



STATE BOARD OF EQUALIZATION

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June 17, 2005

TO STATE ASSESSEES:

REVIEW OF PROPERTY TAX PETITIONS  
BY APPEALS DIVISION OF LEGAL DEPARTMENT

Effective September 2005, property tax appeals will be reviewed by the Appeals Division of the Legal Department. This would include petitions for reassessment of state-assessed properties, reassessment of private railroad cars, redetermination of timber yield tax, denial of claims for welfare exemption, and applications for appeal of assessment of taxable property owned by local governments.

The independent review by the Appeals Division of property tax petitions is consistent with the Appeals Division's current role in providing independent review of petitions for all business taxes and fee programs, and appeals from the Franchise Tax Board. By implementing this new procedure, all matters heard and decided by the Board will first be reviewed by attorneys who have had no prior involvement in the case and who are not the legal advisors to the assessing or tax and fee program departments.

Although the focus of this memorandum is limited to Petitions for Reassessment of Unitary Value, the basic procedure would apply to all property tax appeals. As to Petitions for Reassessment of Unitary Value, as discussed in detail below, the Appeals Division will review all petitions for which the petitioner and the Valuation Division have not agreed to the resolution of all issues presented: (1) if an oral Board hearing is scheduled, the Appeals Division will issue a "Hearing Summary" after reviewing the petition, the "Valuation Division's Brief" drafted by the Tax and Fee Programs Division of the Legal Department, and the petitioner's reply brief, if any; and (2) if the oral Board hearing is waived and there are unresolved issues, the Appeals Division will issue a "Summary Decision" after reviewing the petition, the "Valuation Division's Brief" drafted by the Tax and Fee Programs Division of the Legal Department, and the petitioner's reply brief, if any, for consideration and adoption by the Board on the Legal Appeals Matters Nonappearance Calendar.

The Appeals Division will not review petitions for which the petitioners have waived the oral Board hearing and the petitioner and the Valuation Division are in agreement as to the resolution of all issues. For these petitions, the Tax and Fee Programs Division of the Legal Department will draft the "Valuation Division's Recommendation on Property Tax Petition on the Property Tax Matters Nonappearance Calendar" for consideration and adoption by the Board on the Property and Special Taxes Department's Property Tax Matters Nonappearance Calendar.

### **PETITION FOR REASSESSMENT OF UNITARY VALUE**

If a petitioner disagrees with the value determined by the Board as set forth in the Notice of Unitary Assessed Value, the assessee may file a Petition for Reassessment of Unitary Value by July 20 of the calendar year in which the Notice of Unitary Assessed Value is issued.<sup>1</sup> The Board is required to decide all petitions on or before December 31 of the calendar year in which the notice is issued.<sup>2</sup>

Regulation 5041 provides that the petition must state whether an oral hearing is requested. If an oral hearing is not requested in the petition, the petition will be scheduled for Board action on the nonappearance calendar (discussed below).

### **VALUATION DIVISION'S RECOMMENDATION**

Regulation 5041, subdivision (d) provides that:

“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, and a copy shall be sent to the petitioner.”<sup>3</sup>

In order to meet the requirements of Regulation 5041, subdivision (d), the Tax and Fee Programs Division of the Legal Department will issue the “Valuation Division’s Brief” (for oral hearings or nonappearance matters with contested issues) or the “Valuation Division’s Recommendation on Property Tax Petition on the Property Tax Matters Nonappearance Calendar” (for nonappearance petitions with no contested issues), discussed below, within 30 days prior to the date that the petition is scheduled for Board action.

#### **1. Oral Board Hearing**

Within 30 days prior to the date of the Board meeting for which the oral Board hearing for the petition is scheduled, the Tax and Fee Programs Division of the Legal Department will submit the “Valuation Division’s Brief” to the Chief of Board Proceedings, setting forth an analysis of the petition, the related supporting documents, and a staff recommendation for Board action as required by Regulation 5041, subdivision (d).<sup>4</sup> The Chief of Board Proceedings will distribute a copy of the “Valuation Division’s Brief” to the petitioner, the Appeals Division and the Board Members.

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<sup>1</sup> Sections 731 and 733.

<sup>2</sup> Section 744, subdivision (a).

<sup>3</sup> Regulation 5041, subdivision (f) provides that the Chief of Board Proceedings, upon showing of reasonable cause, may grant an extension for a reasonable period of time to submit Valuation Division’s recommendation.

<sup>4</sup> “Valuation Division’s Brief” was previously entitled “Staff Analysis and Recommendation.”

## **2. Oral Hearing Waived –Unresolved Issues - Legal Appeals Matters Nonappearance Calendar**

If the petitioner waives the oral Board hearing, but does not agree with the Valuation Division's recommendation as to the resolution of all petitioned issues, within 30 days prior to the date of the Board meeting for which the petition is scheduled for Board action, the Tax and Fee Programs Division of the Legal Department will submit the "Valuation Division's Brief" to the Chief of Board Proceedings, setting forth an analysis of the petition, the related supporting documents, and a staff recommendation for Board Action as required by Regulation 5041, subdivision (d).<sup>5</sup> The Chief of Board Proceedings will distribute a copy of the "Valuation Division's Brief" to the petitioner, the Appeals Division and the Board Members.

## **3. Oral Hearing Waived - All Issues Resolved - Property Tax Matters Nonappearance Calendar**

If the petitioner waives the oral Board hearing, and is in agreement with the Valuation Division's recommendation as to the resolution of all petitioned issues, within 30 days prior to the date of the Board meeting for which the petition is scheduled for Board action, the Tax and Fee Programs Division of the Legal Department will submit the "Valuation Division's Recommendation on Property Tax Petition on the Property Tax Matters Nonappearance Calendar" to the Chief of Board Proceedings, setting forth an analysis of the petition, the related supporting documents, and a staff recommendation for Board Action as required by Regulation 5041, subdivision (d).<sup>6</sup> The Chief of Board Proceedings will distribute a copy of the "Valuation Division's Recommendation on Property Tax Petition on the Property Tax Matters Nonappearance Calendar" to the petitioner and the Board Members.

### **PETITIONER'S REPLY BRIEF**

Regulation 5041, subdivision (e) provides that:

"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."<sup>7</sup>

Accordingly, as allowed by Regulation 5041, subdivision (e), the petitioner may file a reply brief to the "Valuation Division's Brief" or the "Valuation Division's Recommendation on Property Tax Petition on the Property Tax Matters Nonappearance Calendar" within 15 days before the Board meeting date for which the petition is scheduled for Board action.

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<sup>5</sup> "Valuation Division's Brief" was previously entitled "Staff Recommendation on Property Tax Petition on the Nonappearance Calendar."

<sup>6</sup> "Valuation Division's Recommendation on Property Tax Petition on the Property Tax Matters Nonappearance Calendar" was previously entitled "Staff Recommendation on Property Tax Petition on the Nonappearance Calendar."

<sup>7</sup> Regulation 5041, subdivision (f) provides that the Chief of Board Proceedings, upon showing of reasonable cause, may grant an extension for a reasonable period of time to submit Petitioner's Reply Brief.

### **REVIEW BY APPEALS DIVISION**

The Appeals Division will review every petition in which the petitioner and the Valuation Division are **not** in agreement as to the resolution of all petitioned issues.

#### **1. Oral Board Hearing - Unresolved Issues – Appeals Division’s Hearing Summary**

Within 10 days prior to the date of the Board meeting for which the oral Board hearing for the petition is scheduled, the Appeals Division of the Legal Department will submit a "Hearing Summary" to the Chief of the Board Proceedings Division, similar to the hearing summaries issued for the franchise and personal income tax appeals, setting forth the issues, the factual background, the contentions set forth by the petitioner and the Valuation Division, the applicable law, and the Appeals Division’s analysis and comment as to the resolution of the issues presented. The Chief of Board Proceedings will distribute a copy of the Appeals Division’s “Hearing Summary” to the petitioner, the Board Members, the Valuation Division, and the Tax and Fee Programs Division of the Legal Department.

#### **2. Oral Hearing Waived – Unresolved Issues - Legal Appeals Matters on Nonappearance Calendar – Appeals Division’s Summary Decision**

If the petitioner waives the oral Board hearing, but is not in agreement with the Valuation Division’s recommendation as to the resolution of all petitioned issues, the petition will be scheduled on the Legal Appeals Matters Nonappearance Calendar. Within 10 days prior to the date of the Board meeting for which the petition is scheduled for Board action, the Appeals Division of the Legal Department will submit, to the Chief of the Board Proceedings Division, a "Summary Decision" for consideration and adoption by the Board Members, similar to the summary decisions issued for the franchise and personal income tax appeals, setting forth the issues, the factual background, the contentions set forth by the petitioner and the Valuation Division, the applicable law, and the Appeals Division’s recommended resolution of the issues presented. The Chief of Board Proceedings will distribute a copy of the Appeals Division’s “Summary Decision” to the petitioner, the Board Members, the Valuation Division, and the Tax and Fee Programs Division of the Legal Department.

### **PROPERTY TAX MATTERS NONAPPEARANCE CALENDAR**

If the petitioner waives the oral Board hearing, and is in agreement with the Valuation Division’s recommendation as to the resolution of all petitioned issues, the Appeals Division of the Legal Department will not review the petition. Consistent with prior Board practice, these petitions will be placed on the Property and Special Taxes Department’s Property Tax Matters Nonappearance Calendar. As discussed in detail above, the Tax and Fee Programs Division of the Legal Department will submit the “Valuation Division’s Recommendation on Property Tax Petition on the Property Tax Matters Nonappearance Calendar” for consideration and adoption by the Board.

**CONCLUSION**

To summarize, the only substantive difference between the new property tax appeals procedure discussed above, and the Board's prior procedure is that, for petitions with contested issues, the Appeals Division will provide independent review of the petition and draft a "Hearing Summary" or "Summary Decision" for petitions scheduled as an oral Board hearing or as a matter on the Legal Appeals Matters Nonappearance Calendar, respectively, after the Tax and Fee Programs Division of the Legal Department has issued "Valuation Division's Brief," and the petitioner's period for submitting its reply brief has expired. For all other petitions, that is, petitions for which the petitioner has waived the oral Board hearing and resolved all petitioned issues with the Valuation Division, the Tax and Fee Programs Division of the Legal Department will draft "Valuation Division's Recommendation on Property Tax Petition on the Property Tax Matters Nonappearance Calendar" for consideration and adoption by the Board on the Property and Special Tax Department's Property Tax Matters Nonappearance Calendar, without review by the Appeals Division.

By implementing these procedures, the Board will accomplish its objective to have the Appeals Division conduct an independent review of property tax appeals while giving the petitioner and the Valuation Division the same amount of time to meet and resolve issues as they had in all prior years.

If you have any questions, please contact Ms. Joann Richmond, Property Tax Appeals Analyst, at (916) 322-1931.

Sincerely,

/s/ Gary Evans

Gary Evans  
Acting Chief  
Board Proceedings Division

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