

E-mail message from Layne Hadlock to TRA Office, 6/19/14

**From:** LayneHadlock@BoiseInc.com [mailto:LayneHadlock@BoiseInc.com]  
**Sent:** Thursday, June 19, 2014 2:41 PM  
**To:** Simpson, Laureen  
**Subject:** Annual Taxpayers' Bill of Rights Hearings

Laureen,

Thanks for taking the time to talk to me yesterday. We feel strongly that the management at the BOE should consider setting some reasonable timing guidelines for auditors to follow when they request waivers of the statute of limitations from taxpayers while in the process of conducting sales and use tax audits. While the BOE audit manual provides three examples of when to request a waiver of limitation (Section 0215.15) it does not address the timing of requesting such waivers.

We were recently notified by telephone by the BOE of their intent to audit a period that included a quarterly period that was going to expire just 83 days from the date of that initial telephone call. They insisted that we immediately execute a waiver for that period that was going to expire. We pushed back indicating that it has always been our policy to not execute a waiver during the period that it would normally take the state to conduct the audit. After discussing this with the auditor and the supervisor they would not back down from their request. We also discussed this with the District Principal Auditor who would also not back down from this request to sign the waiver. They indicated that if we failed to sign the waiver they would issue an arbitrary assessment of tax to cover the three month period before the statute of limitations would expire. This seems to be totally unreasonable as had we let them commence the audit within 30 days of their first notification of audit and it took them only 30 days to complete the audit work they would have had only 22 days before that period expired and by their own admission they are directed to have the audit work papers into review some 60 days prior to the expiration of the statute of limitations for any period included in the audit. So when they contacted us 83 days before the statute of limitations for this period would expire, they had to know that they would not be able to complete this audit and get it into review within 23 days from that date. That is absolutely not reasonable at all.

The BOE should consider setting some definite timelines for when auditors should be able to request waivers. For example if the standard was to request a waiver only if a taxpayer was contacted for audit 150 days before a period was going to expire. That would give the auditor and the taxpayer 90 days to get the audit completed from start to finish before it was sent to review 60 days prior to the expiration of the statute of limitations. If the audit could not be completed within this 90 day period due to resource constraints of the taxpayer then they would be asked to sign a waiver which they should do.

In the past two years our company and affiliated entities have been involved in 4 California sale and use tax audits. In two of those cases we have been asked to immediately sign a waiver given a similar fact pattern and we have resisted. In those two cases the auditors recognized that there was no way they were going to complete the audit 60 days prior to the expiration of the statute of limitations and they reasonably agreed to not require the waiver and extended the audit on the back end. In two other cases the auditors absolutely required us to execute the waiver under threat of an arbitrary assessment of tax for the expiring period.

We feel that the lack of specific guidance, from the BOE, on the timing of when to request a waiver has led to the inconsistent treatment of taxpayers that we have experienced. Your consideration of our request is appreciated.

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STATE BOARD OF EQUALIZATION



Appeal Name: Business Taxpayers Bill of Rights

Case ID:          ITEM # F2

Date: 6/24/14 Exhibit No: 6.4

TP FTB DEPT **PUBLIC COMMENT**