

## 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 6: Taxpayer Bill of Rights Reimbursement Claims**

### **5601. ELIGIBLE CLAIMS.**

(a) Only those fees and expenses that were incurred after the date of the notice of determination, jeopardy determination or claim for refund in business or property tax cases are eligible for reimbursement. Fees and expenses incurred in a business tax or Timber Yield Tax case are “related to a hearing before the board” and reimbursable only if the claimant sought Board review of an unfavorable Decision and Recommendation issued by the Appeals Division and only if the Board finds that the action taken by Board Staff was unreasonable. To determine whether Board Staff has been unreasonable, the Board will consider whether Board Staff has established that its position was substantially justified. This means that a taxpayer whose petition for redetermination or claim for refund is not granted does not have an eligible claim.

(b) Only those fees and expenses incurred after the date of a notice of proposed deficiency assessment or jeopardy assessment, or a denial of a claim for refund in franchise and income tax cases are eligible for reimbursement. Reimbursable fees and expenses related to an appeal before the Board do not include fees and expenses incurred in cases where an appeal has been filed, but resolved before the Franchise Tax Board’s written statement of its position has been submitted to the Board.

Note: Authority cited: Section 15606(a), Government Code; Section 893, Public Utilities Code; and Sections 7051, 8251, 9251, 11651, 30451, 32451, 38701, 40171, 41128, 43501, 44003, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code.

Reference: Sections 7091, 8269, 9269, 11657, 21013, 30458.9, 32469, 38708, 40209, 41169, 43520, 45865, 46620, 50156.9, 55330 and 60630, Revenue and Taxation Code.

History: 1. New section adopted 11-19-1997; effective 4-8-1998.  
2. Amendment of section and Note 3-8-2001; effective 7-6-2001.  
3. Amendment of section 5-25-2004; effective 8-25-2004.  
4. Section renumbered (from section 5091), “shall” replaced with “will”, and Note amended 9-12-2007; effective 2-6-2008.  
5. Changes without regulatory effect adding “fees and” before “expenses” and deleting “and after the date of filing an appeal to the Board in corporate franchise and income tax cases” from after “cases” in the first sentence; replacing “Expenses” with “Fees and expenses” at the beginning of the second sentence; deleting the fifth sentence providing that “All expenses incurred in corporate franchise or income tax appeals to the Board are ‘related to a hearing before the board.’”; renumbering the remaining text as subdivision (a); and adding new subdivision (b); filed 04-20-2016 pursuant to section 100, title 1, California Code of Regulations (Register 2016, No. 18-Z).