



STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0082
TELEPHONE 916-322-3682 • FAX 916-323-3387
www.boe.ca.gov

BETTY T. YEE
First District, San Francisco

BILL LEONARD
Second District, Ontario/Sacramento

MICHELLE STEEL
Third District, Rolling Hills Estates

JUDY CHU, Ph.D.
Fourth District, Los Angeles

JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

September 14, 2007

TO: STATE ASSESSEES AND OTHER INTERESTED PARTIES

Re: 2007 Guidelines for Review of State Assessee and Private Railroad Car Petitions

This letter updates and supersedes the letter dated June 5, 2006, entitled *Guidelines for Property Tax Appeals Division Review and Appeals Conference Process (2006 Guidelines)*, with respect to property tax petitions involving state assessees and private railroad cars.¹ As of April 25, 2007, the Board authorized publication of the proposed Rules for Tax Appeals (RTA). This letter implements, for all state assessee and private railroad car petitions, the portions of the Board-adopted Rules for Tax Appeals that are not inconsistent with the existing Rules of Practice,² commencing with 2007 unitary and non-unitary appeals for state assessees and private railroad cars. This letter may be referred to as the *2007 Guidelines*, and will be superseded as of the effective date of the RTA.

The most significant changes from the *2006 Guidelines* are the following:

- An appeals conference is no longer mandatory for state assessee and private railroad car petitions requesting an oral hearing. Rather, an appeals conference may be requested by any party, the Assistant Chief Counsel of the Appeals Division of the Board's Legal Department, or any Board Member, and will be held if so requested, regardless of whether an oral hearing is requested. Deadlines for requesting an appeals conference are detailed below.
- Hearing summaries prepared for oral hearings will contain specified details, including the conclusions and recommendations of the Appeals Division. Summary decisions prepared for petitions considered on the non-appearance calendar continue to contain the conclusions and recommendations of the Appeals Division.

¹ For purposes of these *2007 Guidelines*, "state assessee and private railroad car petitions" include petitions for reassessment of unitary and non-unitary values and escape or excessive assessments (including petitions for abatement of penalty), petitions for correction of assessment allocation, petitions for reassessment of private railroad car value for state-assessed properties and private railroad cars.

² The guidelines set forth in this letter are intended to supplement the Board's Rules of Practice (title 18 of the California Code of Regulations, § 5000 et seq.) that govern state assessee and private railroad car petitions. If there is any conflict between the Rules of Practice and these guidelines, the Rules of Practice control.

State Assessee and Private Railroad Car Petition Review Procedures

Meetings with Board Staff

Board staff from the State-Assessed Properties Division (SAPD) will continue the existing practice of meeting with the petitioner on request, either in person or by other means convenient to all parties, before the scheduled hearing date to exchange relevant information and evidence, identify issues, and, if possible, enter into stipulations to resolve all or some of the issues. At any time, Board staff from SAPD or the Appeals Division may request additional information from the petitioner to assist in resolving any opinion of value or other issue raised by the petitioner.

Appeals Division Role; Consolidation of Petitions

The Appeals Division of the Board's Legal Department provides independent, neutral review of all state assessee and private railroad car petitions³ and prepares written summaries and recommendations to assist the Board in considering the petitions. This review may be performed based on the written submissions of the parties, or with the assistance of an appeals conference (described below). At any time during the review process, the Appeals Division may request additional information, clarification, or briefing from either party.

Multiple petitions may be consolidated for hearing or decision if the facts and issues are similar and no substantial right of any party will be prejudiced. The Board Members, Appeals Staff, or any party may request a consolidation, or object to a consolidation of, matters for hearing or decision. Requests for and objections to the consolidation of matters for hearing or decision must be submitted in writing to the Board Proceedings Division and to all parties to the matters at issue. For state assessee and private railroad car petitions, SAPD may draft a single analysis and the Appeals Division may draft one hearing summary or summary decision to address and analyze the issues presented in all the petitions. At the hearing, the Board may grant additional time, in equal amounts, to the petitioners' representative(s) and SAPD.

Briefing Requirements and Schedules

Submissions in the form of briefs are required for consideration of all state assessee and private railroad car petitions. A perfected petition is the petitioner's opening brief, and the SAPD's Analysis is the Board staff's opening brief. The petitioner may, at its option, prepare a petitioner's reply brief.

³ For state assessee and private railroad car petitions where the petitioner and SAPD have agreed to a joint recommendation on a proposed resolution of all issues before the petitioner's appeal conference (if held) or the petitioner's reply brief is submitted (if an appeals conference is not held), the Tax and Fee Programs Division of the Board's Legal Department will prepare and submit a "State-Assessed Properties Division's Recommendation for Property Tax Petition" to the Chief of Board Proceedings. This recommendation will include a brief analysis of the petition and related supporting documents, if any, as well as a statement confirming the petitioner's agreement with such recommendation. The petition will be considered by the Board as a non-appearance matter. The Board is not required adopt the joint recommendation or take the recommended Board action.

If no appeals conference is scheduled, the SAPD's Analysis will be submitted to the Chief of Board Proceedings no less than 45 days before the date on which the petition is scheduled for Board action. The petitioner may submit an optional reply brief to the Chief of Board Proceedings within 15 days after the Board Proceedings Division mails the SAPD's Analysis to the petitioner. The Chief Counsel may grant an extension of these time limitations for reasonable cause.

If an appeals conference is scheduled, it will generally be held at least 30 days before the Board meeting at which the petition is scheduled for Board consideration. The SAPD's Analysis must be submitted to the Chief of Board Proceedings no later than 35 days before the scheduled appeals conference date. The petitioner may submit an optional reply brief to the Chief of Board Proceedings within 15 days after the Board Proceedings Division mails the SAPD's Analysis to the petitioner. The Appeals Division may request additional information or briefing from the petitioner or the SAPD before, during, or after the appeals conference. Unless otherwise permitted by the Appeals Division, all requested information must be provided no later than seven days after the date of the request. The Appeals Division has broad discretion in determining the briefing schedules and deadlines for submitting additional information.

Appeals Conferences

An appeals conference is an informal, non-adversarial meeting of the parties conducted by a conference holder assigned to the Appeals Division. The purpose of an appeals conference is to obtain additional facts and evidence, obtain stipulations of fact, narrow questions of law, and, if possible, resolve issues in order to facilitate the Board's consideration of the petition.

For state assessee and private railroad car petitions, an appeals conference may be requested by any party, the Assistant Chief Counsel of the Appeals Division, or any Board Member. A petitioner must request an appeals conference in its petition. SAPD must request an appeals conference no later than August 15 for unitary value petitions and October 15 for non-unitary value petitions.⁴ There is no specific limitation on the timing of a request by the Appeals Division or a Board Member, so for these requests, and for SAPD requests regarding non-unitary value petitions that can be filed as late as October 15, the Chief Counsel has discretion to modify the deadlines that normally apply to the scheduling of the appeals conference, briefing, and submission of the hearing summary or summary decision.

The Appeals Division will attempt to conduct the appeals conference at a time and in a manner that is convenient for all parties. The Board Proceedings Division will schedule the appeals conference and issue appropriate notification to all parties. The parties may attend the appeals conference in person, by telephone, videoconference, or secure electronic means. For appeals conferences involving state assessee and private railroad car petitions, the parties must confirm their participation in writing or by electronic mail or facsimile. Once the parties agree to attend an appeals conference, the Appeals Division, at its discretion, may choose to hold the appeals conference at the stated date, time, and place even if one party does not appear. The conference holder will not record, videotape, or arrange for court reporting of the appeals conference. Any

⁴ State assessee petitions for reassessment of unitary value are due no later than July 20 of each year, and petitions for reassessment of non-unitary value are due no later than September 20; one 15-day extension of either deadline may be granted.

party may arrange for the appeals conference to be recorded or reported, at that party's expense. If the appeals conference is recorded or reported, a transcript must be made available to all participants. A recording or transcript of an appeals conference becomes a disclosable public record, if and when the petition being discussed on the record or transcript becomes a disclosable public record.

Appeals Division Hearing Summary and Summary Decision

A hearing summary is a written document prepared by the Appeals Division. It is intended to assist the Board in considering and deciding on property tax petitions that come before the Board in an oral hearing. A summary decision is a similar document prepared for property tax petitions that are considered on the non-appearance calendar. Hearing summaries and summary decisions summarize facts, contentions, law, and evidence, and include a discussion of an appeals conference, if one was held. These documents provide the Board with an objective, neutral analysis of the contentions, as well as the Appeals Division's conclusions and recommendations after applying the relevant law to all of the relevant information. The Board Proceedings Division is responsible for distributing briefs, hearing summaries and summary decisions, and other documents to the parties, the Appeals Division, and Board Members, as appropriate.

For state assessee and private railroad car petitions, hearing summaries and summary decisions are submitted to the Board Proceedings Division no later than 10 days prior to the Board hearing at which the petition is scheduled for consideration, unless the Chief Counsel grants an extension for reasonable cause (which includes, but is not limited to, an appeals conference being held less than 30 days before the hearing at the petition is scheduled for consideration). If there has been a partial or complete resolution of issues between the petitioner and the respondent after the hearing summary or summary decision has been issued, the Appeals Division will prepare a revised hearing summary or summary decision if time permits.

Board Decision

A petitioner may withdraw its petition at any time, up to and including the date of the scheduled Board hearing, by notifying the Chief of Board Proceedings in writing, by electronic mail, or facsimile. The petitioner and all other parties to a petition will be notified in writing of the Board's decision. If requested by the petitioner at any point before the commencement of an oral hearing or the commencement of the meeting at which the petition is scheduled for Board action, and the request is not withdrawn before Board approval, the Board will prepare and send to the petitioner a Written Findings and Decision.

If you have any questions, please contact Tax Counsel IV Louis Ambrose at (916) 445-5580.

Sincerely,

/s/ Gary Evans

Gary Evans, Acting Chief
Board Proceedings Division