Chapter 2: Pre-Appeals Conference Review of Bus. Tax & Fee Appeals

Petitions, Protests, Claims, and Requests for Relief

Purpose

- Purpose of pre-appeals conference review provisions:
  - Enhance initial review and development of appeals.
  - Codify policy of accepting administrative protests.
  - Clarify taxpayers' rights.

Overview

- Overview of pre-appeals conference review processes:
  - Filing.
  - Assignment and review.
  - Initial determination.
  - Request reconsideration.

Article 1: General Provisions

- Application of chapter 2.
- Definitions.
- International Fuel Tax Agreement (IFTA).

Article 2A: Petitions

- Article 2A's provisions for filing petitions:
  - Taxpayers and persons directly interested in notices.
  - Successor Liabilities.
  - Contents and accrual of interest.

Scope of Petitions

- Limited scope of certain petitions filed under the:
  - Hazardous Substances Tax Law.
  - Covered Electronic Waste Recycling Fee.
  - Water Rights Fee.

Reviewing Petitions

- Assignment and acknowledgment.
- Review by assigned section or group.
- Initial determinations.

Article 2B: Administrative Protests

- Early or late petitions may be treated as administrative protests.
- Filing of Administrative Protests.
- Review of Administrative Protests.

Article 2C: Jeopardy Determinations

- Petitioning jeopardy determinations under article 2C:
  - Determinations are immediately due and payable.
  - Security requirement for petitions.

Appealing Jeopardy Determinations (continued)

- Requesting administrative hearings under article 2C:
  - The RTA expands the grounds for requesting administrative hearings.
  - No security requirement.

Article 3: Claims for Refund

- Article 3 contains the provisions for filing claims for refund:
  - Filing deadlines for claims.
  - Contents of claims.
  - No “self-help.”

Article 3: Review of Claims

- Article 3 explains the pre-appeals conference review of claims, including:
  - Board approval of refunds over $50,000.
  - Class claims for refund.
  - Liberal standard for granting further review.

Article 4A: Innocent Spouse Relief

- Article 4A provides for the filing and pre-appeals conference review of:
  - Requests for innocent spouse relief; and
  - Requests for other equitable relief.

Article 4B: Successors' Request for Relief

- Article 4B applies to successors' requests for relief from penalties imposed on their predecessors.
  - May be included in petitions.
  - Filed and reviewed like petitions.

Article 4C: Other Requests for Relief

- Article 4C contains provisions for filing and reviewing requests for relief due to:
  - Reasonable cause.
  - Unreasonable error or delay.
  - Reasonable reliance on written advice.
  - Disaster.

Article 4C: Filing and Review

- Requests may be included in petitions or claims or filed separately.
- Requests may be treated as claims.
- Taxpayers may request reconsideration by the Deputy Director.

Repealed Rules of Practice

- The repealed Rules of Practice did not address:
  - Requests for Relief.
  - Administrative Protests.

Article 5: Local & District Tax

- Article 5 contains cross-references to local and district tax regulations applicable to the filing and review of claims and inquiries regarding the incorrect or non-distribution of local and district taxes.

Highlights

- Jurisdiction.
- Filing deadlines.
- Requests for oral Board hearings.

Wrap Up

- Goals are to:
  - Create uniform procedures.
  - Increase transparency.
  - Clarify expectations.
  - Improve customer relations.
- Next Up: Chapter 2 - Appeals Conferences and Optional Briefing for Business Tax and Fee Appeals.

References

- California Code of Regulations, title 18, section 5000 et seq.
- BOE Rules for Tax Appeals and history: http://www.boe.ca.gov/regs/timelineCAtax.htm.