

THE CALIFORNIA
TAXPAYERS'
BILL OF RIGHTS



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 STATE BOARD OF EQUALIZATION



TABLE OF CONTENTS

Your Rights as a Taxpayer i

Your Right to Courteous and Prompt Service 1

Your Right to be Treated Fairly 1

Your Right to Confidentiality 2

Your Right to Information and Assistance 3

Your Right to Address Your Elected Board Members 5

Your Rights During a Tax Audit 6

Your Rights During the Collection Process 8

Your Right to a Hearing–Jeopardy Determination 11

Your Right to a Refund 12

Your Taxpayers’ Rights Advocate Office 13

Taxpayers’ Bill of Rights Statutes 14

Board Member Offices and Phone Numbers Back Cover

YOUR RIGHTS AS A TAXPAYER

As a California taxpayer, you have many rights, such as the right to confidentiality, the right to be treated fairly, and the right to appeal actions we have taken.

This pamphlet explains your rights under the *Revenue and Taxation Code*, including those contained in the “California Taxpayers’ Bill of Rights.” These rights have been enacted to

- Protect your privacy and property during the assessment and collection of taxes,
- Ensure that you understand the law and how it applies to you, and
- Facilitate the resolution of complaints and problems.

Every employee of the Board shares responsibility for upholding your rights. We want you to know that we will honor and safeguard those rights every time you deal with us.

If you have a disagreement you cannot resolve through routine channels, I encourage you to contact our Taxpayers’ Rights Advocate Office. This office was created to help resolve taxpayer complaints and problems. It reports directly to me and is independent of other departments in the agency.

As explained in this pamphlet, we have a variety of services that are designed to help you understand how tax laws affect your business. If you have suggestions on how we can improve those services or add to them, please let us know. Call our Information Center at 1-800-400-7115 and leave your suggestion with one of our customer services representatives.



E. L. Sorensen, Jr., Executive Director
State Board of Equalization

This brochure describes your rights as a taxpayer under the Sales and Use Tax Law.

If a topic discussed in this brochure is governed by a particular section of the Sales and Use Tax Law, we have included the section number for your reference (for example, §7084, which relates to the taxpayer education and information program).

Similar rights exist for the other special taxes and fee programs we administer, such as fuel, cigarette, and alcoholic beverage taxes. The comparable law section is cross-referenced on the tables on pages 14 and 15. For information regarding your rights as they relate to the payment of property taxes in California, you should contact your local county assessor.



**YOUR RIGHT TO COURTEOUS
AND PROMPT SERVICE**

You should expect to be treated courteously and professionally by our employees and to receive prompt service from them. All Board employees who are in public contact positions are evaluated on their contacts with taxpayers (§7088). If you believe you have been treated inappropriately, you should contact the employee's supervisor.



**YOUR RIGHT TO
BE TREATED FAIRLY**

During all your dealings with any employee or officer of the Board, you have the right to

- Have the law administered uniformly,
- Be treated fairly,
- Be told about the procedures or methods used, and
- Be free from investigations or surveillance activities not related to the administration of tax programs. (Section 7092)

provides that any employee violating this provision is subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from employment.)

During your dealings with us, you have the right to be free from harassment and inappropriate conduct. If you suffer adverse consequences because an employee or officer of the Board recklessly disregards procedures published by the Board, you may bring action for damages against the State of California in Superior Court (§7099).

It is our policy that our actions be carried out without regard to race, color, national origin, ancestry, sex, religion, or disability.

It is also the Board's policy to ensure equal public access to our policies, programs, services, and activities to fully comply with the provisions of the Americans with Disabilities Act (ADA). Please let us know if you have problems with physical accessibility to our programs or activities or need any other special assistance.



YOUR RIGHT
TO CONFIDENTIALITY

You have the right to have your personal and financial information kept confidential (except for information that appears on your seller's permit, which is public information). You also have the right to know why we are asking you for information, how we will use that information, and what might happen if you do not provide the information requested.

In certain instances, the law authorizes this information to be shared with other governmental agencies, which are also bound by rules of confidentiality.



**YOUR RIGHT TO
INFORMATION AND ASSISTANCE**

You have the right to receive information and assistance in simple, nontechnical language to help you comply with the various tax and fee laws we administer. We work hard to give you concise, understandable, and accurate information. As part of this effort, we review tax returns and audit findings to identify the most common errors made by taxpayers (§7085). This information, along with comments received from the public, is used to target areas for improving our educational outreach to taxpayers (§7084).

We also provide interpreter services for persons who are hearing impaired and bilingual services for persons who need assistance in a language other than English.

Where you can get help

Sales and Use Tax Classes

Basic classes on how to apply tax and file returns are provided by many of our field offices. Please contact the office that handles your account for additional information.

Information Center

You can call our toll-free Information Center to obtain publications and forms and to get answers to your general tax questions. To reach the Center, please call 1-800-400-7115. You can call at any time to use the “fax-back service” or to leave a recorded message requesting a publication. If you wish to talk to a customer service representative, please call between 8 a.m. and 5 p.m., Monday through Friday, excluding State holidays.

Internet

We also provide a variety of information on our Internet World Wide Web site, including:

- Board Member profiles
- Board meeting dates
- List of Board-administered tax programs

- Sales and use tax rates, by county
- Field office addresses and phone numbers
- Selected Board forms and publications
- Special notices and press releases
- Order forms for publications, regulations and manuals
- List of Board publications
- Links to other California revenue agencies

Our Internet address is: <http://www.boe.ca.gov>

Publications

Our publications range from the complete texts of tax and fee laws to pamphlets designed for specific industries, such as contractors and interior decorators. We also publish a quarterly *Tax Information Bulletin*, which is enclosed with your sales and use tax return. This bulletin provides you with notifications of changes to the tax law and highlights common tax reporting problems. You are encouraged to read the articles to keep abreast of changes that could affect your business.

To obtain a listing of available publications, please call our Information Center at 1-800-400-7115 and request a copy of Pamphlet 51, *Guide to Board of Equalization Services*.

Written Advice

You have the right to ask for written tax advice on how tax applies to a particular transaction. If you rely on written advice that is later found to be in error, you may be excused from paying tax liabilities, including interest and penalties, that are directly related to the erroneous advice (§6596). Since there is no relief available for reliance on erroneous verbal advice, we encourage you to put your questions in writing. Please mail requests for written opinions to one of the following addresses:

Sales and use taxes:

Audit Evaluation & Planning Section, MIC:40
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0040

Other taxes or fees:

Special Taxes Department, MIC:34
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0034

Requests for written advice must include the taxpayer's name, address, and permit number (if applicable) along with a complete statement of all the facts related to the activity or transaction in question.

Copies of your account records

You, and your authorized representative, can obtain information regarding your account. Copies are available for a nominal reproduction charge. Contact the:

Taxpayer Records Section, MIC:36
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0036
(916) 445-4326

For more information, please call the Information Center (1-800-400-7115) and request a copy of Pamphlet 58-A, *How to Inspect and Correct Your Records*.



Each year our elected Board Members hold several public hearings where taxpayers are invited to express their ideas, concerns, and recommendations regarding the programs and laws administered by the Board (§7085). Comments can be made directly to the Board Members and their chief administrators, or they can be forwarded in writing for their consideration. For information on the dates and locations for the hearings in your area, contact our Taxpayers' Rights Advocate (see page 13).

As always, you can contact your Board Member individually if you have any concerns, suggestions or are unable to resolve a problem with Board staff. See the back cover for a listing of Board Members' offices and their phone numbers.



YOUR RIGHTS DURING
A TAX AUDIT

If your business is selected for an audit, you have the right to a fair and impartial examination. None of our auditors are evaluated based on revenue quotas or goals (§7087). You have the right to a clear explanation of the audit process and the reason for any information requested. To assist you, we will provide you with a copy of Pamphlet 76, *Audits and Appeals*, at the beginning of each audit. Generally, our audits cover your returns filed over the past three years. In cases where no returns were filed, we can audit back eight years.

At any point in the audit or appeal process you have the right to bring in your accountant, attorney, or other representative to assist or represent you.

When the audit is completed, the auditor will meet with you to discuss the audit findings. You have the right to a clear and concise explanation of any adjustments and, upon request, a complete copy of your audit, including the auditor's working papers, spread sheet schedules, and narrative comments (§7086). If you do not understand or agree with the audit, you will be given an opportunity to resolve the issues informally at your local Board office by meeting with the auditor's supervisor and, if necessary, the District Principal Auditor. Following this meeting, we will make every effort to resolve any disagreements at the local level; then we will issue a tax bill called a "Notice of Determination."

If you agree with the liability stated in the Notice of Determination, you should make full payment immediately or contact the collection staff at your local Board office to make arrangements for

payment. If you are unable to pay the liability within 30 days from the billing date, an additional 10% finality penalty will be applied. However, under certain circumstances, we can waive the 10% finality penalty, subject to completing an agreed-upon payment arrangement.

If the Notice of Determination indicates that you are entitled to a refund, the State Controller will issue a check. In some instances your refund could be reduced by the amount of any debts you owe the Board or another State agency.

Your right to appeal the audit

If you do not agree with the Notice of Determination, you have 30 days from the date of the notice to file a formal appeal. The law does not allow you to appeal after the 30 day petition period without full payment of the liability first.

A formal appeal (“Petition for Redetermination”) must be made in writing and must state why you disagree with the audit and include facts in support of your position. The law requires that you request a “hearing” in your written appeal to be afforded your full appeal rights. Send your petition to: Petition Section MIC:38, PO Box 942879, Sacramento, CA 94279-0038. It is important that you respond timely to all Board correspondence during your appeal. Failure to respond can result in your appeal being denied.

The formal appeal process will include an independent review of your contentions by headquarter’s staff, who will evaluate several possible courses of action to resolve the disagreement. For example, your case may be referred back to the auditor, or you may be asked to provide additional documentation, or the Board may approve an immediate adjustment. At any time during the appeal process, up to 30 days prior to a scheduled Board Hearing, you may also request a settlement of your disputed audit liability (§7093.5). Contact the:

Settlement Section, MIC:87
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0087
(916) 324-2836

The next step is an appeal conference with an attorney or auditor from the Board's Legal Division. You have the right to have this conference held at a Board office convenient to you (§7090). You also have the right to receive prior notice if the conference will be recorded and the right to receive a copy of the recording. If the disagreement remains unresolved, you may request a hearing before the Members of the Board of Equalization.

If you lose your appeal before the Board, you must pay the liability in full before you can pursue your appeal in the courts. For your reference, the Board publishes two pamphlets that explain the audit and appeals process in more detail: Pamphlet 17, *Appeals Procedures*, and Pamphlet 76, *Audit and Appeals*.

Note: Your appeal will not stop the accrual of interest. Therefore, we encourage you to pay the tax portion of the liability to stop the accrual of interest. Any amounts found not due will be refunded with interest when your appeal is concluded.

Your right to be reimbursed for appeal expenses

If your appeal involves a hearing before the Members of the Board, you may be entitled to reimbursement for reasonable fees and expenses related to your appeal if

- You file a claim for the fees and expenses with the Board, and
- The five-member elected Board of Equalization determines that the action taken by board staff was unreasonable (§7091).

Reimbursement claims should be addressed to: Chief Counsel
MIC:83, PO Box 942879, Sacramento, CA 94279-0083.



You have a legal obligation to report and pay your taxes when due. If your taxes are not paid on time, we are required by state law to collect the debt from you. If necessary, we may file a lien against your property; levy against your wages, bank account, or other

personal property; or use other collection methods. During any collection action we take, you have the right to be treated courteously and professionally by Board employees.

It is very important for you to respond to our attempts to contact you. If you do not respond, we will have no choice but to proceed with collection action. Because we typically send notices to the last address of record, it is important for you to notify us of any address changes.

If you buy or sell a business you have the right to request a “tax clearance” from the Board to protect yourself from responsibility for tax debts of the purchaser or seller of your business. If you do not obtain a clearance, you can be held personally liable for those taxes. Most of these situations occur when a taxpayer has failed to notify the Board they sold or purchased a business or when a partner or spouse leaves a business and does not notify the Board.

It is critical that you notify the Board of any changes in ownership on your account.

If you are a corporate officer or person responsible for paying the corporation’s taxes, you can be held personally liable for those taxes if the corporation is terminated, dissolved, abandoned or if the corporate status with the state is allowed to lapse.

Liens (prior notice, free releases, recording fee)

A tax lien is a public notice of debt that attaches to your property and your rights to property. Once a tax lien is filed, it becomes a matter of public record and may adversely affect your credit rating. When the liability is paid in full, we will issue a lien release that you must take to your County Recorder to have recorded. Most counties charge a nominal fee to record the release.

You have the right to be notified by us 30 days prior to the filing of a lien to give you an opportunity to pay the liability (\$7097). Generally, that notice will be contained in the first billing we send you on a final tax liability. Jeopardy determinations (tax bills that require immediate payment) are exempt from this 30 day requirement.

If we file a lien in error, you have the right to a “free” release.” A free release is a release of lien that is recorded at no cost to you and carries a certification that the lien was recorded in error. We will also provide, upon request, an explanatory letter to the credit reporting companies in any county where the lien was filed.

Levies

A levy is the taking of property to satisfy a liability. We have the authority to levy your property (such as real estate, bank accounts, and wages). We may release any levy against your property if the estimated costs of the levy and sale of that property will exceed the liability for which the levy was made or if the Taxpayers’ Rights Advocate finds that the levy threatens your health or welfare or that of your dependents (§7094).

A levy (or garnishment) against your wages will automatically attach to 25% of your net pay (100% on jeopardy wage garnishments). You have the right to request a hearing with staff in your local Board office to determine whether the levy is excessive and should be adjusted to a lesser amount of your net pay. At this hearing you will be required to provide financial information to support your contention that the levy should be lowered.

If we seize your bank account in error, you have a right to file a claim with us for reimbursement of any bank charges incurred as a direct result of our action (§7096). You must file your claim in writing within 90 days of the levy and we are required to respond to your claim within 30 days of receipt. You will not be eligible for reimbursement if it is found that the erroneous levy resulted from your failure to respond to contacts from the Board or provide requested information.

Revocation of permit or license

If you owe past due tax or fail to file your tax returns on time, we can revoke (suspend) your permit or license. You have the right to be notified 60 days before we take this action to allow you ample opportunity to clear up your account (§7098). Continuing to operate with a revoked or suspended permit or license is subject to legal prosecution and monetary fines.

Payment arrangements

It is best to pay your taxes or fees in full when you file your return or when you receive a bill from us. However, if you temporarily do not have sufficient cash or assets to pay your taxes in full, you should attempt to borrow the money. If you are unable to secure a loan, it may be possible for us to make other arrangements for you to pay. However, we may require a financial statement and loan denials before we agree to a payment plan.

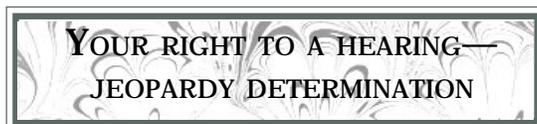
In cases where proven financial hardship exists, we may permit you to make installment payments on tax liabilities (in cases where the tax was not collected from the public). We generally do not accept installment payments for taxes reported on returns but unpaid.

Note: The acceptance of an installment payment arrangement will not stop the filing of a tax lien.

Penalties and interest

You have the right to ask that we cancel certain penalties if you can show that reasonable circumstances existed to cause you to incur the penalty. The law requires that you make your request in writing under penalty of perjury.

The law does not permit us to cancel interest except in the case where you relied on incorrect written advice from us or where the late payment was late due to a disaster such as fire, flood, or earthquake. Interest is calculated on unpaid tax only and is figured from the date the tax was originally due. Interest continues to accrue until the tax portion of the liability is paid.



You have the right to an administrative hearing regarding a jeopardy determination, which is a bill for immediate payment of taxes.

During the hearing it is your right to try to establish that the bill is excessive and/or should be delayed.

If the jeopardy determination accompanies a seizure of property, you have the right to request an administrative hearing before a representative of the Board's Appeals Section to determine whether the sale of the property seized by the Board would result in irreparable injury to you.



**YOUR RIGHT
TO A REFUND**

If you make any payments that you believe exceed the amount you owe, you have the right to file a claim for refund. While no specific form is required, the law does require that all claims be timely filed in writing and state the basis for the claim. Claims should be mailed to: Refund Section MIC:39, PO Box 942879, Sacramento, CA 94279-0039.

To be timely, a claim must be filed within three years from the due date of the return for which the overpayment was made or six months from the date of overpayment, whichever is later. For overpayments on determinations, timely claims must be filed within six months from the determination finality date or six months from the date of overpayment, whichever is later. If you make multiple payments against your liability, you must file a timely claim for each payment.

**YOUR TAXPAYERS' RIGHTS
ADVOCATE OFFICE**

If you have been unable to resolve a disagreement with any Board staff or if you would like to know more about your rights under any of the tax programs administered or overseen by the Board, please contact the Taxpayers' Rights Advocate Office (§7083). Write or call:

Taxpayers' Rights Advocate Office, MIC:70
PO Box 942879
Sacramento, CA 94279-0070
Telephone: (916) 324-2798
Toll Free: (888) 324-2798
FAX: (916) 323-3319

TAXPAYERS' BILL OF RIGHTS STATUTES
(Revenue and Taxation Code Sections)

Description	Sales & Use Tax	Motor Vehicle Fuel	Use Fuel Tax	Diesel Fuel Tax	Alcoholic Beverage Tax	Cigarette/Tobacco Tax	Energy Resources Surcharge
Administration	7082	8260	9260	60621	32460	30458	40200
Taxpayers' Rights Advocate	7083	8261	9261	60622	32461	30458.1	40201
Education & Information Program	7084	8262	9262	60623	32462	30458.2	40202
Taxpayer Noncompliance & Annual Hearing ⁴	7085	8263	9263	60624	32463	30458.3	40203
Statements in Simple/Clear Language	7086	8264	9264	60625	32464	30458.4	40204
Quotas/Goals Barred	7087	8265	9265	60626	32465	30458.5	40205
Evaluation of Employee Contact	7088	8266	9266	60627	32466	30458.6	40206
Timely Resolution of Petitions	7089	8267	9267	60628	32467	30458.7	40207
Hearing Procedures/Locations	7090	8268	9268	60629	32468	30458.8	40208
Reimbursement of Hearing Expenses	7091	8269	9269	60630	32469	30458.9	40209
Nontax Investigations Barred	7092	8270	9270	60631	32470	30459	40210
Settlement of Disputed Liabilities	7093.5	NA	9271	60636	32471	30459.1	40211
Release of Levy	7094	8272	9272	60632	32472	30459.2	40212
Exemptions from Levy	7095	8273	9273	60633	32473	30459.3	40213
Reimbursement of Bank Charges	7096	NA	9274	NA	32474	30459.4	40214
Notice Prior to Filing Lien	7097	NA	9275	NA	32475	30459.5	40215
Notice Prior to Suspension	7098	8276	9276	60634	NA	30459.6	NA
Disregard by Employee	7099	8277	9277	60635	32476	30459.7	40216

¹ These sections also cover Childhood Lead Poisoning Prevention Fee and Occupational Lead Poisoning Prevention Fee.

² Formerly known as the Solid Waste Disposal Fee.

³ Subject to the Fee Collection Procedures Law which contains the referenced Revenue and Taxation Code Sections.

⁴ All Programs include Annual Hearing requirement. Only Sales and Use Tax Law has requirement to identify areas of taxpayer noncompliance.

TAXPAYERS' BILL OF RIGHTS STATUTES
(Revenue and Taxation Code Sections)

Description	Telephone Users Surcharge	Hazardous Substances, et al. ¹	Integrated Waste Management ²	Underground Storage Tank	Oil Spill Response	Oil & Tire Recycling ³
Administration	41160	43511	45856	50156	46611	55321
Taxpayers' Rights Advocate	41161	43512	45857	50156.1	46612	55322
Education & Information Program	41162	43513	45858	50156.2	46613	55323
Taxpayer Noncompliance & Annual Hearing ⁴	41163	43514	45859	50156.3	46614	55324
Statements in Simple/Clear Language	41164	43515	45860	50156.4	46615	55325
Quotas/Goals Barred	41165	43516	45861	50156.5	46616	55326
Evaluation of Employee Contact	41166	43517	45862	50156.6	46617	55327
Timely Resolution of Petitions	41167	43518	45863	50156.7	46618	55328
Hearing Procedures/Locations	41168	43519	45864	50156.8	46619	55329
Reimbursement of Hearing Expenses	41169	43520	45865	50156.9	46620	55330
Nontax Investigations Barred	41170	43521	45866	50156.10	46621	55331
Settlement of Disputed Liabilities	41171	43522	45867	50156.11	46622	55332
Release of Levy	41172	43523	45868	50156.12	46623	55333
Exemptions from Levy	41173	43524	45869	50156.13	46624	55334
Reimbursement of Bank Charges	41174	43525	45870	50156.14	46625	55335
Notice Prior to Filing Lien	41175	43526	45871	50156.15	46626	55336
Notice Prior to Suspension	NA	NA	NA	NA	NA	NA
Disregard by Employee	41176	43527	45872	50156.16	46627	55337

¹ These sections also cover Childhood Lead Poisoning Prevention Fee and Occupational Lead Poisoning Prevention Fee.

² Formerly known as the Solid Waste Disposal Fee.

³ Subject to the Fee Collection Procedures Law which contains the referenced Revenue and Taxation Code Sections.

⁴ All Programs include Annual Hearing requirement. Only Sales and Use Tax Law has requirement to identify areas of taxpayer noncompliance.

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