

BOARD OF EQUALIZATION RULES FOR TAX APPEALS

California Code of Regulations
Title 18. Public Revenues
Division 2.1. State Board of Equalization – Rules for Tax Appeals
Chapter 5: General Board Hearing Procedures¹

ARTICLE 2: REQUIREMENTS FOR SCHEDULING BOARD MEETINGS AND HEARINGS

Subarticle 2. Requesting and Scheduling an Oral Hearing

5522.8. DISMISSAL AND POSTPONEMENT.

(a) Dismissal. The Chief of Board Proceedings will dismiss an appeal under any of the following circumstances:

- (1) The taxpayer or the taxpayer's authorized representative submits a written, signed request for dismissal;
- (2) The Department submits a written concession of the entire amount of the deficiency, refund, or claim at issue; or
- (3) The parties submit a written stipulation, signed by all the parties, in which all parties agree to dismissal.

(b) Postponement of Board Hearing or Briefing. A Board Member, the Appeals Division, or any party to an appeal may submit a request to the Chief of Board Proceedings to postpone a Board hearing or the due date of any brief for reasonable cause.

(1) Postponement for Short Periods of Time. The Chief of Board Proceedings may grant a postponement for a period of 90 days or less in his or her sole discretion, or for a period of more than 90 days with the consent of the Chief Counsel in any of the following circumstances:

- (A) A party or a representative of a party cannot appear at a Board hearing or meet a briefing deadline due to the illness of that person or a member of that person's immediate family;
- (B) A party or a representative of a party cannot appear at a Board hearing or meet a briefing deadline due to an unavoidable scheduling conflict;
- (C) A party has obtained a new representative who requires additional time to become familiar with the case;
- (D) The Chief of Board Proceedings has been informed that all parties desire a postponement;
- (E) The Chief of Board Proceedings has been informed by the Franchise Tax Board that the appeal is being reviewed for possible settlement consideration; or
- (F) Any other facts or circumstances determined by the Chief of Board Proceedings and the Chief Counsel to constitute reasonable cause.

(2) Postponement for Formal Settlement Negotiations. The Chief of Board Proceedings may, in his or her discretion, grant a postponement for an initial period of up to nine months, and thereafter, for additional periods of time in 160 day increments, if the parties to an appeal have entered into formal settlement negotiations.

(3) Postponement for Litigation. The Chief Counsel may, in his or her discretion, grant a postponement if the Chief Counsel determines that civil or criminal litigation is pending in state or federal court, the outcome of which is likely to have a material bearing on the appeal being deferred or postponed.

¹ Editorial change renaming subchapters to subarticles (Register 2008, No. 13.).

(4) Postponement for Bankruptcy Action. The Chief of Board Proceedings shall postpone an appeal subject to chapter 4 of this division upon receiving notice that the taxpayer is a debtor in a bankruptcy proceeding. The Chief of Board Proceedings shall notify the parties that the appeal is postponed until the taxpayer's bankruptcy is concluded.

(5) The Chief Counsel may, with the consent of the Board Chair, grant a postponement for any reason.

(c) Additional Postponements. The Chief Counsel may grant additional postponements that are not described in subdivision (b) of this section upon a showing of extreme hardship and only with the consent of the Board Chair.

(d) The Chief of Board Proceedings must provide written notification to the parties if a-postponement has been granted.

Note: Authority cited: Article XIII, Section 11, California Constitution; Sections 15606 and 15640, Government Code; and Sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code. Reference: Sections 15606 and 15640, Government Code; and Sections 254.5, 254.6, 742, 748, 1840, 5148, 6074, 6456, 6538, 6538.5, 6562, 6592, 6593, 6593.5, 6596, 6901, 6902, 6906, 6981, 7209, 7223, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8128, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9152, 9196, 12429, 12636, 12637, 12951, 12977, 12978, 12981, 15640, 18533, 19047, 19085, 19104, 19333, 19345, 20645, 30175, 30176, 30176.1, 30176.2, 30177, 30178, 30178.1, 30243, 30243.5, 30262, 30282, 30283, 30283.5, 30284, 30361, 30362, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32312, 32313, 32401, 32402, 32402.1, 32404, 32407, 32440, 38433, 38435, 38443, 38452, 38453, 38454, 38455, 38601, 38602, 38605, 38631, 40093, 40102, 40103, 40103.5, 40104, 40111, 40112, 40115, 40121, 41087, 41096, 41097, 41097.5, 41098, 41100, 41101, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43351, 43352, 43451, 43452, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45352, 45353, 45651, 45652, 45654, 45801, 46156, 46157, 46157.5, 46158, 46302, 46303, 46353, 46501, 46502, 46505, 46551, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50120.2, 50120.3, 50139, 50140, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55102, 55103, 55221, 55222, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60501, 60502, 60506, 60507, 60521, 60522 and 60581, Revenue and Taxation Code.

History: 1. New section adopted 9-12-2007; effective 2-6-2008.
2. Amendments adopted November 19, 2013, effective April 1, 2014. The amendments deleted “, Deferral,” from after “Dismissal” in the title of the regulation; replaced “a matter” with “an appeal” in the first line of subdivision (a); deleted the second sentence in subdivision (b); deleted “Deferral or” from before “Postponement” in the titles of subdivision (b), and (b)(1) through (4); inserted “Board” before “Hearing” in the title of subdivision (b) and inserted “Board” before “hearing” in subdivision (b), (1)(A), and (1)(B); inserted “the” before and replaced “Staff” with “Division” after “Appeals” in subdivision (b); replaced “a matter” with “an appeal,” inserted “submit a” before and replaced “that” with “to the Chief of Board Proceedings to postpone” after “request” in subdivision (b); deleted “be deferred or postponed” from after “brief” in subdivision (b); deleted “deferral or” from before “postponement” in subdivision (b)(1), (1)(D), (2), (3), (5), and (d); replaced “matter” with “appeal” in subdivision (b)(1)(E) and replaced “the matter” with “an appeal” in subdivision (b)(2); replaced “Other Actions” with “Litigation” in the title of subdivision (b)(3); deleted subdivision (b)(3)(B), deleted the text after “postponement,” including the colon, in subdivision (b)(3), and replaced “(A) The” with “if the” at the beginning of subdivision (b)(3)(A) in order to combine the text in prior subdivision (b)(3)(A) into one sentence in subdivision (b)(3); deleted “related” from before “civil,” inserted “material,” and replaced “matter” with “appeal” in the text of subdivision (b)(3) that was previously in subdivision (b)(3)(A); replaced “a matter that is” with “an appeal,” deleted “the Board and” from before “the parties,” and replaced “matter” with “appeal” in subdivision (b)(4); deleted “Deferrals or” from before “Postponements” in the title of subdivision (c); and replaced the text prior to “Chief Counsel” with “The,” deleted “deferrals and” from before “postponements,” and changed “subdivisions (a) and (b)” to “subdivision (b)” in subdivision (c).