

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 5: DECISIONS, OPINIONS, AND FRIVOLOUS APPEAL PENALTIES

5454. FRIVOLOUS APPEAL PENALTY.

(a) Generally. If the Board determines that an appeal is frivolous or is maintained for the purpose of delay, the Board may impose a penalty, under Revenue and Taxation Code section 19714, on the appellant or appellants that filed the appeal. The Board may impose a frivolous appeal penalty on its own or upon the recommendation of the Appeals Division.

(b) Factors Considered. The following factors are considered in determining whether, and in what amount, to impose a frivolous appeal penalty:

- (1) Whether the appellant is making arguments that the Board, in a Formal Opinion, or courts have rejected;
- (2) Whether the appellant is making the same arguments that the same appellant made in prior appeals;
- (3) Whether the appellant filed the appeal with the intent of delaying legitimate tax proceedings or the legitimate collection of tax owed;
- (4) Whether the appellant has a history of filing frivolous appeals or failing to comply with California's tax laws.

The list of factors in this subdivision is not intended to be exclusive. The Board and the Appeals Division may consider other relevant factors.

Note: Authority cited: Government Code section 15606; Revenue and Taxation Code section 19714.

Reference: Revenue and Taxation Code sections 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, 19714, and 20645.

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