

**RULES OF PRACTICE
of the
STATE BOARD OF EQUALIZATION**

California Code of Regulations
Title 18. Public Revenues
Division 2. State Board of Equalization
Chapter 10. Petition and Hearing Procedures

ARTICLE 7. GENERAL BOARD HEARING PROCEDURES

5075. BRIEFS.

(a) Briefs are required in appeals of decisions of the Franchise Tax Board and are optional in all business taxes matters before the Board. This regulation applies to all briefs filed with the Board, except that the more specific requirements of Regulation 5075.1 apply to appeals from actions of the Franchise Tax Board. In property tax matters, the petition, the staff analysis, the petitioner's response to the staff analysis, and, where appropriate, a non-party brief submitted pursuant to subdivision (h), are briefs within the meaning of this regulation, and only these documents will be accepted for filing and distribution; however, where circumstances warrant, the Board may request that additional briefs be filed, and will set the briefing schedule. Except in those circumstances, additional briefs are not accepted in property tax matters.

(b) General. Any brief filed with the Board shall be filed within the time required by these regulations or, if no time is so specified, as directed by the Board or the Chief, Board Proceedings Division. All briefs shall be addressed and mailed to the Chief, Board Proceedings Division, at the headquarters office of the State Board of Equalization at Sacramento, or deposited personally at the headquarters office of the Board in Sacramento. In addition, all briefs shall be mailed or personally delivered to the other parties. No brief shall exceed 30 typed or handwritten, double-spaced, or 15 typed or handwritten, single-spaced, 8 1/2" by 11" pages, printed only on one side in a type-font size of at least 10 points or 12 characters per inch (CPI), or the equivalent, excluding exhibits. Exceptions to the 30 page limit may be granted prior to the deadline for filing the brief by the Chief, Board Proceedings Division, upon written application that establishes reasonable circumstances that justify the necessity for additional pages. In the event the brief does not conform to the form and page limit specified above, the submitted brief may be returned by the Chief, Board Proceedings Division. The party shall be given 10 days to comply with the form and page limit. Failure to comply within 10 days shall constitute a waiver of the opportunity to submit the brief.

(c) Opening Briefs. Any party may file an opening brief. An opening brief shall contain, along with any other information required by these regulations, a statement of the issue(s), a statement of the facts, and a discussion of the legal authorities, including statutes and regulations, relied on by the party submitting the opening brief. Opening briefs shall be filed with the Chief, Board Proceedings Division no later than 45 days before the Board hearing.

(d) Reply Briefs. A reply brief is a brief that is filed by any party in response to any opening brief and shall contain a statement of the issue(s), including relevant issues not raised by the opening brief, a statement of the facts as understood by the party submitting the reply brief, a discussion of the legal authorities, including relevant statutes and regulations, relied on by the party submitting the reply brief, and presentation of any affirmative defenses. Reply briefs shall be filed with the Chief, Board Proceedings Division no later than 30 days before the Board hearing.

(e) Briefs Filed by Unrepresented Taxpayer. A taxpayer who appears at a Board hearing without a representative, and who has not employed a representative to prepare a brief, may, at the discretion of the Board, submit a brief on the day of the hearing.

(f) Post-Hearing Briefs. The Board may permit the filing of post-hearing briefs and memoranda of legal authorities, including relevant statutes and regulations, on any matters considered at a

hearing. However, any post-hearing submissions shall only be permitted by order of the Board at the conclusion of a hearing, on the subject matter specified and within the time limits prescribed by the Board.

(g) Extensions Of Time. A reasonable extension of time for the filing of briefs may be granted by the Chief, Board Proceedings Division, upon a showing of extreme hardship. The request for an extension of time shall be submitted in writing before the scheduled due date of any brief.

(h) Non-Party (Amicus) Briefs. A pre-hearing brief or letter from a non-party shall be filed with the Chief, Board Proceedings Division no later than 30 days before the Board hearing, and the parties may file responses with the Chief, Board Proceedings Division no later than 15 days before the hearing. The response by the party shall address only the points of disagreement the party has with the non-party brief or letter. A non-party post-hearing brief or letter may be filed only if the Board has requested post-hearing briefing from the parties and no later than the end of the post-hearing briefing period prescribed by the Board for the parties. A non-party brief shall conform to the general requirements set forth in (b) above. A non-party brief or letter shall contain a statement regarding the nature of the non-party's interest in the outcome of the proceeding.

(i) Additional briefing. In extraordinary situations, the Board or the Board Staff may request additional briefing from either party after the briefing period is ordinarily complete. Any such requested brief shall be filed within the time specified by the Board or Board Staff.

(j) Revenue Impact Statements/Revenue Estimates.

(1) Statements regarding revenue impact or revenue estimates are not relevant evidence in tax appeals. Briefs, including any exhibits, filed pursuant to Regulation 5075, 5075.1, 5082 or 5082.1 shall not include statements regarding revenue impact or revenue estimates. In the event a brief filed by a party contains a statement regarding revenue impact or a revenue estimate, the Chief, Board Proceedings Division, shall return the brief to the party. The party shall be given 10 days from the date on the return letter to resubmit the brief without the revenue estimate. The resubmitted brief may be faxed to the Board followed by a hard copy. Failure to comply within the 10 days shall constitute a waiver of the opportunity to submit the brief; however, briefing may be requested pursuant to subdivision (i) of this regulation or subdivision (e) of Regulation 5075.1.

(2) If return of the brief to the party results in insufficient time for the other party to file a reply brief pursuant to subdivision (d), an extension of time for the reply brief may be granted by the Chief, Board Proceedings Division.

(3) If for any reason a brief containing a revenue impact statement or revenue estimate is not returned by the Chief, Board Proceedings Division, as set forth in subdivision (j)(1) above, Board Staff shall strike the statement or estimate from the brief. Board Staff shall strike revenue impact statements or revenue estimates from non-party briefs filed pursuant to subdivision (h).

Note: Authority: Section 15606(a), Government Code; Sections 105190 and 105310, Health and Safety Code; Section 42882, Public Resources Code; Section 893, Public Utilities Code; Sections 7051, 7202(d), 7202(h)(4), 7270, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code. Reference: Sections 254.5, 270, 742, 1840, 4877, 6562, 7711, 8852, 11340, 12429, 19047, 19048, 19072, 19084, 19085, 19087, 19333, 19334, 19345, 19346, 20645, 30262, 32302, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083 and 60352, Revenue and Taxation Code.