



STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
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May 6, 2004

RAMON J. HIRSIG
Executive Director
No. 2004/030

TO COUNTY ASSESSORS AND INTERESTED PARTIES:

CALIFORNIA CODE OF REGULATIONS
TITLE 18, PUBLIC REVENUES

RULES OF PRACTICE
RULES 5041, 5073, 5073.1, 5076, AND 5082.2

Enclosed are proposed amendments to the State Board of Equalization Rules of Practice affecting state assessees and private railroad car companies. We invite your comments on proposed new Rule 5073.1, *Representation in Filing Petition for State Assessee and Private Railroad Car Matters*, and proposed amendments to:

- Rule 5041, *Filing and Contents of Petition*
- Rule 5073, *Representation at Hearings and Powers of Attorney*
- Rule 5076, *Notice of Board Hearing; Waiver or Postponement of Hearing; Failure to Respond to Hearing Notice or to Appear for Hearing; Place of Hearing*
- Rule 5082.2, *Property Tax Petitions: Finality of Decision; Petition for Rehearing*

If you have comments about the proposed language of the rules or would like to propose additional amendments, please submit your comments by June 11, 2004 to Ms. Sherrie Kinkle in the Assessment Policy and Standards Division or to sherrie.kinkle@boe.ca.gov. Questions concerning the content of the rules should be directed to Mr. Ken Thompson at (916) 323-6941.

This project is tentatively scheduled to proceed as follows:

- June 11, 2004: Deadline for interested parties to submit comments.
- Late June 2004: Staff to post to the Board's Web site a copy of a matrix summarizing comments received from interested parties.
- July 15, 2004: Staff to meet with interested parties to discuss the proposed amendments.
- September 8, 2004: Property Tax Committee to consider petition to amend the rules.

All documents regarding this project will be posted to the Board's Web site at www.boe.ca.gov/proptaxes/ptewcont.htm. If you would like to receive future documents concerning this project electronically, you may contact Ms. Kinkle at (916) 322-2921.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:sk
Enclosures

**RULES OF PRACTICE
of the
STATE BOARD OF EQUALIZATION**

California Code of Regulations
Title 18. Public Revenues
Division 2. State Board of Equalization
Chapter 10. Petition and Hearing Procedures

ARTICLE 4. STATE ASSESSEES AND PRIVATE RAILROAD CAR COMPANIES

5041. FILING AND CONTENTS OF PETITION; REQUEST FOR ORAL HEARING; STAFF RESPONSE; EXTENSION OF TIME.

(a) Board Staff shall send a notice to each assessee setting forth the amount of assessed value and the ~~dates~~ date by which a petition for reassessment may be filed.

(b) The appropriate Board Staff capitalization rate study and final calculations of the value indicators shall be made available, between the time that the Board values the subject property and the deadline for filing a petition, to any petitioner submitting a written request therefor to the Chief, Valuation Division, State Board of Equalization.

(c) Petition; Oral Hearing.

(1) The petition shall be in writing and shall state the name of the petitioner, the petitioner's opinion of value, and the precise elements of the Board's valuation to be contested, and shall include petitioner's appraisal reports, financial studies and other materials relevant to value. Petitioner's appraisal reports, financial studies and other materials relevant to value shall not be presented as evidence at the hearing unless provided to the Chief, Board Proceedings Division at the time of filing of the petition.

(2) The petition shall be accompanied by a Board form that indicates the petitioner's opinion of value, whether an oral hearing is desired, and whether written findings and decision are requested. The Board form and the petition shall be signed by the petitioner or petitioner's authorized representative and shall be addressed and mailed to the Chief of Board Proceedings, State Board of Equalization, at Sacramento, or shall be deposited personally at the headquarters office of the Board in Sacramento. A statement of authorization, as described in Article 7, Regulation 5073.1, shall also be filed along with the Board form and petition, if the petition is filed by a tax representative. The original petition and related supporting documents, as described in subsection (c), and 10 copies of the original petition and related supporting documents shall be filed with the Chief of Board Proceedings.

(3) If the petitioner requests an oral hearing, subsections (d) through (g) below shall apply.

~~(d) The petition shall also indicate whether an oral hearing is desired and whether written findings and decision are requested. If requested in the petition, the Board shall issue written findings and decision. The petition shall be signed by the petitioner or petitioner's authorized representative and shall be addressed and mailed to the Chief, Board Proceedings Division, State Board of Equalization at Sacramento, or shall be deposited personally at the headquarters office of the Board in Sacramento.~~

~~(e)(d)~~ The Board Staff shall submit an analysis of the petition, the related supporting documents and a staff recommendation for Board Action no later than 30 days prior to the date set for hearing or other action on the petition. The analysis and recommendation shall be submitted to the Chief, of Board Proceedings ~~Division~~, and a copy shall be sent to the petitioner.

~~(f)(e)~~ The petitioner may file a written response to the staff analysis and recommendation no later than 15 days before the date set for hearing or other action on the petition. The response shall be submitted to the Chief, of Board Proceedings ~~Division~~.

DRAFT: The language set forth in this draft is provided to address various issues. It does not reflect or represent the position of the Board or any Board Member.

~~(g)(f)~~ The Chief, Board Proceedings Division shall distribute the petition and related supporting documents, the staff analysis and recommendation, and the petitioner's response, if any, to the Board, the petitioner and the staff at the time agenda materials are distributed for the Board meeting at which the petition is to be considered.

~~(h)~~ A reasonable extension of time for filing materials under (c), (e) or (f) above may be granted by the Chief, Board Proceedings Division for reasonable cause. The request for an extension of time shall be submitted in writing no later than 5 o'clock p.m. of the last business day before the date set for filing the materials.

~~(i)(g)~~ The petition and related supporting documents, the staff analysis and recommendation and related documents, and the petitioner's response to the staff analysis and recommendation, shall be the only documents accepted for filing and distribution prior to a scheduled hearing. ~~Any other documents received shall be returned by the Chief, Board Proceedings Division to the person submitting the documents.~~

(h) The Chief of Board Proceedings, upon a showing of reasonable cause, may grant an extension of time for filing materials of up to 15 days under (c), (d), or (e) above. The request for an extension of time shall be submitted in writing no later than 5 p.m. on the last business day set for filing the materials.

Note: Authority: Section 15606(a), Government Code; and Section 11651, Revenue and Taxation Code.

Reference: Sections 731, 732, 733, 741, 742, 743, 746, 747, 748, 11338, 11339, 11340 and 11353, Revenue and Taxation Code.

ARTICLE 7. GENERAL BOARD HEARING PROCEDURES

5073. REPRESENTATION AT HEARINGS AND POWERS OF ATTORNEY.

(a) Taxpayers may be represented at all levels of review by any person of the taxpayer's choosing, including, but not limited to an attorney, accountant, bookkeeper, employee or business associate.

(b) Except as provided in subsection (c) below, the Board shall recognize all representatives who are identified in writing or orally by the taxpayer, and all those who advise the Board in writing that they represent the taxpayer. Recognized representatives shall be permitted to receive confidential information relating to the taxpayer they represent, and to perform on behalf of the taxpayer all acts that the taxpayer may perform with respect to the review of the matter.

(c) The Board, or Board Staff, may require a party to complete a Power of Attorney on a form provided by the Board. Such Power of Attorney shall be a standard form adopted in conjunction with the Franchise Tax Board to be used in either Board of Equalization or Franchise Tax Board matters. This regulation applies to all forms of authorization filed with the Board, except that the more specific requirements of Regulation 5073.1 apply to petitions filed in a state assessee or private railroad car company matter under Article 4, Regulation 5041.

(d) The Power of Attorney form shall include the following information: taxpayer's name, telephone number, taxpayer identification number(s), account or permit number(s) and mailing address; the name, address, and telephone and FAX number of the appointed representative(s); the tax matters in which the representative is authorized to represent the taxpayer; the extent of the representative's authority; the tax period(s) for which the authorization is granted; a statement that the Power of Attorney revokes all prior Powers of Attorney with any exceptions to the revocation; the time period during which the Power of Attorney shall be in effect; the signature(s) and title of all affected taxpayers and the date of signature.

Note: Authority: Section 15606(a), Government Code; Sections 105190 and 105310, Health and Safety Code; Section 42882, Public Resources Code; Section 893, Public Utilities

DRAFT: The language set forth in this draft is provided to address various issues. It does not reflect or represent the position of the Board or any Board Member.

Code; and Sections 7051, 7202(d), 7202(h)(4), 7270, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 254.5, 270, 742, 1840, 4877, 6562, 7711, 8852, 11340, 12429, 19047, 19048, 19072, 19084, 19085, 19087, 19333, 19334, 19345, 19346, 20645, 30262, 32302, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083 and 60352, Revenue and Taxation Code.

5073.1. REPRESENTATION IN FILING PETITION FOR STATE ASSESSEE AND PRIVATE RAILROAD CAR MATTERS.

(a) This regulation applies to petitions filed in a state assessee or private railroad car company matter under Article 4, Regulation 5041.

(b) A statement of authorization shall accompany a petition filed by a tax representative on a form prescribed by the Board. The statement of authorization shall be attached to the petition filed with the Chief of Board Proceedings. A copy of the statement of authorization shall be mailed to the Chief of the Valuation Division at the time the petition is filed.

(c) A statement of authorization shall be executed for each annual filing period in which a petition is filed.

(d) A petition filed by a tax representative without the accompanying statement of authorization, as required by subsection (b), shall be rejected by the Board Proceedings Division as an incomplete filing.

(e) For purposes of this section, tax representatives include attorneys, accountants, and other representatives other than personnel employed by the petitioner.

(f) The statement of authorization shall be signed by either an officer of the corporation or an authorized owner of any other legal entity or by an employee who has been designated in writing to sign such a statement on behalf of the legal entity.

Note: Authority: Section 15606(a), Government Code; and 11651, Revenue and Taxation Code.

Reference: Sections 741, 747, and 11340, Revenue and Taxation Code.

5076. NOTICE OF BOARD HEARING; WAIVER OR POSTPONEMENT OF HEARING; FAILURE TO RESPOND TO HEARING NOTICE OR TO APPEAR FOR HEARING; PLACE OF HEARING

(a) This regulation applies to all Board hearings, except that the more specific provisions of Regulation 5076.1 apply to appeals from actions of the Franchise Tax Board.

(b) Notice of Board Hearing; and Waiver—General Procedure. Board Proceedings Staff shall send notice of the Board hearing to the taxpayer and the Department at least 60 days in advance of the hearing date, giving the parties 15 days to respond to the hearing notice. The 60-day notice period may be waived upon agreement among the parties and the Chief of Board Proceedings. If the 60-day notice period is waived, the Chief of Board Proceedings shall modify the briefing schedule set forth in Regulation 5075. The taxpayer shall respond to the hearing notice by indicating: that the taxpayer will appear at the time and place noted; or, that the taxpayer waives oral hearing and requests that the case be submitted to the Board for decision without oral hearing and based upon the written record; or, that the taxpayer requests that the hearing be postponed, stating the reason the postponement is requested.

(c) Notice of Board Hearing and Waiver—State Assessee and Private Railroad Cars Matters. Board staff shall send notice of the Board hearing to the taxpayer and the department at least 45 days in advance of the hearing date, giving the parties 15 days to respond to the hearing notice. The 45-day

notice period may be waived upon agreement among the parties and the Chief of Board Proceedings. If the 45-day notice period is waived, the Chief of Board Proceedings shall modify the briefing schedule set forth in Regulation 5041. The taxpayer shall respond to the hearing notice by indicating: (i) that the taxpayer will appear at the time and place noted; or, (ii) that the taxpayer waives oral hearing and requests that the case be submitted to the Board for decision without oral hearing and based upon the written record; or, (iii) that the taxpayer requests that the hearing be postponed, stating the reason the postponement is requested.

~~(c)~~(d) Postponement Of Board Hearing. The Chief of Board Proceedings may grant one postponement of a hearing upon agreement of the parties if the request for postponement is made by the deadline stated in the hearing notice, provides sufficient justification for the postponement, and if the parties commit to a specific subsequent hearing date. The Chief of Board Proceedings may grant a postponement requested after response to the hearing notice upon agreement of the parties and a showing of extreme hardship. A postponement of a hearing may also be granted at the discretion of the Board.

~~(d)~~(e) Removal From Calendar. The Chief of Board Proceedings may remove hearings or related proceedings from the hearing calendar upon a showing of reasonable cause.

~~(e)~~(f) Failure To Respond Or Appear. If the taxpayer fails to respond to the hearing notice by the deadline stated in the notice, or responds to the hearing notice but fails to appear for the hearing on the date and time stated in the notice, the case shall be submitted to the Board for decision without oral hearing and on the basis of the written record. At the discretion of the Chief of Board Proceedings, exceptions may be made upon a showing of extreme hardship.

~~(f)~~(g) Place of Hearing. Except for a hearing on a property tax petition, a hearing involving a taxpayer or taxpayer's representative residing in the Southern part of the State shall ordinarily be held in the Los Angeles area. Other hearings and hearings on property tax petitions shall ordinarily be held in Sacramento. At its discretion, the Board may hold hearings at other locations.

Note: Authority: Section 15606(a), Government Code; Sections 105190 and 105310, Health and Safety Code; Section 42882, Public Resources Code; Section 892, Public Utilities Code; and Sections 7051, 7202, 7203, 7261, 7262, 7270, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 254.5, 270, 742, 1840, 4877, 6562, 7711, 8852, 11340, 12429, 19047, 19048, 19072, 19084, 19085, 19087, 19333, 19334, 19345, 19346, 20645, 30262, 32302, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083 and 60352, Revenue and Taxation Code.

5082.2. PROPERTY TAX PETITIONS: FINALITY OF DECISION; PETITION FOR REHEARING.

(a) Property tax petitions include petitions filed pursuant to Article 4 (State Assesseees and Private Railroad Car Companies), Article 5 (Taxable Property of a County, City, or Municipal Corporation), and Article 6 (Property Tax Welfare Exemptions).

(b) The decision of the Board upon a Property Tax petition is final. The Board shall not reconsider or rehear a petition.

Note: Authority: Section 15606(a), Government Code; and Section 11651, Revenue and Taxation Code.

Reference: Sections 254.5, 270, 744, 1841 and 11341, Revenue and Taxation Code.