State of California | Board of Equalization

Memorandum

To : Mr. Timothy W. Boyer
Interim Executive Director

Date: June 18, 2003

From : for Ramon Hirsig, Deputy Director
Sales and Use Tax Department

David Gau, Deputy Director
Property and Special Taxes Department

Subject: Delegation of Authority for Cancellation of Determinations

At the Board's March 26th and May 28th meeting Chairwoman Midgen and Board Member Leonard asked staff to return with suggestions for handling cancellations of determinations that would provide greater protection of taxpayer privacy and could involve delegating less consequential decisions to staff.

Current Process

Various statutes under the Sales and Use Tax Laws and Property and Special Taxes Laws regarding cancellation of determinations require that a public record be maintained with respect to any cancellation of determinations in excess of $50,000.

The current Board Reference Manual provides the rules on how items are to be presented to the Board for approval. Page 25 under "Nonappearance Matters" currently requires that "Matters for Consideration" (redeterminations) and "Credits, Cancellations and Refund Matters" (cancellations) in excess of $50,000 be presented to the Board for approval.

Board Authority to Modify Current Process

The Board may revise its Reference Manual to establish a threshold other than $50,000. However, consistent with various statutes a public record of all cancellations over $50,000 must be maintained.

Taxpayer Privacy - Consumer Use Tax Cancellations – Tax Never Owed

The Board sends inquiry letters to taxpayers after receiving information from DMV, the Coast Guard or FAA that a vehicle, vessel or aircraft was purchased and no use tax was received on this purchase. If a taxpayer fails to respond or provide documentation that the purchase was not taxable, than the Board sends a bill. Later, the taxpayer may provide the necessary documentation to prove their purchase of the vehicle, vessel or aircraft was not taxable. The

current process requires the Department to place amounts over $50,000 on the Board's Consent calendar as a cancellation (Non-petition final liability) or Redetermination to zero (petition liability). Since these cancellations reflect the adjustment of tax never due, it is recommended that such adjustment be delegated to staff at a level the members are most comfortable with.

Attached are three schedules. Schedule 1 contains three action items for the Board's consideration at the June 25, 2003 meeting. Schedule 2 contains an analysis of the Board's 2002 Sales and Use Tax Consent Calendar Workload. Schedule 3 contains an analysis of the Board's 2002 Property and Special Taxes Consent Calendar Workload.

By means of this memorandum, staff will present the Board with the attached three action items that includes our departments' recommendations. With your approval, this matter will be placed on the June 25, 2003 Agenda under Chief Counsel Matters.

Approved: Timothy W. Boyer Date: 6-18-03
Timothy W. Boyer

Board Consent Calendar Delegations

Schedule 1

Action 1: **Reduce the number of Consent Items (under "Nonappearance Matters, Matters for Consideration" and "Credits, Cancellations and Refund Matters") presented to the Board for approval by increasing the current level of delegation to staff.**

Staff Recommendation: Staff recommends an increase in delegation authority from $50,000 to $250,000. This will reduce the number of cases requiring Board approval by approximately 75%. Based on 2002 statistics, the Board would have approved a total of 222 Sales and Use Tax and Property and Special Taxes cases instead of 818.

Action 2: **Increase the privacy of individual taxpayers purchasing Vehicles, Vessels and Aircraft when tax originally assessed by the Board is subsequently found not to be due.**

Staff Recommendation: Delegate to staff the authority to cancel (or redetermine to zero) all individual billings on Vehicles, Vessels and Aircraft when tax is found not to be due. In 2002, there were 92 such cases.

Action 3: **Changes in delegation requires a revision to the Board's current reference manual and retention of a public record for all Cancellations over $50,000.**

Staff Recommendation: Amend the Board Reference Manual to reflect the revised levels of delegation and require that public records on those items above $50,000 be retained in the Board Proceedings Division.

Board Consent Calendar Delegations

Schedule 2

SALES AND USE TAX CONSENT CALENDAR WORKLOAD BY TYPE- Calendar Year 2002

				Option A	Option B	Option C
	Type	Description	2002 Cases Presented to Board	Cases $250,000 and under	Cases $500,000 and under	Cases $1,000,000 and under
1	Redeterminations	Accounts billed with the determination not final	119	80	93	107
2	Relief of Penalty	Relief of penalty and interest on non-final billings	42	35	37	42
3	Denials	Denials of penalties, interest and refunds	46	39	41	42
4	Credits	Final liabilities adjusted	50	38	43	48
5	Cancellations – Consumer Use Tax Accounts	Final liabilities subsequently determined that tax was never owed[1]	92	54	60	80
6	Cancellations Permit Holders	Final liabilities subsequently determined that tax was never owed	13	10	13	13
7	Refunds	Claims for Refund	356	264	307	330
	Total		718	520	594	662

	Board Workload Reduction under Various Options		0	-520	-594	-662
	Board Cases Remaining to be Heard		718	198	124	56

[1] Redeterminations to zero are includes in this group because timely petitioned billings do not go final and the only way to reduce their liability to zero is to redetermine. Any billing that is not timely petitioned or that goes final would be cancelled or adjusted.

Board Consent Calendar Delegations

Schedule 3

PROPERTY AND SPECIAL TAXES CONSENT CALENDAR WORKLOAD BY TYPE- Calendar Year 2002

				Option A	Option B	Option C
	Type	Description	2002 Cases Presented to Board	Cases $250,000 and under	Cases $500,000 and under	Cases $1,000,000 and under
1	Redeterminations	Accounts billed with the determination not final	7	3	3	4
2	Relief of Penalty	Relief of penalty and interest on non-final billings	22	21	21	22
3	Denials	Denials of penalties, interest and refunds	5	2	4	5
4	Credits	Final liabilities adjusted	0	0	0	0
5	Cancellations Permit Holders	Final liabilities subsequently determined that tax was never owed	1	0	0	0
6	Refunds	Claims for Refund	65	50	57	60
	Total		100	76	85	91

	Board Workload Reduction under Various Options		0	-76	-85	-91
	Board Cases Remaining to be Heard		100	24	15	9