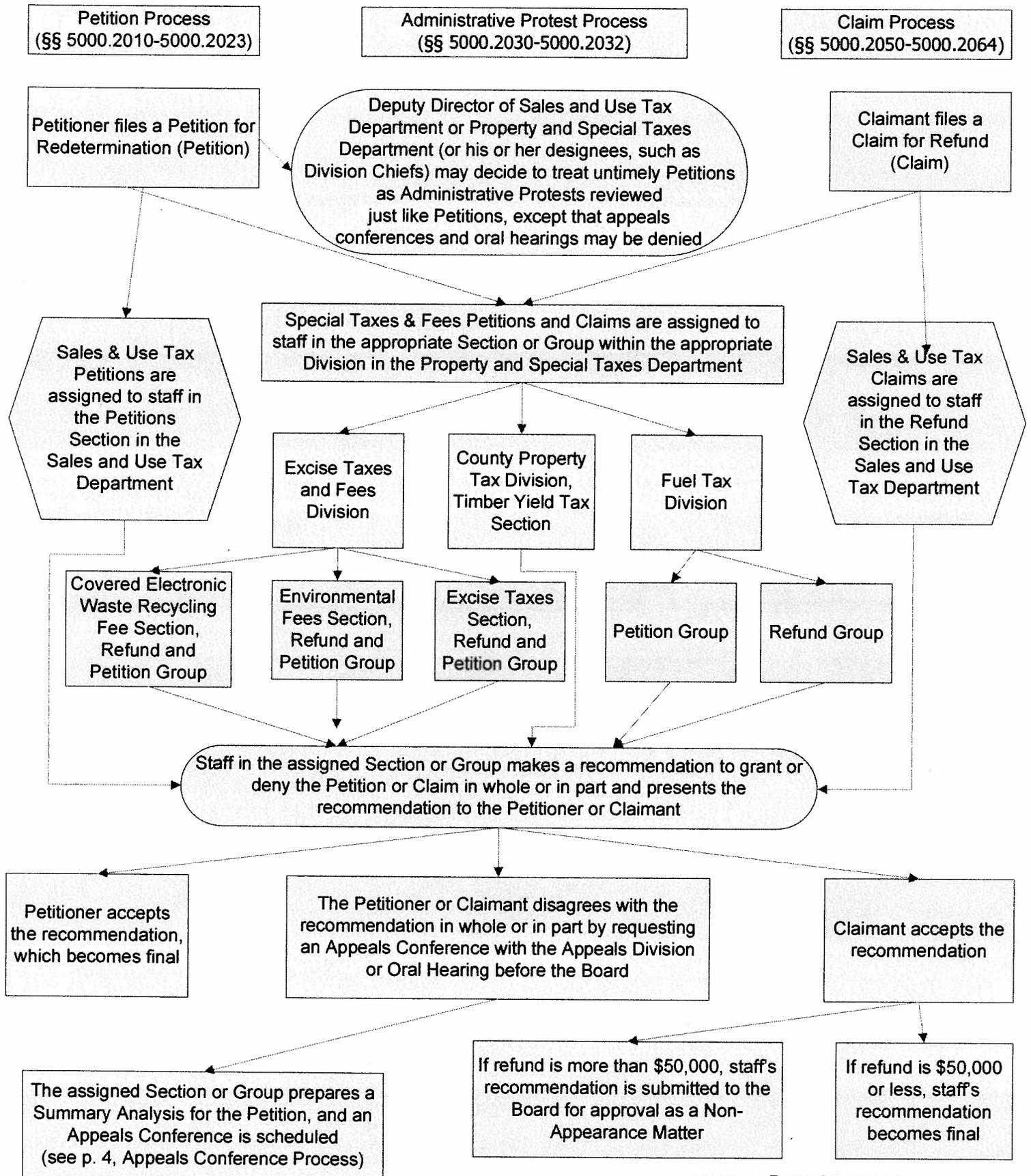
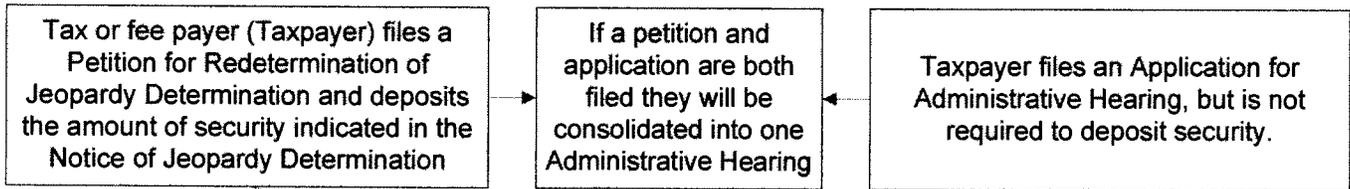
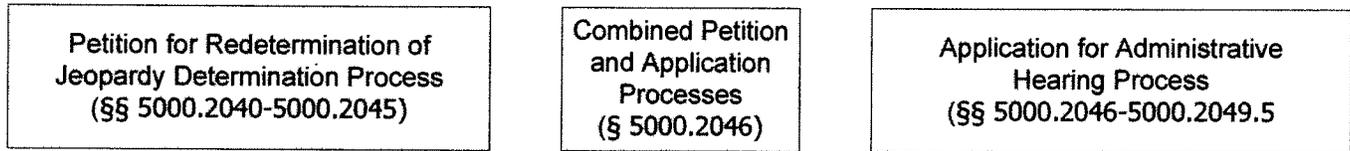


Business Taxes and Fees Appeals Processes Flowchart

Shows the processes under the proposed Rules For Tax Appeals, as will be submitted to the Board on November 20, 2006





Staff will not accept a Petition for Redetermination of Jeopardy Determination, unless the Taxpayer deposits the required security. Staff will accept an Application for Administrative Hearing, even if the Taxpayer does not deposit security, but will not stay collection activities other than the sale of seized property.

Once a Petition for Redetermination of Jeopardy Determination is accepted, it is reviewed under the procedures for Petitions for Redetermination, although everything is done as promptly as possible

Staff assigned to the Board Proceedings Division will promptly assign the Application for Administrative Hearing to staff in the Appeals Division of the Legal Department and schedule an Appeals Conference

Staff assigned to the Appeals Division will promptly hold an Appeals Conference with the Taxpayer and staff from the Department that issued the Jeopardy Determination, prepare a Decision and Recommendation (D&R), and present it to the Taxpayer after the conference. Staff may recommend that the application be denied, or recommend that:

Seized property not be sold because the sale would irreparably harm the Taxpayer

Seized property be returned to the Taxpayer or person from who it was seized

That the amount of the determination be reduced because it is excessive

Taxpayer accepts the recommendation, which becomes final

Taxpayer disagrees with the D&R in whole or in part and requests an Oral Hearing before the Board (see p. 4, Oral Hearing Process)

**Request for Relief Process
(§§ 5000.2080-5000.2087)**

**Request for Innocent Spouse and Other Equitable
Relief Process (§§ 5000.2070-5000.2072)**

Tax or fee payer (Taxpayer) files a Request for Relief (Request) from tax, interest, and or penalties based upon reasonable cause, unreasonable error or delay, reasonable reliance on written advice, or a disaster:

Taxpayer files a Request for Innocent Spouse Relief (Request) under the Sales and Use Tax Law

If the Request is included in a petition, claim for refund, or otherwise is a claim for refund, it will be reviewed as a petition or claim

The Request is assigned to staff in the Offer in Compromise (OIC) Section in the Settlement Division of the Legal Department

Sales and Use Tax Requests are assigned to staff in the Petitions Section in the Sales and Use Tax Department.

Business Taxes and Fees Requests are assigned to staff in the appropriate Section or Group within the appropriate Division in the Property and Special Taxes Department

Staff in the OIC Section makes a recommendation to grant or deny the request in whole or in part, and presents the recommendation to the Taxpayer. If the request is denied in whole or in part, staff also sends the Taxpayer a questionnaire and financial statement, which the Taxpayer will need to complete and return to be considered for other equitable relief.

Excise Taxes and Fees Division

County Property Tax Division, Timber Yield Tax Section

Fuel Tax Division

Staff in the assigned Section or Group makes a recommendation to grant or deny the Request in whole or in part and presents the recommendation to the Taxpayer

Taxpayer accepts the recommendation, which becomes final

Taxpayer returns the completed questionnaire and financial statement and is considered for other equitable relief

Taxpayer accepts the recommendation, which becomes final

Taxpayer disagrees with the recommendation in whole or in part and requests that it be reconsidered by the Deputy Director of the Sales and Use Tax Department or Property and Special Taxes Department

Staff in the OIC Section makes a recommendation to grant or deny other equitable relief in whole or in part, and presents the recommendation to the Taxpayer.

The Deputy Director (or his or her designee, such as a Division Chief) reviews the Request for Relief and staff's recommendation, prepares his or her own recommendation, and presents the recommendation to the Taxpayer

Taxpayer accepts the recommendation, which becomes final

Taxpayer accepts the recommendation, which becomes final

Taxpayer disagrees with the Deputy Director's recommendation in whole or in part and requests an Oral Hearing before the Board

Taxpayer disagrees with the recommendation from staff in the OIC Section in whole or in part and requests an Oral Hearing before the Board

If an Oral Hearing is denied, the Deputy Director's or OIC Section's recommendation becomes final. If an Oral Hearing is granted, the taxpayer may also be required to attend an appeals conference. (See p. 4, Appeals Conference and Oral Hearing Processes.)

**Appeals Conference Process
(§§ 5000.2100-5000.2108)**

If an appeals conference is required or a request for a discretionary appeals conference is granted, staff assigned to the Appeals Division will hold an appeals conference with the Taxpayer, staff from the Sales and Use Tax Department or Property and Special Taxes Department (Department), and possibly staff from other agencies. Staff assigned to the Appeals Division prepares a Decision and Recommendation (D&R) and presents it to the Taxpayer after the conference.

Taxpayer may disagree and request an Oral Hearing before the Board.

**Oral Hearing Process
(§§ 5000.5001-5000.5034)**

If an Oral Hearing is required or a request for a discretionary Oral Hearing is granted. Staff assigned to the Board Proceedings Division will Schedule the Oral Hearing and issue a Notice of Hearing.

The Taxpayer must indicate whether the Taxpayer or Taxpayer's representative will attend the Oral Hearing, and, if neither will attend, must indicate whether the Taxpayer wants to waive the Oral Hearing or submit the appeal to the Board on the written record as a Non-Appearance Matter.

If the Oral Hearing is waived

If requested, the appeal is submitted as a Non-Appearance Matter

If an Oral Hearing is still requested, briefing is optional. The Taxpayer may file an Opening Brief; the Sales or Use Tax Department or Property and Special Taxes Department may file a Reply Brief, and the Petitioner or Claimant may file a Response. (§ 5000.2110)

Staff assigned to the Appeals Division will prepare a Hearing Summary for distribution to the parties and the Board

The Board will hold the Taxpayer's Oral Hearing and the Board's decision will become final, unless a Petition for Rehearing is filed within 30-days

Petitions for Rehearing are submitted to the Board as Non-Appearance Matters along with a recommendation from staff assigned to the Appeals Division

If the Board grants a rehearing, the Board will hold another Oral Hearing, and the Board's subsequent decision will become final

If the Board denies a rehearing, the Board's original decision will become final

Taxpayer and staff from the appropriate Department may agree with the D&R or SD&R

If Petition, Request or Refund of \$50,000 or less, D&R or SD&R becomes final

If Refund of \$50,000 or more, the recommendation in the D&R or SD&R is submitted to the Board for approval as a Non-Appearance Matter

Taxpayer or staff from the appropriate Department may disagree and request reconsideration of the D&R

If a Request for Reconsideration is filed, staff assigned to the Appeals Division will prepare a Supplemental D&R (SD&R) addressing the request and present it to the Petitioner or Claimant