

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 3. Representation, Prehearing Documents, and Preparation for Hearing

5523. REPRESENTATION AT HEARINGS.

(a) Representation. During the hearing, taxpayers may be represented by any authorized person or persons, at least eighteen years of age, of the taxpayer's choosing, including, but not limited to, an attorney, appraiser, accountant, bookkeeper, employee or business associate. For purposes of this section, a person whose only function is to interpret for the taxpayer is not a representative.

(b) Recognition. The Board will recognize all authorized representatives who are identified in writing or orally by the taxpayer. Authorized representatives shall be permitted to receive confidential information relating to the taxpayer they represent, and to perform on behalf of the taxpayer all acts that the taxpayer may perform in preparation for and during the hearing.

(c) Substitution or Withdrawal. Taxpayers must promptly notify the Chief of Board Proceedings in writing of any substitutions or withdrawals of representation and must also notify the Franchise Tax Board in all matters that are subject to chapter 4 of this division.

(d) Suspended or Disbarred Representatives. A person suspended or disbarred from practice before the Franchise Tax Board pursuant to Revenue and Taxation Code section 19523.5 may not represent any taxpayer in a matter that is subject to chapter 4 of this division after the Franchise Tax Board gives the Chief of Board Proceedings notice of the suspension or disbarment.

Note: Authority cited: California Constitution, article XIII, section 11; Government Code sections 15606, 15640; Revenue and Taxation Code sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301, 60601.

Reference: Government Code sections 15606, 15640; Revenue and Taxation Code 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, 60581.

HISTORY: 1. NEW SECTION ADOPTED 9-12-2007; EFFECTIVE 2-6-2008.5522.8. DISMISSAL, DEFERRAL, AND POSTPONEMENT.

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

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

(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) Deferral or Postponement of Hearing or Briefing. A Board Member, Appeals Staff, or any party to a matter may request that a hearing or the due date of any brief be deferred or postponed for reasonable cause. Requests for deferral or postponement must be submitted to the Chief of Board Proceedings.

(1) Deferral or Postponement for Short Periods of Time. The Chief of Board Proceedings may grant a deferral or 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 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 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 deferral or postponement;

(E) The Chief of Board Proceedings has been informed by the Franchise Tax Board that the matter 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) Deferral or Postponement for Formal Settlement Negotiations. The Chief of Board Proceedings may, in his or her discretion, grant a deferral or 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 the matter have entered into formal settlement negotiations.

(3) Deferral or Postponement for Other Actions. The Chief Counsel may, in his or her discretion, grant a deferral or postponement for a determined period of time due to the following circumstances:

(A) The Chief Counsel determines that related civil or criminal litigation is pending in state or federal court, the outcome of which is likely to have a bearing on the matter being deferred or postponed.

(B) The Chief Counsel determines that unrelated civil or criminal litigation pending in federal or state court contains similar issues to those claimed by parties to a matter and that the outcome of the unrelated litigation is likely to have a bearing on the matter being deferred or postponed.

(4) Deferral or Postponement for Bankruptcy Action. The Chief of Board Proceedings shall postpone a matter that is 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 Board and the parties that the matter is postponed until the taxpayer's bankruptcy is concluded.

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

(c) Additional Deferrals or Postponements. After the initial deferral or postponement period, the Chief Counsel may grant additional deferrals and postponements that are not described in subdivisions (a) and (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 deferral or postponement has been granted.

Note: Authority: California Constitution, article XIII, section 11; Government Code sections 15606, 15640; Revenue and Taxation Code sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301, 60601. Reference: Government Code sections 15606, 15640; Revenue and Taxation Code 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, 60581

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