

## 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 Procedures**<sup>1</sup>

### ARTICLE 6: POST HEARING NOTICES AND PETITIONS FOR REHEARING

#### 5561. PETITION FOR REHEARING.

(a) Generally. A taxpayer with an appeal subject to chapter 2 of this division or described in section 5310, subdivision (a)(3) or (4), may file a Petition for Rehearing within 30 days of the date on which notice of the Board's decision is mailed to the taxpayer. The petition must be signed by the taxpayer or the taxpayer's authorized representative, and:

- (1) Identify an irregularity in the Board's proceedings that prevented the fair consideration of the taxpayer's appeal;
- (2) Identify an accident or surprise that occurred, which ordinary caution could not have prevented;
- (3) Identify and provide newly discovered, relevant evidence, which the taxpayer requesting the rehearing could not have reasonably discovered and provided prior to the Board's decision; or
- (4) Demonstrate that there is insufficient evidence to justify the decision or the decision is contrary to law.

(b) A Petition for Rehearing or related document shall be filed in accordance with section 5570.

(c) Acceptance or Rejection of the Petition for Rehearing.

- (1) Upon receipt of a submission intended as a Petition for Rehearing, the Chief of Board Proceedings must determine whether the submission qualifies as a Petition for Rehearing and whether it is timely. The Chief of Board Proceedings may consult with the Appeals Division in making this determination.
- (2) If the submission qualifies as a Petition for Rehearing and is timely, the Board Proceedings Division must accept the submission as a Petition for Rehearing and mail a letter to all parties acknowledging its acceptance.
- (3) If the Chief of Board Proceedings determines that a submission intended as a Petition for Rehearing is not timely, the Board Proceedings Division must reject the submission.
- (4) If the Chief of Board Proceedings determines that a submission intended as a Petition for Rehearing is timely, but does not otherwise qualify as a Petition for Rehearing, such as where the submission asks for a rehearing without identifying a basis for the rehearing or alleges that there is newly discovered and relevant evidence without providing that evidence, the Board Proceedings Division will notify the taxpayer in writing, identify the requirements of subdivision (a) that have not be satisfied, and allow the taxpayer up to 30 days to satisfy the necessary requirements. If the taxpayer satisfies the requirements of subdivision (a) within the time allowed, the Board Proceedings Division will accept the original submission and any subsequent submissions that satisfy the requirements of subdivision (a), combined, as a Petition for Rehearing and mail a letter to all parties acknowledging the acceptance. If the taxpayer does not satisfy the requirements of subdivision (a) within the time allowed for that purpose, the Board Proceedings Division must reject the taxpayer's submission.
- (5) If the Board Proceedings Division rejects a taxpayer's submission intended as a Petition for Rehearing, the Board Proceedings Division shall mail a letter to the taxpayer, which shall explain that the submission was not accepted as a Petition for Rehearing and will advise the taxpayer of any alternative rights or remedies.
- (6) A taxpayer may not file more than one Petition for Rehearing with regard to the same appeal.

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<sup>1</sup> Editorial change renaming subchapters to subarticles (Register 2008, No. 13.).

(d) Chapter 4 of this division applies to Petitions for Rehearing filed with regard to appeals from actions of the Franchise Tax Board.

Note: Authority cited: Section 15606, Government Code; and Sections 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code. Reference: Sections 6074, 6456, 6538, 6562, 6592, 6593, 6593.5, 6596, 6814, 6981, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9196, 12429, 12431, 12636, 12637, 12951, 12977, 19048, 19104, 19334, 19346, 20645, 30175, 30176, 30176.1, 30176.2, 30177, 30243, 30243.5, 30262, 30263, 30282, 30283, 30283.5, 30284, 30361, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32304, 32312, 32313, 32401, 32404, 32407, 32440, 38433, 38435, 38443, 38445, 38452, 38453, 38454, 38455, 38601, 38605, 38631, 40093, 40095, 40102, 40103, 40103.5, 40104, 40111, 40115, 40121, 41087, 41089, 41096, 41097, 41097.5, 41098, 41100, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43305, 43351, 43352, 43451, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45305, 45352, 45353, 45651, 45654, 45801, 46156, 46157, 46157.5, 46158, 46302, 46303, 46353, 46355, 46501, 46505, 46551, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50118, 50120.2, 50120.3, 50139, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55085, 55102, 55103, 55221, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60354, 60501, 60502, 60521 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 replaced "a matter" with "an appeal," inserted "or described in section 5310, subdivision (a)(3) or (4)," and inserted "be signed by the taxpayer or the taxpayer's authorized representative, and" in subdivision (a); replaced "matter" with "taxpayer's appeal" in subdivision (a)(1); inserted "and provide" and replaced "party" with "taxpayer" in subdivision (a)(3); deleted all the text, except the second sentence, in subdivision (b); replaced "may" with "shall" and replaced the text after "filed" with "in accordance with section 5570" in the remaining sentence in subdivision (b); inserted "submission intended as a," inserted "submission qualifies as a," inserted "and whether it," and inserted "the" before and replaced "Staff" with "Division" after "Appeals" in subdivision (c)(1); inserted "submission qualifies as a," inserted "and" before and deleted "found to be" after "is," deleted "Chief of" from before and inserted "Division" after "Board Proceedings," inserted "submission as a," and replaced "the" with "its" in subdivision (c)(2); replaced "the" with "a submission intended as a," deleted "Chief of" from before and inserted "Division" after "Board Proceedings," and replaced the text after "reject the" with "submission" in subdivision (c)(3); and added (4), (5), and (6) to subdivision (c).