ARTICLE 3: CLAIMS FOR REFUND

5237. BOARD APPROVAL REQUIRED FOR REFUNDS OVER $100,000.

(a) If the assigned section determines that a refund in excess of $100,000 should be granted, the recommendation for the proposed refund must be submitted to the Board for approval except where such a claim is for a duplicate or erroneous payment made through the electronic funds transfer program, where such a claim is one for overpayment of diesel fuel tax filed under Revenue and Taxation Code section 60501 or 60502, or where such a claim is for overpayment of insurance tax prepayments.

(b) Once the recommendation is submitted to the Board, the Board has discretion to make its own determination as to whether the claim for refund should be granted, denied, or granted in part and denied in part, and may do so without further documentation or testimony from the claimant. Where the Board approves a refund, the assigned section will send the taxpayer a notice of refund showing the amount to be refunded, and will have a refund warrant prepared and sent to the taxpayer after determining if such amounts should be credited or offset against other liabilities as provided in section 5238.

(c) Proposed determinations to grant claims for refund of duplicate or erroneous payments made through the electronic funds transfer program are exempt from the requirements of subdivision (a).

(d) Proposed determinations to grant claims for refund of duplicate or erroneous payments made through the electronic funds transfer program in excess of $100,000 must be submitted to the Executive Director for approval. If the Executive Director approves, the assigned section will send the claimant a notice of refund showing the amount to be refunded, and shall have a refund warrant prepared and sent to the claimant.

(e) If the assigned section determines that a refund in excess of $100,000 should be denied, and the claimant has not requested an appeals conference with the Appeals Division or Board hearing, or confirmed a prior request for such a conference or hearing, or such prior requests were denied, the recommendation to deny the refund must be submitted to the Board for approval. If the Board approves the assigned section’s determination, the assigned section will send the taxpayer a notice of denial of claim for refund in accord with that determination.

(f) If the assigned section determines that a refund in excess of $50,000 should be granted and the determination is not required to be submitted to the Board, the proposed determination must be available as a public record for at least 10 days prior to its effective date.

Note: Authority cited: Section 15606, Government Code; and Sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code. Reference: Sections 6901, 8126, 9151, 12977, 30361, 32401, 38601, 40111, 41100, 43451, 45651, 46501, 50139, 55221 and 60521, Revenue and Taxation Code.

History: 1. New section adopted 9-12-2007; effective 2-6-2008.
2. Amendments adopted October 6, 2009, effective February 19, 2010. Replaced $50,000 with $100,000 in title and subdivisions (a), (d), and (f), and added new subdivision (g).
3. Amendments adopted November 19, 2013, effective April 1, 2014. The amendments deleted “Board Staff in” from before and deleted “or group” after “the assigned section” and added the text after “Board” in subdivision (a); replaced “a refund is warranted and in what amount” with “the claim for refund should be granted, denied, or granted in part and denied in part and replaced “will” with “may” in the first sentence in subdivision (b); added the second sentence to subdivision (b); deleted “Board Staff in” from before “the assigned section” in subdivision (d); deleted subdivision (e); renumbered subdivisions (f) and (g) as subdivisions (e) and (f), respectively; deleted “Board Staff in” from before “the assigned section,” replaced “disagreed with such determination by requesting” with “requested,” replaced “oral” with “Board” before and
deleted “before the Board” after “hearing,” and deleted “as provided in subdivision (a)” from after “approval” in the first sentence in renumbered subdivision (e); added the second sentence to renumbered subdivision (e); and replaced “Board Staff” with “the assign section” in renumbered subdivision (f).