May 25, 1978

TO TIMBER TAXPAYERS, COUNTY ASSESSORS, COUNTY COUNSEL, AND OTHER INTERESTED PARTIES:

TIMBER YIELD TAX LAW HEARING PROCEDURES

Enclosed is a copy of a notice of public hearing to be held June 29, 1978, at 10:00 a.m. in Room 102, 1020 N Street, Sacramento, California, on the proposed adoption of hearing procedures for the Timber Yield Tax Law.

Written comments with respect to the enclosed notice are welcome and should be directed to me. If you wish to testify at the hearing, please notify me by mail or telephone at least ten days prior to the date of the hearing so that an orderly agenda can be prepared.

Sincerely,

Janice Masterton
Calendar Clerk

JM/k
Enclosure
NOTICE OF PROPOSED CHANGES IN THE REGULATIONS
OF THE STATE BOARD OF EQUALIZATION

Notice is hereby given that the State Board of Equalization, pursuant to the authority vested in Section 15606 of the Government Code and Section 38701 of the Revenue and Taxation Code, and to implement, interpret or make specific Article 5 of Chapter 5 and Article 1 of Chapter 7, Part 18.5, Division 2 of the Revenue and Taxation Code, proposes to adopt regulations in Title 18, Chapter 2, Subchapter 10 of the California Administrative Code, relating to hearing procedures as follows:

1. Adopt Article 2.5, Timber Yield Tax Law:

5040. CONTENTS OF PETITION. Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. It shall be signed by the taxpayer, his authorized representative or any person directly interested. Any portion of the determination which the taxpayer concedes is owing by him should be indicated in the petition. The petition may be amended to state additional grounds at any time prior to the date the board issues its order or decision on the petition.

5041. STAFF HEARING. A petition for redetermination will be initially scheduled for a hearing before a hearing officer of the staff. It is expected that at the staff hearing a taxpayer will present all the evidence in his behalf to the extent that
it is possible for him to do at that time. It is the primary purpose of the staff hearing to establish the facts in the case and the application thereto of the law and regulations. Statements of witnesses at the staff hearing need not be under oath or affirmation.

5042. BOARD HEARINGS - FUNCTION OF STAFF. Hearings before the board under the applicable statutory provisions are not in the nature of trials or contests between adverse parties. They are meetings of the board at which the taxpayer presents orally to the board his arguments for a reduction or cancellation of a liability previously determined against him or for a refund of tax previously paid. It is the duty of the staff of the board at hearings to assist the board in ascertaining the facts and in determining the correct application of the law and the regulations to the facts.

5043. CONSOLIDATION FOR HEARING. Where taxpayers so desire, two or more determinations or claims for refund may be consolidated for hearing when the facts and issues are similar and no substantial right of any party will be prejudiced.

5044. PRESENTATION OF MATTERS FOR CONSIDERATION. A member of the staff shall introduce the matter for consideration by an oral statement of the facts, the law applicable, the issues, and the tentative views of the staff. The taxpayer may then present his position to the board. He may appear in his own behalf or he may be represented by any person of his choice, such as an attorney, accountant, bookkeeper or business associate.
As hereinafter used, the word "taxpayer" includes his representative at the hearing. Taxpayer may present his case as he sees fit, subject to rulings of the chairman of the board. Ordinarily adherence to technical rules of evidence will not be required. Taxpayer may offer witnesses to testify under oath if taxpayer so requests, or if the chairman of the board so directs. Any member of the board of staff member participating in the hearing may upon recognition of the Chairman question the taxpayer and may cross-examine anyone called as a witness by taxpayer.

Participating staff members may upon recognition of the Chairman comment upon the taxpayer's argument and explain to the board and the taxpayer the staff's views as to the validity of any argument made, the value of evidence submitted and any other matters pertinent to the proceedings.

5045. CLAIMS FOR REFUND. Every claim shall be in writing and shall state the specific grounds upon which the claim is founded. It shall be signed by the taxpayer, his authorized representative or any person directly interested. Although not required by statute to do so, the board in its discretion may grant hearings on refund claims. The procedure on such hearings is the same as in the case of hearings on petitions for redetermination pursuant to statutory provisions.

5046. REHEARINGS. The board in its discretion may continue a hearing to a later date or grant a rehearing on a petition
for redetermination. Action granting a rehearing must be taken prior to the time a determination becomes final.

5047. DECISIONS. When the hearing is concluded, the board may make its order or decision, or take the matter under consideration for decision later at the same meeting or at a subsequent meeting. The board's decision will be transmitted to the taxpayer in the form of a notice of redetermination of the tax, a notice of denial of the petition, or a notice of denial or granting of a claim for refund. Written opinions will not ordinarily be rendered.

Notice is also given that any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 10:00 a.m. on June 29, 1978. The State Board of Equalization, upon its own motion or at the instance of any interested person, may thereafter adopt the above proposed sections substantially as set forth without further notice.

Upon request, copies of the above regulations may be obtained from:

State Board of Equalization
1020 N Street
Sacramento, CA 95814
NOTE: The State Board of Equalization has determined that the adoption herein will not result in additional costs, within the meaning of Section 2231 of the Revenue and Taxation Code, to any local governmental entity.

DATED: May 22, 1978

STATE BOARD OF EQUALIZATION

DOUGLAS D. BELL
Executive Secretary