

BOARD OF EQUALIZATION RULES FOR TAX APPEALS

California Code of Regulations
Title 18. Public Revenues
Division 2.1. State Board of Equalization – Rules for Tax Appeals
Chapter 4: Appeals from Actions of the Franchise Tax Board

ARTICLE 4: REQUESTING AND SCHEDULING ORAL HEARINGS

5440. RIGHT TO REQUEST AN ORAL HEARING.

(a) Written Request Required. Every appellant has the right to an oral hearing before the Board upon written request, except as otherwise provided in any statute or regulation.

(1) In order to obtain an oral hearing, the appellant must file a written request not later than 30 days from the conclusion of briefing.

(2) Upon receipt of a timely request, the Chief of Board Proceedings will send written acknowledgment of the request to all parties pursuant to section 5522.1.

(3) An untimely request may be accepted and acknowledged if the Chief Counsel determines that the failure to make a timely request was due to reasonable cause.

(b) Innocent Spouse Appeals. Both the Appealing Spouse and the Non-Appealing Spouse, as those terms are defined in section 5432, subdivision (b), may request an oral hearing pursuant to subdivision (a) of this section. The Non-Appealing Spouse may request an oral hearing only if he or she has been joined as a party to the appeal. If such a request is made by either or both spouses, the Board typically will conduct one oral hearing and invite both spouses to appear. However, the Board will conduct separate oral hearings if:

(1) A court order would prohibit the spouses from appearing at the same hearing; or

(2) The Chief of Board Proceedings, after consulting with the Board Chair, determines that conducting one oral hearing is likely to be unsafe, disruptive, or unjust.

If the Board conducts separate oral hearings, the Board will not decide the appeal until both hearings have concluded.

Note: Authority cited: Government Code section 15606.

Reference: Revenue and Taxation Code sections 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, and 20645.

History: 1. New section adopted 9-12-2007; effective 2-6-2008.