

Appeals Procedures

Sales and Use Taxes and Special Taxes

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Who should read this publication?

This publication provides general information about appeals procedures for sales and use taxes and "special" taxes and fees (for example, fuel taxes, excise taxes, and environmental fees—see full list on page 18). For information on appeals of state-assessed property values or the timber yield tax, please contact the Board Proceedings Division (see page 17).

If you disagree with a decision of the staff of the Board of Equalization (BOE) regarding your liability for taxes or fees, you can usually contest that decision by filing a timely appeal. While the majority of appeals are resolved after discussion with BOE staff, some may proceed through a succession of steps to a hearing before the elected Members of the Board.

Points to Remember

- You may challenge an assessment for a tax or fee by submitting an appeal within the time limits allowed by law. You do not lose this right even if you initially agreed that the tax or fee is due, as long as you file your appeal within the time allowed. Even if you pay a tax or fee without appealing the assessment, you may still dispute the tax or fee by filing a claim for refund within the time limits allowed by law.
- There are several steps involved in the appeals process. In some cases, an appeal can be referred back to a prior step. As a result, you may go through some of the steps in the appeals process more than once.
- You may seek settlement of certain liabilities and claims for which you have a pending appeal (see "Proposing a Settlement of a Disputed Tax or Fee Liability," beginning on page 12). Your appeal will generally continue through the normal process while your settlement proposal is pending.
- If you file an appeal, it is very important that you carefully read all notices and letters sent by the BOE. *Your appeal may be denied if you do not respond within the time limits stated in notices and letters sent to you.* If a filing deadline occurs on a Saturday, Sunday, or state holiday, it is extended to the next business day. For purposes of determining whether you have met a required deadline for documents you mail, you will be regarded as filing the document on the date of the postmark. All time periods described in this publication are *calendar*, not business, days.
- Even if you appeal an assessment, interest will continue to accrue until the tax or fee liability is paid, so you may want to pay the amount of the tax or fee due while your appeal is pending (see next page, "A Note About Interest"). If you pay the tax or fee due while your appeal is pending, that payment will not be interpreted to mean that you agree with the amount you dispute in your appeal, but it will stop the accrual of interest.
- Filing an appeal does *not* protect your right to a refund of a payment made towards that assessment, even if your appeal is eventually successful. To protect your right to a refund in case your appeal is successful, you may wish to file a "protective" claim for refund when you make the payment. This will ensure that you do not allow the deadline for filing a claim for refund to pass. As with any claim for refund, a protective claim must include the specific grounds for your claim—the reasons you think you overpaid the taxes or fees.

September 2008

Publication 17

LDA

(Board Member Names Updated 2009)

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Make Sure You Have Complete and Current Information

Please note that there may be minor differences between the procedures for sales and use tax appeals and those applicable to special tax programs. In addition, other state agencies may be involved in the appeals process for those programs. If you have procedural questions, you should call the BOE department or division that administers the specific tax or fee rather than relying solely on this publication (see phone numbers on page 17). You may also wish to obtain a copy of the applicable laws, regulations, or BOE publications that apply to your specific tax or fee (see page 16 for ordering information). An excellent source for information is BOE's website at www.boe.ca.gov. You will find applicable laws and regulations as well as other helpful information.

As with all laws and regulations, those governing appeals are subject to change. The procedures explained in this publication are current as of August, 2008. To ensure that you have the most current information, please contact the BOE office responsible for your tax or fee account. If there is a conflict between information in this publication and the laws or regulations, any decision will be based on the controlling laws and regulations.

A Note About Interest

Interest continues to accrue on the amount of the taxes or fees due, even though your appeal is pending. You may therefore wish to pay some or all of such taxes or fees while your appeal is pending in order to stop the accrual of interest on whatever portion of the taxes or fees you pay. In making this decision, you should keep in mind that the interest rate the BOE pays on refunds is significantly lower than the interest rate you must pay on amounts you owe the BOE.

For example, for the period January 1, 2008, through June 30, 2008, the interest rate charged on unpaid taxes or fees is 11 percent per year, while the amount the BOE

pays on refunds is five percent per year. Interest rates may change every six months.

For some tax programs (for example, motor vehicle fuel tax and insurance tax), payments are *always* applied to interest and penalty before the actual tax or fee. Payments are applied to the tax or fee due only after the interest and penalty are paid.

If the Board grants a refund of an overpayment of tax or fee paid pursuant to a Notice of Determination issued by the BOE, it will pay interest on the amount of tax or fee refunded to you. However, the BOE may *not* pay interest on excess amounts paid with a tax or fee return if it determines that the overpayment was intentional or careless.

Please refer to the law and regulations for the specific instructions and interest calculation methods that apply to your situation.

Gifts from Taxpayers

BOE employees will not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value from a person or entity that the BOE employee knows or has reason to believe:

- Has or is seeking to obtain contractual or other business or financial relations with the BOE.
- Conducts business or other activities that are regulated or monitored by the BOE under circumstances from which it reasonably could be substantiated the gift was intended to influence the employee in his or her official actions or was intended as a reward for any official action performed by the employee.

APPEALING A DETERMINATION OF TAXES OR FEES DUE

Taxpayers most often file appeals as the result of a BOE audit. If an audit finds that you have underpaid taxes or fees or if the BOE otherwise determines you owe additional amounts, you will be sent a billing, called (for most tax programs) a Notice of Determination or a Notice of Jeopardy Determination. It will state the amount of tax or fee and penalty due, plus the amount of interest that has accrued on the tax or fee due. If you do not agree with the amounts shown, you may appeal by filing a petition for redetermination (see next section), or you may pay the amount due and file a claim for refund (see “Filing a Claim for Refund” beginning on page 9).

For more information about the audit process, you may wish to obtain a copy of BOE publication 76, *Audits*.

Petition for Redetermination

Filing Deadline

You must wait for the Notice of Determination to be issued before you file a petition for redetermination (petition); an appeal filed before the Notice of Determination is issued is not a valid petition. Generally, once a Notice of Determination has been issued to you, you have 30 days from the date it was mailed to you to file a petition. If you do not appeal the Notice of Determination by filing a petition before the filing deadline, your liability will be final and due and payable. An appeal filed after the filing deadline is not a valid petition. However, if you miss the filing deadline, you may still appeal the liability by paying all the tax or fee determined to be due and then filing a claim for refund (see “Filing a Claim for Refund” beginning on page 9).

For information on responding to a Notice of Jeopardy Determination, see “Application for Hearing Based on a Jeopardy Determination” on page 12.

Content of Your Petition

Your petition, which can be in letter form, should include your tax or fee program account number, and must:

- Be in writing.
- Identify the amount(s) you wish to contest. (You may contest all or part of the amount due as shown in the determination.)
- State the specific grounds or reasons for your belief that you do not owe the tax or fee.
- Be signed by you or your authorized representative.

If you wish, you may use form BOE-416, *Petition for Redetermination*, to file your petition. A copy of this form is included in this publication and on our website, www.boe.ca.gov.

Hearing request

If you would like to have a hearing before the Members of the Board, you should include a request for a hearing in your petition. You should also indicate whether you would like to have an appeals conference to review your case (see “The Appeals Conference,” next page). While most petitions are resolved without an appeals conference or a subsequent Board hearing, requesting an appeals conference and a Board hearing at this point in the process helps preserve your appeal rights. However, even if you do not request an appeals conference, if you request a Board hearing, an appeals conference will usually be held first.

Mail your petition to the appropriate address:

Petitions for sales and use taxes:

Petitions Section, MIC:38
 State Board of Equalization
 P.O. Box 942879
 Sacramento, CA 94279-0038

Petitions for taxes and fees administered under the Property and Special Taxes Department:

See page 18 for the appropriate address.

Presenting Additional Records or Documents

After receiving your petition, BOE staff will send you a letter confirming its receipt, and may ask you to provide evidence to support your position. Staff may also contact you later to examine additional information. You may amend your petition to state additional grounds for disputing the determination at any time prior to the date the Board makes a final decision on the matter.

The Appeals Conference

If your dispute cannot be resolved by discussion with BOE staff, you may request that the petition proceed to an appeals conference. The conference will be held by an Appeals Division attorney or auditor who has had no prior involvement with your case.

BOE staff will notify you if your case is referred to the Appeals Division for an appeals conference, and will provide you with a Verification of Appeals Conference form, which you are asked to return within 15 days. You will be asked to provide current address information and the name and address of your representative, if you have one.

You will also be asked to indicate your preference for the location of the appeals conference. Unless you specify another preference, the appeals conference will generally be held in the BOE district office that prepared your audit.

For more information about the appeals conference, you may wish to obtain a copy of BOE publication 142A, *Appeals Conferences*. See page 16 for ordering information.

Expediting Your Appeal

The Case Management Section, which is part of the BOE's Board Proceedings Division, will schedule your appeals conference. You may ask the Case Management Section for a priority conference by so indicating on the Verification of Appeals Conference form mentioned above. The Case Management

Section may expedite your appeal if you agree to one of the following:

- Attend an appeals conference at the BOE's Headquarters office in Sacramento.
- Attend a video conference from certain district offices.
- Participate in a telephone conference.

If you agree to one of these three types of conferences, the Case Management Section will schedule the conference within 60 days of receipt of your request. (For a telephone conference, the BOE will pay for the call.)

Appeals Conference Scheduling and Notification

The Case Management Section will send you a Notice of Appeals Conference, letting you know the date, time, and location set for the appeals conference.

Included with your Notice of Appeals Conference will be a Response to Notice of Conference form that you will be asked to return within 15 days to confirm your attendance at the conference. If you have not yet submitted all of your arguments and supporting evidence, you should submit them with your response form. You may also indicate on the response form that you waive your appearance at the conference (that is, you still dispute the liability but do not wish to make a presentation at the conference). Waiving appearance at your conference will not affect your right to a Board hearing, but the applicable BOE Department (including any other state agency that might be a party to the dispute) retains the right to make a presentation at the conference in your absence. The Appeals Division will thereafter issue a Decision and Recommendation in your appeal based on all relevant arguments and evidence. Even if you waive appearance at your appeals conference, it is still very important that you submit to the Appeals Division any documentation or arguments on which you rely.

If you indicate on your Response to Notice of Conference form that you will attend the appeals conference but then fail to appear, the conference will be held as scheduled in your absence, and the applicable BOE Department or state agency will be permitted to make a presentation. A Decision and Recommendation will be issued based on all the relevant arguments and evidence submitted.

Recording Your Appeals Conference

The BOE does not record appeals conferences. If you wish to record the conference (at your expense), be sure to check the appropriate box on the Response to Notice of Conference form. If you do record the conference, whether electronically or by using a court reporter, you must provide a copy of the recording or transcript to the Appeals Division, upon request, at no cost to the BOE.

Conduct of the Appeals Conference

The appeals conference is intended to be an informal discussion of relevant facts and applicable law. A representative of the appropriate BOE Department will also be present at the conference. Rules of evidence are not strictly followed. The purpose of the conference is for you to present all your evidence and arguments concerning the disputed matter that is the subject of your appeal to an Appeals Division attorney or auditor who has had no prior involvement with your case, and for the Department's representative to explain the Department's position.

The Appeals Division will consider your arguments and any oral or written evidence you present. To make the conference most productive, you should submit all facts, law, arguments, and other information in support of your position to the Appeals Division within 15 days of having received the Notice of Appeals Conference; however, relevant facts and arguments will be accepted at any time at or before the appeals conference. If you have not submitted all

relevant materials by the time of the appeals conference, you may, during the conference, request permission to submit additional written arguments and documentary evidence. The Appeals Division conference holder may grant you (or the Department) 15 days after the appeals conference, or 30 days with sufficient justification, to submit such additional arguments and evidence. If so, the Department (or you, if the Department is making the submission) will be given 15 days to respond. No additional extension for you or the Department to submit additional arguments or documentary evidence will be granted without the approval of the Assistant Chief Counsel of the Appeals Division (or his or her designee).

Whether or not you ask to submit additional arguments or evidence, the Appeals Division may request, on its own initiative at or after the appeals conference, that you or the Department submit additional argument or evidence. The Appeals Division may also contact you or any other party (for example, the Department who issued the assessment you are appealing) after the appeals conference in order to obtain clarification of the issues or additional information. However, the Appeals Division will not rely on such information in deciding an issue against a party without giving that party an opportunity to respond to the information.

Decision and Recommendation

After the appeals conference, the Appeals Division will prepare a Decision and Recommendation containing an analysis, conclusion, and recommendation for the resolution of your case. The four basic types of recommendations are: 1) that your appeal be granted in full; 2) that your appeal be denied in full; 3) that your appeal be granted in part and denied in part; or 4) that the appropriate BOE Department perform a "reaudit" based on the guidance provided in the Decision and Recommen-

dation. The Decision and Recommendation will be mailed to you along with a letter explaining the status of your appeal. If the Decision and Recommendation recommends that your appeal be granted, denied, or granted in part and denied in part, the letter will explain your options for further action. If the Decision and Recommendation recommends that the appropriate BOE Department conduct a reaudit, the letter will ask for your cooperation in the reaudit. Thereafter, when the reaudit is completed, the Appeals Division will send another letter to you summarizing the results of the reaudit and explaining your options for further action.

If both you and BOE staff agree with the Decision and Recommendation, the BOE will generally issue a Notice of Redetermination, Statement of Account, Notice of Refund, or Denial of Claim based on the Decision and Recommendation, and your appeal will end. (Note: There are circumstances where the Appeals Division recommends that your appeal be granted but final decision and action is delayed while a related case proceeds through the appeals process.)

If you do not agree with the Decision and Recommendation, you may have a hearing before the Board, which you must request in writing. If you wish such a hearing and have not already requested one in writing (for example, in your petition for redetermination), then you must make your written request within 30 days from the date of the letter from the Appeals Division that explains your options for further action (that is, the letter accompanying the Decision and Recommendation or, if a reaudit is recommended, the letter explaining your options after the reaudit is completed). Where another state agency or Department is involved in your dispute, it may also request a hearing if it disagrees with the Decision and Recommendation.

Note: The Appeals Division may issue a Supplemental Decision and Recommendation

as necessary to clarify or correct the information, analysis, or conclusion contained in a Decision and Recommendation or in a prior Supplemental Decision and Recommendation.

THE BOARD HEARING

The Board of Equalization comprises five Members, and a quorum is three Members. That is, at least three Members must be present and participating to conduct business as the Board. The Board hearing is your opportunity to present oral arguments to the Board regarding the unresolved issues of fact or law remaining in your appeal. You may represent yourself at the hearing, or you may be represented by an attorney, an accountant, or any other person you choose.

Board hearings are held monthly in Sacramento and about quarterly in the Los Angeles area. Board hearings may also be held once per year in San Francisco and in San Diego. A number of hearings are scheduled for the same day.

For more information about the Board hearing, you may wish to obtain a copy of BOE publication 142, *Hearings, An Introduction* and publication 143, *Your Appeal Hearing Before Board Members*. See page 16 for ordering information.

Before the Hearing

Avoiding a Delayed Decision

The Board hearing is not designed to accommodate the presentation of new arguments or evidence not previously considered by the Appeals Division. Generally, if new evidence is presented at the hearing, the Board orders that the new evidence be presented to the Appeals Division for its review, and then reaches its decision later after receiving the recommendation of the Appeals Division. Consequently, to avoid delaying the Board's decision on your appeal, you should submit all relevant evidence and arguments to the Appeals

Division in connection with your appeals conference.

Hearing Notification

After receiving your hearing request, the Board Proceedings Division will send you (and your representative if you have one) an acknowledgment letter and related information. The letter will state the location planned for your Board hearing.

At least 75 days prior to the hearing date, the Board Proceedings Division will send you a Notice of Board Hearing, a Response to Notice of Board Hearing form, a copy of the Board's regulations governing hearings (Board of Equalization Rules for Tax Appeals), and other information pertinent to your appeal. You must submit the completed Response to Notice of Board Hearing form within 15 days from the date of the Notice of Board Hearing. If you do not respond by the deadline, your case will be removed from the Board's agenda and submitted to the Members of the Board for decision based on the information in your case file. If you speak a language other than English and require an interpreter, you may request one in your Response to Notice of Board Hearing. If you do so, an interpreter will be provided to interpret for you at the Board hearing at no charge.

Requesting a Postponement

Your Notice of Board Hearing will specify a date by which you may request that your hearing be postponed. If you request a postponement by that date and provide sufficient justification, the request will be granted. If you request a postponement *after* the date specified in the notice of hearing, your request will be granted *only* upon a showing of extreme hardship and agreement of the parties. Once your hearing has been postponed, additional postponements will only be granted upon a showing of extreme hardship.

Contribution Disclosure Form

State law (Government Code section 15626) prohibits a Board Member from participating in a Board proceeding if he or she has received a contribution of \$250 or more from a party to or a participant in a proceeding (or an agent of either), within the preceding 12 months. BOE staff must inquire about and report on contributions made. To comply with this requirement, approximately 45 days prior to the scheduled Board hearing, you will be sent contribution disclosure forms that you are asked to complete and return.

Filing Briefs

The party who requested the Board hearing may file an opening brief with the Chief of Board Proceedings no later than 55 days before the Board hearing. The brief must contain a statement of the facts and issues and a discussion of applicable legal authorities. When an opening brief is filed, the other party may file a reply brief with the Chief of Board Proceedings no later than 35 days before the Board hearing. If, *and only if*, the reply brief raises a new issue or argument, the party who filed the opening brief may file a response brief with the Chief of Board Proceedings no later than 20 days before the Board hearing. The purpose of such a response brief is *solely* to respond to the new issue or argument raised in the reply brief. A response brief that exceeds this scope *will be rejected*.

Generally, briefs cannot exceed 30 typed or handwritten, double-spaced, letter-size pages, printed on one side, in type no smaller than 12 characters per inch. Section 5270 of the Board of Equalization Rules for Tax Appeals (which is sent with your Notice of Board Hearing) describes the precise form and content requirements for briefs, and includes more specific information on filing deadlines.

You may file a brief in hard copy or electronically (see page 17 for mailing address for the Board Proceedings Division). We prefer electronic filings to be in Microsoft Word format whenever possible.

The Board may permit or require the filing of post-hearing briefs. However, post-hearing submissions are permitted only by order of the Board.

Board Hearing Summary

Prior to your hearing, the Appeals Division will prepare a summary of your case for the Board Members setting forth the remaining unresolved issues. You will be sent a copy, generally about 30 days before the hearing. A copy is also sent to the BOE Department (and other state agency, if applicable) involved in your appeal. If the summary is modified, such as to correct an error or update information, the modified summary will be transmitted to you promptly.

Conduct of the Hearing

Board hearings are brief and to the point. The Chief of the Board Proceedings Division will call your name and will ask you, your representative (if you have one), and representatives of the applicable BOE Department or other state agency to be seated in front of the Board Members. The Board Members will have a copy of the Decision and Recommendation you received after the appeals conference as well as the summary of your case and any briefs filed by the parties for the Board hearing. A representative from the Appeals Division will introduce the issues in your appeal. You will then usually be the first party asked to present oral arguments on the issues that remain in dispute, generally being allowed ten minutes to present your case. Legal or technical language is not required. What you should be prepared to do is to give a clear and concise statement of your position. If facts are in dispute, you may bring witnesses to testify or use documents or other exhibits to help explain

your position. The other party will be called upon to respond, and will also generally be given ten minutes. You will then generally be given five minutes rebuttal time.

Note: There may be circumstances where the Chairperson of the Board will call on the other party to present its oral argument first, with you being given the same amount of time to respond, and then the other party given rebuttal time. This may occur, for example, where the Department carries the burden for the most important disputed issue, or where another state agency is the party who requested the hearing.

A Record Is Made of All Hearings

All Board hearings are recorded by a certified court reporter. Transcript requests should be made by email, facsimile, or mailed to the Chief of the Board Proceedings Division (see page 17). If the request for a transcript is made after the hearing, it will be honored if BOE staff are able to prepare a transcript of the requested hearing.

Note: Board hearings are “streamed” over the Internet so you can listen to Board hearings live, and shortly after each Board meeting, recordings of that meeting are made available through our website at www.boe.ca.gov.

The Board Decision

At the close of the hearing, the Board Members may make an immediate decision or take the matter under submission for a decision at the end of that hearing day or for a decision at a later time. If the case is taken under submission, the Board may refer the matter to the Appeals Division for further review. After that review is completed, the Board Members will make a final decision.

Notice of Redetermination (or Refund)

When the Board makes its decision on your case, you will be sent a Notice of Redetermination, Notice of Refund, or other appropriate notice within about 45 days from the date of the Board’s decision.

The Notice of Redetermination, which will indicate whether the Board determined that you owe any tax, fee, penalty, or interest, will become final 30 days after it is issued unless you file a timely petition for rehearing. If a timely petition for rehearing is filed, the Notice of Redetermination will become final: (1) 30 days after the mailing of the official notice of Board action to deny the petition for rehearing; or (2) if the Board grants a rehearing, 30 days after the mailing of the official notice of the Board decision on the rehearing.

You must pay the amount the Board determines you owe even if you disagree with the Board's decision. However, once you pay, you may proceed to the next step of the appeals process, filing a claim for refund.

If you do not pay the amount due by the time the Notice of Redetermination becomes final, you will be charged an additional ten percent penalty.

FILING A CLAIM FOR REFUND

If you believe you have overpaid an amount and you wish to receive a refund of the overpaid amount, you must file a claim for refund with the BOE. Please bear in mind that a claim for refund cannot cover an amount you have not actually paid at the time the claim is filed, and covers only prior payments within the time limits established by statute. Where you make multiple payments, each of which you believe is not actually due (as when you make payments towards a Notice of Determination), you can file a claim for refund along with each payment. By doing so, you will ensure that you do not allow the deadline for filing a claim to pass.

Form of Claim for Refund

You may be required to use a specific form if you are filing a claim for refund for diesel fuel or cigarette taxes. (See note in the next column.)

Otherwise, you may submit a letter requesting a refund, or you may use BOE-

101, *Claim for Refund or Credit*, to file your claim. A copy of this form is included in this publication and is available on our website, www.boe.ca.gov.

Your claim must be in writing and state all of the grounds or reasons you believe that the amount you seek refunded was not actually due. Your claim must specify the reporting period for which you made the payment you claim should be refunded and, if known, the amount of the refund you are seeking. Your claim must also include information necessary to contact you or your authorized representative.

As with the case of a petition for redetermination, you may include a request for an appeals conference or Board hearing, or both, with your claim for refund. However, unlike a petition for redetermination where a petitioner has a right to a Board hearing, a person filing a claim for refund does not have an absolute right to an appeals conference or Board hearing, as discussed further on page 11.

Note: For the following programs, you may be required to file a specific claim form.

Cigarette and Tobacco Products Tax

Distributors of cigarette stamps under the Cigarette and Tobacco Products Tax Law must use forms prescribed by the BOE. Contact the BOE's Excise Taxes Division (see page 18).

Diesel Fuel Tax

Diesel fuel users, exporters, sellers (who sell diesel fuel to the U.S. Government and to train operators), and ultimate vendors (vendors who make diesel fuel sales to farmers and exempt bus operators) must use forms prescribed by the BOE. Contact the BOE's Fuel Taxes Division for more information (see page 18).

Where to mail your signed claim

Claims for sales and use taxes:

Audit Determination and Refund Section,
MIC:39
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0039

Claims for taxes and fees administered
under the Property and Special Taxes
Department:

Please see page 18 for the appropriate
address.

Filing Period Limitations

The time period for filing a claim for refund will vary depending on a number of factors. The time periods for sales and use tax claims are given below. For all other claims, please check the appropriate laws and regulations for the specific tax or fee for which you are filing a claim.

Filing period limitations—sales and use taxes. Whichever of the following dates occurs last is your filing deadline:

- Three years from the due date of the return for the period for which the claimed overpayment was made.
- Six months from the date of your claimed overpayment.
- For a payment made pursuant to a determination, six months from the date the determination became final.

Also, if the BOE collects an involuntary payment by the use of enforcement procedures such as levies or liens, a claim for refund will be timely if filed within three years of the date of the involuntary payment.

If you do not file your claim for refund within the specified time limit, *you will have no further recourse with the BOE to recover overpaid taxes or fees.*

Caution: This description of claim filing limitation periods is very general. Please use it only as a guideline and do not rely solely on it in filing a specific claim. For more specific information regarding filing time frames, please refer to the law govern-

ing the tax or fee for which you wish to file a claim for refund, or contact the BOE unit responsible for your tax or fee account (see pages 17-18).

Multiple Payments and Claims for One Liability

The BOE will not take action on a claim for refund until you have paid the full tax or fee amount determined to be due. If you file a claim for refund of a partial payment, the BOE will hold that claim until you have paid the entire tax or fee liability. You must file one or more additional claims for refund, as applicable, to cover all subsequent payments until the tax or fee liability has been paid in full to preserve your right to a refund of all such amounts. The BOE will be unable to refund to you any payment(s) for which you do not file a timely claim for refund, even if you convince the BOE that the amount was not due. As noted above, to ensure that this does not happen, you may file a “protective” claim along with each payment toward an amount you believe is not actually due.

Note: For sales and use tax liabilities and for certain other tax and fee liabilities, if a taxpayer files a claim for refund after having paid the full amount of the tax or fee at issue, but not all interest and penalty, the BOE’s *general* policy is to suspend its attempts to collect the interest or penalty remaining due pending resolution of the claim for refund. For further information on this policy and whether it may apply to your situation, please see “For More Information” on pages 17 and 18 for contact information regarding for your account.

BOE Staff Review of Your Claim

BOE staff will send you a letter acknowledging receipt of your claim for refund. Claims are generally reviewed in the order received. The review process may take several months, and during that process, you may be asked to submit additional information. BOE staff will consider your claim, review any information you submit, and recommend that the claim be granted in its

entirety, granted in part and denied in part, or denied in its entirety.

If Staff Concludes Some or All of Your Claim Should Be Granted

When BOE staff concludes that your claim for refund should be granted in an amount of over \$50,000, staff must present that conclusion to the Board for approval. If the Board approves the staff conclusion, a Notice of Refund showing the amount you overpaid is generally issued about four to eight weeks after the approval. Where staff concludes you overpaid tax in an amount of \$50,000 or less, a Notice of Refund showing that amount of overpaid tax is generally issued about four to eight weeks after staff reaches its conclusion. However, the amount the notice shows you overpaid will not be paid directly to you if that amount must be credited against other amounts you owe to the BOE or to other state agencies. You will be refunded the amount you overpaid, less the amounts credited against other amounts you owe.

If Staff Concludes Some or All of Your Claim Should be Denied

If your claim for refund is denied, you will receive a letter explaining the reasons for the denial. If you disagree with this conclusion, you may request an appeals conference with the Appeals Division, or a Board hearing, or both. Please note, however, that granting you an appeals conference or Board hearing for a claim for refund is discretionary. While such requests are liberally granted, your request will generally be denied if, for example, you have already had a hearing after which the Board denied your petition for redetermination in which you raised the same issues addressed in your claim for refund. Where such a request is granted, the appeals conference and Board hearing follows the same procedures as discussed above for a petition for redetermination except that, upon conclusion of the proceedings, you will be sent a Notice of Refund or a Notice of Denial of Claim for Refund, as applicable.

If you do not request an appeals conference or Board hearing, or if your request for an appeals conference or Board hearing is denied, you will be sent a Notice of Denial of Claim for Refund.

FILING AN ACTION IN COURT

If the Board denies your claim for refund and you wish to continue your appeal, the next step is to file a lawsuit for refund in court. If you wish to do so, you must file the lawsuit for refund within 90 days after the mailing of the Board’s Notice of Denial of Claim for Refund. If you fail to file a lawsuit for refund within this 90-day period, then you have no further recourse and your appeal ends.

Note: You cannot file a lawsuit for refund of tax or fee unless you first file an administrative claim for refund with the BOE, as discussed above, and your lawsuit for refund is limited to the grounds identified in the claim for refund you filed with the BOE.

Further note: When you file a claim for refund with the BOE, if the BOE does not act on your claim within six months after you filed it, you may consider the claim denied by the BOE and file a lawsuit for the claimed refund. If you file a lawsuit for refund under such circumstances, the BOE’s administrative review of your claim ceases, and the dispute will be resolved in the court action you filed.

The location of the court in which your lawsuit for refund must be filed depends on the type of tax or fee involved. You may wish to seek legal advice regarding whether to file a lawsuit and if so, where it should be filed.

APPEALING A FINDING OF SUCCESSOR’S LIABILITY

If a person who owes sales or use tax (or both), diesel fuel tax, motor vehicle fuel tax, use fuel tax, or oil spill response prevention fees sells you the business or stock of goods

related to that tax or fee liability, you may be personally liable for those taxes, penalties, and interest, up to the amount of the purchase price. This is called successor's liability.

If BOE staff determines that you are liable for successor's liability, you will be mailed a Notice of Successor's Liability. You may contest the determination by filing a petition for reconsideration of the liability. Your petition must be filed in the same manner and within the same time limits described in "Appealing a Determination of Taxes or Fees Due," beginning on page 3, for filing a petition for redetermination, and the same procedures for an appeals conference and Board hearing are also applicable.

Notice of Reconsideration

If, after reviewing your case, BOE staff determines that the successor's liability applies, you will be sent a Notice of Reconsideration, which becomes final in 30 days. No additional penalty applies if you do not pay the amount due within the 30-day time limit. However, you cannot take further steps to contest the liability until payment is made. After you have paid the amount due, you may file a Claim for Refund, as described under "Filing a Claim for Refund," beginning on page 9.

OTHER TYPES OF APPEALS

Administrative Protests

If you do not file a petition for redetermination within 30 days after a Notice of Determination is mailed to you, the liability assessed in the Notice of Determination will become final. Once this happens, the only way provided by statute for you to appeal the liability is to pay the tax or fee in full and file a claim for refund. However, the BOE may, at its discretion, accept a late appeal as an "administrative protest." For example, if you file a "petition for redetermination" more than 30 days after the Notice of Determination was mailed, your appeal will not be accepted as a petition for redetermination, but might be accepted as an adminis-

trative protest. After receiving your appeal, BOE staff will send you a letter confirming receipt and advising you if your appeal has been rejected because it is late or has been accepted as an administrative protest. If accepted as an administrative protest, your appeal will generally be reviewed in the same manner as a timely petition for redetermination. Significant exceptions, however, are that activities to collect the remaining tax or fee, interest, and penalty might not be delayed, and you will not have an absolute right to an appeals conference or Board hearing (although a request for an appeals conference or Board hearing will be liberally granted).

Application for Hearing Based on a Jeopardy Determination

Under certain circumstances, the BOE may serve a taxpayer with a "Jeopardy Determination," which is a notice that tax is immediately due and payable. If you receive such a notice, you must pay the amount due, or file a petition for redetermination and deposit with the BOE a prescribed amount for security as specified on your notice. If you do not take one of these actions *within ten days of service of the notice*, you will be subject to an additional late penalty and interest and the BOE will start collection actions on your account.

In addition to filing a petition for redetermination, you also have the right to apply for an administrative hearing if you wish to:

- Establish that the determination is excessive.
- Establish that the sale of property that may be seized should be delayed pending the administrative hearing because the sale would result in irreparable injury.
- Request release of property.
- Request stay of collection.

Note: The administrative hearing will not consider whether the jeopardy determination was warranted.

You must file your application for a hearing within 30 days after the service of the

Notice of Jeopardy Determination. Your request will be referred to the Appeals Division, and your case will follow the process described under “The Appeals Conference” beginning on page 4. However, filing an action for an administrative hearing will not keep the BOE from pursuing collection action. Unless you pay the amount due or file a petition for redetermination within ten days of service of notice (including a security payment as previously noted above), the BOE will continue to pursue collection of your tax or fee liability.

PROPOSING A SETTLEMENT OF A DISPUTED TAX OR FEE LIABILITY

While you are pursuing an appeal before the Board (for example, a petition for redetermination, an administrative protest, or a claim for refund), you may be able to propose a settlement of your case. In order to settle your case, you must reach a formal agreement with the BOE’s Settlement staff *and* that agreement must be approved by the Members of the Board or, for small settlements, by BOE management. While your request for settlement is pending, you *must* continue to meet all applicable time deadlines for your pending appeal before the Board.

Note: The Members of the Board may not participate in any way in the settlement process except in the approval or denial of the agreement, as explained on page 14. Thus, you should *not* attempt to contact a Board Member to discuss your settlement proposal. Such contact will jeopardize settlement of your case.

The procedures described in this section apply to the settlement of sales and use tax liabilities. Settlement procedures for special taxes and fees are generally the same. However, the settlement procedures outlined in the following sections currently

do not apply to appeals or claims filed for the motor vehicle fuel tax or insurance tax. Some special tax disputes, including certain Hazardous Substances Tax Law disputes, are settled through other state agencies.

Settlement Proposal

To start the settlement process, you must first submit a written request describing your settlement proposal. You may send a letter or use BOE-393, *Settlement Proposal for Sales and Use Tax and Special Taxes and Fee Cases*. A copy of this form is included in this publication and is available on our website, www.boe.ca.gov.

Your settlement proposal must include:

- Your name, current address, and daytime telephone number.
- If applicable, the name, address, fax and telephone number of your representative, as well as a copy of your representative’s power of attorney, BOE-392, *Power of Attorney*. A copy of this form is available on our website, www.boe.ca.gov.
- Your taxpayer account number (for example, your seller’s permit number).
- The type of tax or fee involved (for example, sales and use tax).
- Your good faith settlement offer, including the factual and legal grounds in support of your offer.

Send your offer to:

Settlement and Administration Division,
MIC:87

State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0087

Note: The BOE’s policy is that to be considered for settlement, your settlement proposal must be submitted *at least 15 days before* the date scheduled for a hearing of your case before the Members of the Board.

Consideration of Settlement Proposal

Settlement staff will review your proposal and advise you or your representative whether your case will be accepted into

the settlement program. If Settlement staff determines that there is a genuine factual or legal dispute, your case will generally be accepted for consideration. However, settlement is discretionary. A case may be rejected for a variety of reasons. For example, if Settlement staff determines that you have not provided sufficient facts or that the BOE's case has little litigation risk, your case will not likely be accepted for settlement consideration.

If your case is accepted for consideration, the amount for which you offer to settle may or may not be accepted, and Settlement staff may negotiate with you or your representative to settle your case for a different amount.

Approval of Proposed Settlement

If you and BOE Settlement staff reach agreement on a settlement amount, you will be sent a confirmation letter and a settlement agreement (a legal document containing the settlement terms and conditions). After you sign, date, and return the agreement, it will be forwarded for approval to BOE management. Larger cases are then forwarded to the Attorney General, who has 30 days to review and comment on the proposed settlement. The proposed settlement agreement and the Attorney General's comments are then submitted to the Members of the Board for approval.

The Board has 45 days from the date of the Board meeting at which your proposed settlement agreement is submitted to approve or deny the proposed settlement. If the Board fails to act within 45 days, the recommendation to settle the case is deemed approved.

If your proposal is approved and you are required to make a payment, you are generally required to pay the full settlement amount within 30 days of approval.

Note: If you and BOE Settlement staff cannot reach an agreement, you may appeal to the BOE's Assistant Chief Counsel, Settlement

and Administration Division. If no agreement is reached as a result of that appeal, or if you choose not to appeal the action of BOE Settlement staff, the settlement process ends and your appeal will continue through the normal appeals process.

Board Member Approval or Denial

Proposal is Approved

If the Board Members approve the proposed settlement and the reduction of tax in the settlement exceeds \$500, certain information about the settlement will become a matter of public record, which will be available for review for one year at the office of the BOE's Executive Director.

The public record will include the following:

- The names of the taxpayers who are parties to the settlement.
- The total amount in dispute.
- The amount agreed to in the settlement.
- A summary of the reasons why the settlement is in the best interest of the State.
- When applicable, the Attorney General's conclusion regarding the reasonableness of the settlement.

Note: Information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure will not be included in the public record if its disclosure would adversely affect you. With the exception of the required public record, settlements are considered confidential information.

All settlements entered into under this program are final. They cannot be appealed unless one of the parties can show fraud or misrepresentation of a material fact.

Proposal is Denied

If the Board denies the proposed settlement, the matter is remanded to Settlement staff

for further negotiation following the steps described above.

For more information or to submit a written settlement proposal, contact the BOE's Settlement and Administration Division (see page 17). You may also wish to obtain a copy of our informational notice, BOE-393-N, *Sales and Use Tax Settlement Program*.

OFFER IN COMPROMISE

An Offer in Compromise (OIC) is a proposal to pay the BOE an amount that is less than the full amount of the tax or fee due on a closed account. The OIC program is for taxpayers or feepayers that do not have, and will not have in the foreseeable future, the income, assets, or means to pay their tax liability in full. You must satisfy all of the following criteria to qualify for the program:

- Have a final (eligible) tax or fee liability on a closed account.
- Are no longer associated with the business that incurred the liability (or with a similar or related business).
- Do not dispute the amount of tax or fee you owe.
- Cannot pay the full amount you owe in a reasonable amount of time.

If you wish to propose an OIC, you must complete an OIC application (BOE-490 for individuals, BOE-490-C for all others). To obtain a copy, visit our website, www.boe.ca.gov, or call our Taxpayer Information Section at 800-400-7115.

The completed application, along with the required supporting documentation (described in the application), must be submitted to the collector assigned to your account or directly to the OIC Section. If you have questions regarding the OIC process or would like to order publication 56, *Offers in Compromise*, please see page 16 for ordering information or contact the OIC Section at 916-322-7931.

IF YOU FILE A BANKRUPTCY PETITION

After the filing of a bankruptcy petition and while the automatic stay is in effect, the BOE may continue to:

- Perform an audit or reaudit,
- Make an assessment,
- Issue a notice of determination and demand for payment,
- Continue to investigate a tax liability,
- Recommend adjustments, and
- Hold an appeals conference or Board hearing.

The automatic stay prevents the Board from taking collection action.

While the automatic stay is in effect, the Board will:

- Accept a petition for redetermination or claim for refund filed in a timely manner; and
- File a proof of claim in the bankruptcy case based on the best information available.

For More Information

Hearing Procedure Regulations

You may wish to obtain a copy of the BOE's regulations on petitions and hearing procedures, called the Board of Equalization Rules for Tax Appeals, which consists of regulations 5000 through 5605 (Title 18, California Code of Regulations, sections 5000 - 5605). See "Publications" below for information on how to order a copy.

The Board Proceedings Division will send you a copy of the portion of the Board of Equalization Rules for Tax Appeals explaining the BOE's general hearing procedures, regulations 5270-5271 and 5510 through 5576, when it sends you the Notice of Board Hearing.

Publications

To inform taxpayers about the law, the BOE offers many free publications, some of which explain how the law and regulations apply to specific types of businesses. The BOE also publishes copies of the law and regulations for each of the taxes and fees it administers.

A list of BOE publications is found in publication 51, *Guide to Board of Equalization Services*.

To obtain BOE forms and publications, or for answers to your general tax questions, go online to www.boe.ca.gov, or call the BOE's Taxpayer Information Section at: 800-400-7115 (TDD/TTY: 800-735-2929).

Representatives are available Monday-Friday, 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays. Faxback and other automated services are available 24 hours a day.

Internet

Address: www.boe.ca.gov

Tax Advice

If you have questions about the application of a specific rule or procedure to a tax or fee affecting you, please call or write the appropriate BOE Department for specific information.

For your protection it is best to get tax advice in writing. You may be relieved of tax and any interest or penalty otherwise due on a transaction or activity if the Board determines that you did not pay the tax or fee because you reasonably relied on written advice from the BOE regarding the transaction or activity.

For this relief to apply, the advice you rely on must have been written specifically for your circumstances in response to a written request for advice that identified you as the taxpayer or feepayer and fully described the facts and circumstances of the transaction or activity. You cannot obtain tax relief by relying on a written opinion given to another person, even if your transactions are similar.

Note: While the BOE will also provide you verbal advice by telephone or in person, the law does not permit the BOE to grant you relief from tax otherwise due (plus applicable interest and penalty) based on your reliance on verbal advice. By getting advice in writing, there is no dispute as to exactly what you asked and how the BOE responded, and you may then qualify for relief if you did not pay the tax or fee because you reasonably relied on that written advice.

For written advice regarding sales and use taxes, send your letter to:

Tax Policy Division, MIC:92
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0092

For written advice regarding special taxes, send your letter to the appropriate division (see page 18).

For More Information

Headquarters Offices that May Be Involved in Your Appeal

Appeals Division, MIC: 85
 State Board of Equalization
 P.O. Box 942879
 Sacramento, CA 94279-0085
 916-324-2621 phone
 916-324-2618 fax

Petitions Section, MIC: 38
 State Board of Equalization
 P.O. Box 942879
 Sacramento, CA 94279-0038
 916-445-2259 phone
 916-445-2249 fax

Audit Determination and Refund Section, MIC: 39
 State Board of Equalization
 P.O. Box 942879
 Sacramento, CA 94279-0039
 916-445-1315 phone
 916-445-2249 fax

Board Proceedings Division, MIC: 81
 State Board of Equalization
 P.O. Box 942879
 Sacramento, CA 94279-0081
 916-322-2270 phone
 916-324-3984 fax

Settlement and Administration Division, MIC: 87
 State Board of Equalization
 P.O. Box 942879
 Sacramento, CA 94279-0087
 916-324-2836 phone
 916-323-3387 fax

Board Field Offices for Sales and Use Tax Accounts

City	Area Code	Number
Bakersfield	661	395-2880
Chula Vista	619	409-7440
Culver City	310	342-1000
El Centro	760	352-3431
* Eureka	707	576-2100
Fresno	559	248-4219
Irvine	949	440-3473
Norwalk	562	466-1694
Oakland	510	622-4100
Rancho Mirage	760	770-4828
Redding	530	224-4729
Riverside	951	680-6400
Sacramento	916	227-6700
Salinas	831	443-3003
San Diego	619	525-4526
San Francisco	415	356-6600
San Jose	408	277-1231
San Marcos	760	510-5850
Santa Rosa	707	576-2100
Suisun City	707	428-2041
Van Nuys	818	904-2300
Ventura	805	677-2700
West Covina	626	480-7200

For Out-of-State Accounts

Chicago, IL	312	201-5300
Houston, TX	281	531-3450
New York, NY	212	697-4680
Sacramento, CA	916	227-6600

* Limited services are available in Eureka. See www.boe.ca.gov or call the number listed above (Santa Rosa field office).

Note: The statements in this publication are general and are current as of the date on the cover. The law is complex and subject to change. If there is a conflict between this publication and the law, the law is controlling.

For More Information

Taxpayers' Rights Advocate Office

We want to make working with us as easy as possible. Consequently, we have appointed a Taxpayers' Rights Advocate to help you with problems you cannot resolve through normal channels.

If you have a question or concern about your case that has not been resolved, you are encouraged to contact this office. For more information, you may contact:

Taxpayers' Rights Advocate Office, MIC:70
State Board of Equalization
P. O. Box 942879
Sacramento, CA 94279-0070
916-324-2798 phone
888-324-2798 toll-free phone
916-323-3319 fax

Property and Special Taxes Department and Divisions

Property Taxes

State-Assessed Properties, MIC: 61
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0061
916-322-2323

Private Railroad Car Tax, MIC: 61
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0061
916-324-2747

Timber Yield Tax, MIC: 60
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0060
916-445-6964

Special Taxes

Environmental Fees Division, MIC: 48
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0048
916-323-9555 phone
916-327-0859 fax

Ballast Water Management Fee • Hazardous Substances Tax • Occupational Lead Poisoning Prevention Fee • Electronic Waste Recycling Fee • California Tire Fee • Integrated Waste Management Fee • Water Rights

Excise Taxes Division, MIC: 56

State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0056

800-400-7115 phone
916-323-9297 fax

Alcoholic Beverage Tax • Cigarette and Tobacco Product Tax • Emergency Telephone Users Surcharge • Energy Resources Surcharge • Insurance Tax • Natural Gas Surcharge • Cigarette and Tobacco Products Licensing

Fuel Taxes Division, MIC: 30

State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0030

916-322-9669 phone
916-445-6385 fax

Aircraft Jet Fuel • Childhood Lead Poisoning Prevention Fee • Diesel Fuel Tax* • Motor Vehicle Fuel Tax • Oil Spill Response, Prevention, and Administration Fees • Underground Storage Tank Maintenance Fee • Use Fuel Tax*

*You may be paying these taxes under the International Fuel Tax Agreement (IFTA).

PETITION FOR REDETERMINATION

BUSINESS NAME	ACCOUNT NUMBER
TAXPAYER NAME	TYPE OF TAX OR FEE

PETITION FOR REDETERMINATION


Generally, the person against whom a determination is made may petition for redetermination within 30 days from the date of a *Notice of Determination* and 10 days from the date of a *Jeopardy Determination*. You should refer to the notice issued to you for the specific conditions and requirements for filing a petition. Anyone submitting a petition should be prepared, upon request, to submit documentary evidence to support the specific grounds upon which the petition is founded.

I am filing a petition for redetermination of the notice of determination dated _____ for the period _____ in the amount of \$ _____.

Please indicate below the specific grounds upon which the petition is founded:

You have the right to an appeals conference and an oral hearing before the Members of the Board. Please indicate below whether you request an appeals conference, a Board hearing, or both.

- I request an appeals conference with a staff counsel or supervising tax auditor at the Board's nearest district office or in the Board's headquarters office in Sacramento.
- I request an oral hearing before the Members of the Board.

SIGNATURE 	DATE SIGNED
PRINTED NAME	TITLE/CAPACITY

If there is a conflict between this form or the notice you received and the law, the law is controlling. The filing of a Petition for Redetermination does not protect your right to a refund of tax, interest, or penalty amounts paid in excess of amounts legally due. You must timely file a claim for refund if you believe you have overpaid tax, interest or penalty amounts.

(Instructions on back)

NAME OF TAXPAYER(S) OR FEEPAYER(S)

TAXPAYER'S OR FEEPAYER'S ACCOUNT NO. GENERAL PARTNER (if applicable)

TAXPAYER'S OR FEEPAYER'S SOCIAL SECURITY NUMBER(S)* OR FEDERAL EMPLOYER IDENTIFICATION NUMBER

According to

- Chapter 7, Article 1, of the California Sales and Use Tax Law, and where applicable, Uniform Local Sales and Use Tax Ordinances and the Transit District Transactions (Sales) and Use Tax Ordinances, or
- Chapter 6, Article 1, of the California Use Fuel Tax Law, or
- Chapter 8, Article 1 and 2, of the Diesel Fuel Tax Law,
- Other _____ (please specify the applicable tax law or fee program)

the undersigned hereby makes claim for refund or credit of \$ _____ (may be left blank), or such other amounts as may be established, in tax, interest and penalty in connection with:

Return(s) filed for the period _____ to _____

Determination(s) dated _____ and paid _____

Other (describe fully) _____

The overpayment described above was caused by _____

Supporting Documentation:

- is attached
- will be provided upon request

BUSINESS NAME

SIGNED BY DATE SIGNED

PRINT NAME OF SIGNATORY CONTACT PERSON (if other than signatory)

TITLE OR POSITION	TELEPHONE NUMBER	TITLE OR POSITION OF CONTACT PERSON	TELEPHONE NUMBER
	()		()

Credit interest is available under certain circumstances. If you would like to be considered for credit interest, please check here.

*See BOE-324-GEN, Privacy Notice, regarding disclosure of the applicable social security number.

FOR BOARD USE ONLY

Case ID No. _____

INSTRUCTIONS FOR COMPLETING CLAIM FOR REFUND

When submitting a claim for refund, you must provide the specific grounds upon which the claim is founded. In addition, you must provide documentation that supports the refund or credit request. The documentation should be sufficient in detail and provide proof of the overpayment. Please include your documentation with your claim for refund or credit or if the documentation is extensive please have it readily available upon request.

You can state the amount of the claimed overpayment, including interest and penalty on the claim form. If you are not sure of the actual amount at the time of submitting the claim, either enter \$1 in the space provided or leave that space empty. The supporting documentation for the claim for refund will normally provide the necessary information for the calculation of the refund or credit due.

You must file the claim within the statute of limitations for the tax/fee program for which the claim is filed*. The appropriate box should be checked to indicate the return filing period, the determination date or other time period. The period of time covered should be entered in the space provided (for example, January 1, 2003 to December 31, 2005). If the claim results from an audit or other such determination, remember to provide the date shown on the notice of determination and the date the liability was paid. If the claim represents another type of overpayment, fully explain the circumstances in the space provided. If your claim represents a partial payment or installment payment on a determination or other liability, please submit a separate claim for each future payment for which you plan to file a claim for refund. (For more information concerning the refund and appeals process, see publication 17, *Appeals Procedures: Sales and Use Taxes and Special Taxes*, and publication 117, *Filing a Claim for Refund*.)

You may file a claim for refund with any Board office. For a list of Board offices, or for assistance completing this form, please visit our website at www.boe.ca.gov or call our Information Center at 800-400-7115.

Taxpayer or Feepayer Name and Account Number: The name(s) and account number as registered with the Board should be entered in the space provided. If the claimant is not registered with the Board, the name(s) shown on the documents that support the claim for refund should be entered. The business name (dba) should not be entered unless it is also the name that is registered with the Board.

Taxpayer's or Feepayer's Social Security Number/Federal Employer Identification Number: Disclosure of the applicable social security number(s) is required (see BOE-324-GEN, *Privacy Notice*) even if the claimant is not registered with the Board as there are instances where a refund or portion thereof may be disclosed to the Internal Revenue Service. If the claimant is an individual or a husband and wife, the social security number of the individual or both the husband and wife should be entered. If the claimant is a partnership, the social security number(s) of the general partner(s) and the partner's name(s) should be entered in the space provided. If the claimant is a corporation (including a partnership consisting of corporations), the federal employer identification number must be provided.

Business Name: The name of the business should be entered in the space provided. For example, if the claimant's name is John Doe and the business's name (dba) is XYZ Auto Repair, XYZ Auto Repair should be entered.

Signature and Title or Position: The preparer of the claim form must sign his or her name in this space. The preparer may be the bookkeeper, accountant, taxpayer, etc. Even if the preparer is not registered with the Board, the preparer is generally not required to be a corporate officer or to have power of attorney. However, the preparer must be authorized by the tax or feepayer to file the claim on the taxpayer or feepayer's behalf. The preparer must also include his or her title or position in the space provided. For example, if the preparer is the bookkeeper, then he or she should enter "Bookkeeper" in the space provided.

Date Signed: The date the claim form is signed must be entered in the space provided.

Contact Person (if other than signatory): This line may be used to designate a person (other than the signatory) to contact, should the Board have questions or require additional information. Such persons may be employees, consultants, accountants, attorneys, etc., as designated by the taxpayer or feepayer.

Telephone Number: Please include the telephone number of the claimant (and contact person, if applicable). This will save time in processing your claim for refund should a Board representative have questions about your claim.

*The time period for filing a claim for refund will vary depending on a number of factors, particularly the cause of overpayment and the type of tax or fee program for which you are filing a claim for refund. Please check the appropriate laws and regulations for the specific tax or fee for which you are filing a claim.

You may also contact the Board unit or district office responsible for your tax or fee account. Compliance with the statute of limitations is established by the filing date of your claim for refund. The filing date of your claim is generally the date of mailing (postmark) or the date that you personally deliver your claim to your nearest Board office. This date may differ from the date signed.

**SETTLEMENT PROPOSAL FOR:
SALES AND USE TAX AND SPECIAL TAXES AND FEE CASES**

Taxpayer/Feepayer: _____

Account No(s): _____

I request that the tax or fee amount in question for the above account(s) established on _____ for the
(DATE OF NOTICE, BILLING OR REFUND CLAIM)
period(s) _____ through _____ be considered
(MONTH/DAY/YEAR) (MONTH/DAY/YEAR)

for settlement as follows:

Proposed Settlement Amount \$ _____

I believe this settlement offer is reasonable because: _____

I understand that all settlement offers are subject to review and that only those considered reasonable by the Board of Equalization's Settlement Section staff will be submitted to the Board of Equalization's executive management for approval.

Date: _____

Address: _____

FIRM NAME

**By _____
SIGNATURE

TITLE

DAYTIME TELEPHONE NUMBER

NOTE:
The settlement program does not currently apply to motor vehicle fuel license tax disputes or to insurance tax disputes. Also, with the exception of disputes pertaining to the Childhood Lead Poisoning Prevention Fee and the Occupational Lead Poisoning Prevention Fee, disputes involving the Hazardous Substances Tax Law are administered by the Department of Toxic Substances Control.

** The person signing this form, if not a corporate officer, partner or owner, certifies under penalty of perjury that he or she holds a power of attorney to execute this document, as evidenced by the attached "Power of Attorney" form.

**Basic Steps
Sales and Use
Taxes and
Special Taxes
Appeals**

FILING A PETITION FOR REDETERMINATION OF AMOUNTS OWED

<i>Step</i>	<i>See page</i>
Taxpayer files petition for redetermination of taxes or fees	3
Jeopardy determination: taxpayer also files for administrative hearing	12
Appeals conference held	4
Board hearing held	6
Board makes decision and issues <i>Notice of Redetermination</i> or <i>Notice of Refund</i>	8
If taxpayer disagrees, taxpayer may file claim for refund after paying amount of tax or fee due	9

FILING A CLAIM FOR REFUND OF AMOUNTS PAID

<i>Step</i>	<i>See page</i>
Taxpayer files claim for refund of taxes or fees paid	8
Department reviews claim	10
Appeals conference held (optional; held at BOE’s discretion)	10
Board hearing held (optional; held at BOE’s discretion)	10
Board issues Notice of Refund or letter denying claim	10
If taxpayer disagrees with denial, taxpayer may file court action for refund	11

APPEALING A FINDING OF SUCCESSOR’S LIABILITY

<i>Step</i>	<i>See page</i>
Business’s purchaser (“successor”) files petition for redetermination	11
BOE makes decision; issues Statement of Account if liability upheld	11
If successor disagrees, it may file claim for refund after paying amount of tax or fee due	11

PROPOSING A SETTLEMENT OF A TAX OR FEE LIABILITY

<i>Step</i>	<i>See page</i>
Taxpayer submits written settlement proposal	13
BOE staff reviews proposal	13
If proposal denied, taxpayer may appeal to Assistant Chief Counsel, Settlement and Administration Division (denied cases continue through the normal appeals process)	14
If initial/negotiated proposal accepted, taxpayer signs Settlement Agreement	13
Agreement forwarded to BOE management for approval	13
BOE approves or denies settlement	14

