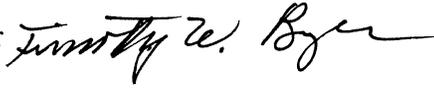


M e m o r a n d u m

To: Mr. James Speed
Executive Director

Date: May 9, 2003

From: Timothy W. Boyer
Chief Counsel



Subject: Delegation of Authority for Cancellation of Determinations

At the March 26, 2003 Board meeting, a question was raised regarding why cancellation of determinations above \$50,000 are presented to the Board for approval. This memorandum provides a brief background regarding that question and provides an opportunity for the Board to delegate authority to approve cancellations in excess of \$50,000 to staff.

The Board has the authority to delegate authority to staff pursuant to Revenue and Taxation Code section 7, which provides:

Whenever a power is granted to, or a duty imposed on, any person or board by any provision of this code, it may be exercised or performed by any deputy or person authorized by the person or board to whom the power is granted or on whom the duty is imposed, unless it is expressly provided that the power or duty shall be exercised or performed only by the person or board to whom the power is granted or on whom the duty is imposed.

On August 7, 1968, the Board delegated the authority to issue Notices of Redetermination, including cancellations, required to bring petitions for redetermination to conclusion in those cases where:

1. The taxpayer (petitioner) is in accord with the amount proposed to be redetermined;
2. The adjustment to the amount originally determined is \$1,000 or less; and
3. No hearing has been requested by the taxpayer or, if requested, the taxpayer has informed the staff that a hearing before the Board no longer is desired.

Stats. 1988 Ch. 1029 (Assembly Bill 3083) amended the Revenue and Taxation Code to provide that refunds, credits, and cancellations of \$50,000 or less would no longer require Board of Control approval. Consequently, on November 6, 1988, the Board increased the authority of staff to approve refunds, adjustments, denials, credits, and cancellations to the \$50,000 level, effective January 1, 1989.

Item N
Sub-Item 1
05-28-03

Mr. James Speed
May 9, 2003
Page 2

Stats. 1994 Ch. 726 (Assembly Bill 3069) amended the Revenue and Taxation Code to provide that all refunds, credits and cancellations would no longer required Board of Control approval. The Board did not delegate this increased authority to the staff. Consequently, refunds, credits and cancellations above \$50,000 continued to go to the Board for approval.

By means of this memorandum, staff will present to the Board the option of delegating to the Deputy Director of the Sales and Use Tax Department, and his or her designees, and the Deputy Director of the Property and Special Taxes Department, and his or her designees, the authority to approve all cancellations, regardless of amount.

If approval of cancellations in excess of \$50,000 is delegated to staff, a public record of these cancellations will be created 10 days prior to the effective date of the cancellation and will be maintained by each Department.¹

With your approval, this matter will be placed on the May 28, 2003 Agenda under Chief Counsel Matters.

Approved: James E. Speed
James E. Speed

Date: 5/9/03

¹ Pursuant to Revenue and Taxation Code sections 11596 and 45801, in the Private Railroad Car Tax program and the Integrated Waste Management Fee program, a public record will be created if the cancellation exceeds \$15,000.