

**Amend Revenue and Taxation Code Sections 11551 and 11596 of the Private Railroad Car Tax Law to raise the statutory threshold from more than \$15,000 to more than \$50,000 for requiring a public record of proposed determinations to grant refunds or cancellations of tax. (Housekeeping)**

**Source: Property and Special Taxes Department**

**Existing Law**

Revenue and Taxation Code Section 11551 prescribes the manner in which refunds are to be made with respect to the Private Railroad Car Tax. Once the Board of Equalization (BOE) has made a determination that a person has made an overpayment, Section 11551 allows the BOE to credit the overpayment against any current liabilities the person owes to the BOE, and then authorizes the BOE to refund the difference, if any, to the person who made the overpayment. Section 11551 also requires the BOE to prepare a public record for determinations over a certain amount. Under the existing statute, a determination to grant a refund over \$15,000 must be available as a public record for at least 10 days prior to the effective date of the determination in order to fulfill the public record requirement.

However with the exception of the Private Railroad Car Tax, all other tax and fee programs administered by the BOE have a threshold of over \$50,000:

- Sales and Use Tax – Section 6901
- Use Fuel Tax – Section 9151
- Insurance Tax – Section 12977
- Cigarette and Tobacco Products Tax – Section 30361
- Alcoholic Beverage Tax – Section 32401
- Timber Yield Tax – Section 38601
- Energy Resources Surcharge – Section 40111
- Emergency Telephone Users Surcharge – Section 41100
- Hazardous Substances Tax – Section 43451
- Integrated Waste Management Fee – Section 45651
- Oil Spill Response, Prevention, and Administration Fees – Section 46501
- Underground Storage Tank Maintenance Fee – Section 50139
- Fee Collection Procedures Law – Section 55221

Revenue and Taxation Code Section 11596 prescribes the manner in which cancellations are to be made with respect to the Private Railroad Car Tax. Once the BOE has made a determination that a person has made an overpayment, Section 11596 allows the BOE to credit the overpayment against any current liabilities the person owes to the BOE, and then authorizes the BOE to cancel the difference, if any. Section 11596 also requires the BOE to prepare a public record for determinations over a certain amount. Under the existing statute, a determination to grant a cancellation over \$15,000 shall be available as a public record for at least 10 days prior to the effective date of the determination in order to fulfill the public record requirement.

### **This Proposal**

This proposed amendment raises the threshold for the public record requirement from over \$15,000 to over \$50,000 to simply conform the statutory limit for Private Railroad Car Tax refunds and cancellations to those in effect for other tax programs administered by the BOE. There is no administrative reason for these taxpayers who are owed \$50,000 or less to have to wait for their refunds any longer than other taxpayers owed money by the BOE.

*Section 11551 of the Revenue and Taxation Code is amended to read:*

11551. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. The excess amount collected or paid shall be credited by the board on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors. Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000)~~fifteen thousand dollars (\$15,000)~~ shall be available as a public record for at least 10 days prior to the effective date of that determination.

*Section 11596 of the Revenue and Taxation Code is amended to read:*

11596. If any amount for taxes, penalty, and interest has been illegally determined either by the person filing the return or by the board, the board shall set forth that fact in its records, certify the amount determined to be in excess of the amount legally due and the person against whom the determination was made, and authorize the cancellation of the amount upon the records of the board. Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000)~~fifteen thousand dollars (\$15,000)~~ shall be available as a public record for at least 10 days prior to the effective date of that determination.