board members, action on the item was postponed.

**Item 3. – Legislative Matters**

a. Legislative Proposals

The Board voted 2-0 (Ms. Porini abstaining) to adopt the following proposals:

- LP 02-2 Joint Strike Fighter Tax Credit
- LP 02-3 Allow All Taxpayers To Be Eligible For Disaster Relief Under Section 18572
- LP 02-4 Electronic Signatures
- LP 02-5 Child and Dependent Care Refundable Credit/Treatment of Never Married Parents
- LP 02-8 Adjustments of Refundable Credit/Taxpayer Right to Refund Claim
- LP 02-11 Conformity to Federal Financial Disability Suspension Statute of Limitations
- LP 02-12 Clarify Government Code Regarding State Tax Liens
- LP 02-13 Coordinate Original Issue Discount Rules With California Franchise Tax
- LP 02-14 Settlement of Tax Disputes/Increase Small Case Threshold to \$7,500/Finality of Settlements/Closing Agreement
- LP 02-20 Substitute “Mathematical Or Clerical Error” For Mathematical Error”
- LP 02-25 Claim Of Right Deduction/Clarify Application of 2% Floor
- LP 02-26 Other State Tax Credit Source Rules
- LP 02-27 Conform Income & Expense Rules For Foreign Activity To U.S. Rules For Certain Foreign Member Of Combined Group
- LP 02-28 HRA Technical/Update Tables, Remove Outdate Language & Fix Cross Reference
- LP 02-32 HRA/Claim Documentation & Continuous Appropriation
- LP 02-33 Divorce Settlement Tax Agreement/Innocent Spouse
- LP 02-36 Conform To Exempt Tax Information & Liability From IPA Amendment Procedures & Remedies
- LP 02-37 Frivolous Return Penalty
- LP 02-38 Acts Involving Fraudulently Obtained Refunds
- LP 02-40 Expenses Attributable To Illegal Income and Activities
  
- TBRP 02-01 Teacher Retention Credit Clean Up

The Board took no position regarding the following proposals:

- LP 02-01 Interest Abatement On Deficiency Assessments And Overpayments Of Tax
- LP 02-09 Accuracy Related Penalty/Substantial Understatement Threshold Clarification

The Board rejected the following proposal:

- LP 02-29 Vexatious Requestors File Request For Information With Courts Or AG Before FTB

The Board deferred action with respect to the following proposal:

- LP 02-34 Banks Using RIC Structure To Avoid Tax

The Board heard from the following members of the public concerning the legislative proposals:

- Mr. David Doerr, from Cal Tax
- Ms. Gina Rodriguez, from Spidell Publishing
- Mr. Richard Harris, Attorney
- Mr. Robert Naylor, from Nielsen, Merksamer
- Mr. Fred Main, from the California Chamber of Commerce
- Mr. James Clark, from the California Bankers Association
- Mr. Martin Helmke, consultant, California Senate Revenue and Taxation Committee

b. Bills for Position

The following positions for bills were approved 2-0 (Ms. Porini abstaining, except as noted):

AB 684	Neutral if amended	ACA 13	Neutral
AB 874	Neutral if amended	SB 219	Support
AB 1122	Support (including Ms. Porini)	SB 657	Support
AB 1743	Support	SB 1255	Neutral
AB 1744	Support	SB 1256	Support if amended
AB 1752	Neutral	SB 1274	Neutral if amended
AB 1834	Support if amended		

The Board took no position on AB 483, SB 1292 and SCA 7.

**Item 4. – Regulation Matters**

(Chair Connell left the meeting and was represented by Ms. Marcy Jo Mandel thereafter.)

- a. Draft Proposed Regulation 19032 (Audit Procedures) – Request for authorization to proceed with the formal regulatory process.

The Board voted unanimously to proceed with the understanding that the 45-day notice period to the public would extend to 60 days.

- b. Draft Proposed Regulations 17053.36 and 23636 (Joint Strike Fighter Wage Credit) and 17053.37 and 23637 (Joint Strike Fighter Property Credit) – Request for authorization to proceed with the formal regulatory process.

The Board voted unanimously to proceed with this regulation.

- c. Discussion Draft Regulation 25137-2 (Long-Term Contract Accounting for Manufacturers and Fabricators of Tangible Personal Property) – Request for authorization to proceed.

The Board voted unanimously to proceed with this regulation.

- d. Discussion Draft Regulation 24344(c) (Foreign Interest Offset) – Request for authorization to proceed.

The Board voted unanimously to proceed with this regulation.

#### **Item 5. – Revenue & Taxation Code Section 25137 Petitions**

- a. VI&A, Inc.

The Board voted unanimously to deny the petition.

- b. Chevron Corporation – Clarification of Board action.

The Board voted 2-0 (Mr. Chiang abstaining) to clarify its prior action by denying the petition.

#### **Item 6. – Child Support**

The Board received an update regarding the contract award for the automated statewide child support system.

#### **Item 7. – Administrative Matters**

- a. FY 2002-03 Budget - Summary

The Board received a report summarizing the FY 2002/03 budget.

- b. FY 2002-03 Budget – Department of Finance Letters – Request for Board approval.

The Board voted 2-0 (Ms. Porini abstaining) to approve the letters.

- c. Contracts – Request for Board approval.

The Board voted 2-0 (Ms. Porini abstaining) to approve these contracts.

**Item 8. – Executive Officer’s Time**

There was no discussion under this Agenda item.

**Item 9. – Board Members’ Time**

The Board unanimously approved all of the following Employee Recognition Resolutions.

(Charles D. Bollman, Jared A. Crandall, Lenore E. Cuthbertson, Ronald S. Erwin, Kay A. Evingham, Dennis P. Gerner, Dennis T. Hashimoto, Barbie S. Kerwood, Kendall E. Kinyon, Paul B. Koehler, Kathleen A. Lopes, James Louie, Peter D. Martin, Gary F. Miklos, Brian Mooney, Gordon L. Neshem, Robert L. Pinkerton, Jose R. Revelo, Rose J. Richter, Stella L. Smalley, Carol A. Stickrod, Suzanne F. Tichenor, Paul M. Usedom, Dianne W. Walker, Judith L. Walker, Dorothy G. White, Jill J. Willett, Virginia G. Wimple.)

**Item 10. – Chair Announcement Regarding Closed Session**

Deputy Controller Mandel announced the Closed Session pursuant to Government Code Section 11126.3.

Mr. Richard Harris, attorney, made objections regarding the closed session with respect to matters described as pending litigation.

The meeting was adjourned at 5:50 p.m.

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Board Secretary

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Date