

5266. APPEALS STAFF RECOMMENDATIONS; REQUESTS FOR RECONSIDERATION; REQUESTS FOR ORAL HEARINGS.

(a) Appeals Staff may make the following recommendations in the Decision and Recommendation:

- (1) Deny the petition, claim, or request for relief in its entirety.
- (2) Grant the petition, claim, or request for relief in its entirety.
- (3) Grant the petition, claim, or request for relief in part.
- (4) That Board Staff in the appropriate Department re-audit the issues raised in the petition, claim, or request for relief as specified in the Decision and Recommendation.

(b) If the Decision and Recommendation recommends denial of the petition, claim, or request for relief in whole or in part, the petitioner, claimant or person requesting relief may:

(1) File a written request for Appeals Staff to reconsider the petition, claim, or request for relief no later than 30 days after the Decision and Recommendation was issued.

(2) Disagree and file a written request for an oral hearing before the Board no later than 30 days after the Decision and Recommendation was issued. (A petitioner, claimant, or person requesting relief who has previously requested an oral hearing before the Board on the same petition, claim, or request for relief does not need to request an oral hearing at this time.)

(A) If an oral hearing is or was requested, Board Proceedings Staff will schedule an oral hearing before the Board, unless that request is waived. However, an oral hearing will not be provided if a request for a discretionary oral hearing is denied.

(B) If an oral hearing has been requested, but it is unclear whether the petitioner, claimant or person requesting relief disagrees with any portion of its Decision and Recommendation (or supplemental Decision and Recommendation) Board Staff will:

- (i) Contact the petitioner, claimant, or person requesting relief to inquire as to the existence of such disagreement; and
- (ii) Only schedule an oral hearing before the Board if the petitioner, claimant, or person requesting relief confirms that such disagreement exists.

(3) Agree with the Decision and Recommendation.

(c) If the Decision and Recommendation recommends that a petition, claim, or request for relief be granted in whole or in part, the Department represented at the appeals conference, and any state agency represented at the appeals conference, may:

(1) File a written request for Appeals Staff to reconsider the petition, claim, or request for relief within 30 days after the Decision and Recommendation was issued.

(2) Agree with the Decision and Recommendation.

(d) Notwithstanding subdivision (c), if the Decision and Recommendation recommends that a petition, claim for refund, or request for relief be granted in whole or in part, any state agency represented at the appeals conference may file a written request for an oral hearing before the Board no later than 30 days after the Decision and Recommendation was issued. If an oral hearing is requested, Board Proceedings Staff will schedule an oral hearing before the Board, unless that request is waived. However, an oral hearing will not be provided if a request for a discretionary oral hearing is denied.

(e) If Appeals Staff receive a request for reconsideration, Appeals Staff will prepare a Supplemental Decision and Recommendation addressing any new information provided in the request for reconsideration, copies of which will be sent to all parties. Appeals Staff may also issue a Supplemental Decision and Recommendation as necessary to clarify or correct the information, analysis, or conclusion contained in a Decision and Recommendation or prior Supplemental Decision and Recommendation. A Supplemental Decision and Recommendation must satisfy all the requirements of section 5265, subdivision (c).

(f) If a Decision and Recommendation or Supplemental Decision and Recommendation recommends that a petition, claim, or request for relief be granted in whole or in part and the amount granted exceeds ~~\$50,000~~ \$100,000, the recommendation will be sent to the Board for approval. Once the recommendation is submitted to the Board, the Board has discretion to make its own determination as to whether the petition, claim, or request should be granted and in what amount, and will do so without further documentation or testimony from the claimant, unless the claimant has requested and been granted an oral hearing before the Board regarding a partial denial of the same claim for refund.

Note: Authority cited: Government Code section 15606; Revenue and Taxation Code sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301, 60601. Reference: Revenue and Taxation Code sections 6074, 6456, 6538, 6562, 6592, 6593, 6593.5, 6596, 6814, 6901, 6902, 6906, 6981, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8128, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9152, 9196, 12429, 12636, 12637, 12951, 12977, 12978, 12981, 30175, 30176, 30176.1, 30176.2, 30177, 30178, 30178.1, 30243, 30243.5, 30262, 30282, 30283, 30283.5, 30284, 30361, 30362, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32312, 32313, 32401, 32402, 32402.1, 32404, 32407, 32440, 38433, 38435, 38443, 38452, 38453, 38454, 38455, 38601, 38602, 38605, 38631, 40093, 40102, 40103, 40103.5, 40104, 40111, 40112, 40115, 40121, 41087, 41096, 41097, 41097.5, 41098, 41100, 41101, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43351, 43352, 43451, 43452,

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