(a) The Appeals Division may make the following recommendations in the Decision and Recommendation:

(1) Deny the appeal in its entirety.

(2) Grant the appeal in its entirety.

(3) Grant the appeal in part.

(4) That the appropriate Department perform a reaudit as specified in the Decision and Recommendation.

(b) If the Decision and Recommendation recommends denial of the appeal in whole or in part or a reaudit, the taxpayer may submit, within 30 days after the issuance of the Decision and Recommendation or the issuance of the letter from the Appeals Division explaining the results of the reaudit:

(1) A written request for reconsideration to the Appeals Division. The request must identify the specific issue or issues for which reconsideration is sought, and must explain the reasons the taxpayer disagrees with the Decision and Recommendation, the results of the reaudit, or both; or

(2) A written request for a Board hearing to the Board Proceedings Division if the taxpayer has not previously done so.

(A) If a Board hearing has been requested, but the Appeals Division believes the taxpayer accepts the recommendation of the Appeals Division or it is unclear whether the taxpayer disagrees with any portion of its Decision and Recommendation, the Appeals Division may ask the taxpayer to confirm the request for Board hearing.

(B) If a Board hearing is requested and, if applicable, confirmed, the Board Proceedings Division will schedule a Board hearing, unless that request is waived. However, a Board hearing will not be provided if a request for a discretionary Board hearing is denied.

(c) If the Decision and Recommendation recommends that the appeal be granted in whole or in part or a reaudit:

(1) The Department and any state agency represented at the appeals conference may submit a written request for reconsideration to the Appeals Division within 30 days after the issuance of the Decision and Recommendation or letter from the Appeals Division explaining the results of the reaudit. The request must identify the specific issue or issues for which reconsideration is sought, and must explain the reasons the Department or other state agency disagrees with the Decision and Recommendation, the results of the reaudit, or both.

(2) Any state agency represented at the appeals conference may submit a written request for a Board hearing to the Board Proceedings Division, within 30 days after the issuance of the Decision and Recommendation or letter from the Appeals Division explaining the results of the reaudit. If a Board hearing is requested, the Board Proceedings Division will schedule a Board hearing, unless that request is waived. However, a Board hearing will not be provided if a request for a discretionary Board hearing is denied.

(d) If a party submits a timely request for reconsideration, as provided in subdivisions (b) and (c)(1) of this section, the Appeals Division will prepare a Supplemental Decision and Recommendation to respond to the
request for reconsideration and address any other matter the Appeals Division deems warranted. The
Appeals Division may also issue a Supplemental Decision and Recommendation when it deems it
appropriate to do so, including where no party has filed a timely request for reconsideration. For example,
while the Appeals Division is not required to do so, it may issue a Supplemental Decision and
Recommendation to respond to a request for reconsideration submitted in response to a Supplemental
Decision and Recommendation or otherwise filed more than 30 days after the issuance of the Decision and
Recommendation or the letter explaining the results of a reaudit.

(1) When the Appeals Division receives a request for reconsideration, it will send a letter to
acknowledge receipt of the request and, if the request had not been submitted within the period
specified in subdivisions (b) and (c)(1) of this section, to advise the parties whether the Appeals Division
will issue a Supplemental Decision and Recommendation in response to the request. Where the
Appeals Division will issue a Supplemental Decision and Recommendation, the letter will offer the other
party the opportunity to respond to the request for reconsideration. Where the Appeals Division decides
to issue a Supplemental Decision and Recommendation where no party has submitted a request for
reconsideration, it will promptly send a letter to the parties to notify them of the forthcoming
Supplemental Decision and Recommendation.

(2) The Appeals Division may request additional written argument, analysis, or documentation from any
party if it determines that the information may be relevant to the preparation of a Supplemen
tal Decision and Recommendation, and when it does so, will determine how long to provide the party to respond
and will so inform the party. The Appeals Division will also determine whether a response should be
submitted by the other party, and if so will advise that party when the response is due.

(3) The Appeals Division must issue a Supplemental Decision and Recommendation within 90 days
after the submission of any additional documents requested under paragraph (2), a copy of which will
be sent to each party. The Chief Counsel may allow additional time beyond the 90 days to prepare a
Supplemental Decision and Recommendation; however, both the request for additional time and the
granting of additional time must be in writing and copies provided to each party to the appeal.

(4) A Supplemental Decision and Recommendation must satisfy all the requirements of section 5265,
subdivision (c), as relates to the issues addressed in the Supplemental Decision and Recommendation,
and may make the recommendations listed in subdivision (a) above.

(5) The provisions for requesting a Board hearing following the issuance of a Decision and
Recommendation set forth in subdivisions (b) and (c)(2) of this section are applicable to the issuance of
a Supplemental Decision and Recommendation.

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 6074, 6456, 6538, 6562, 6592, 6593, 6593.5, 6596, 6814,
6901, 6902, 6906, 6981, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8128, 8911, 8828,
8829.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9152, 9196, 12429, 12636, 12637, 12951, 12977,
12978, 12981, 30175, 30176, 30176.1, 30176.2, 30177, 30178, 30178.1, 30243, 30243.5, 30262,
30282, 30283, 30283.5, 30284, 30361, 30362, 30365, 30421, 32255, 32256, 32256.5, 32257,
32302, 32312, 32313, 32401, 32402, 32402.1, 32404, 32407, 32440, 38433, 38435, 38443, 38452,
38453, 38454, 38455, 38601, 38602, 38605, 38631, 40093, 40102, 40103, 40103.5, 40104, 40111,
40112, 40115, 40121, 41087, 41096, 41097, 41097.5, 41098, 41100, 41101, 41104, 41107, 43157,
43158, 43158.5, 43159, 43303, 43351, 43352, 43451, 43452, 43454, 43491, 45145, 45146,
45156.5, 45157, 45303, 45352, 45353, 45651, 45652, 45654, 45655, 45615, 46156, 46157, 46157.5,
46158, 46302, 46303, 46353, 46501, 46502, 46505, 46511, 50112.2, 50112.3, 50112.4, 50112.5,
50116, 50120.2, 50120.3, 50139, 50140, 50142, 50151, 50544, 55045, 55046.5, 55083,
55102, 55103, 55221, 55224, 55281, 60209, 60201, 60211, 60212, 60332, 60333, 60352,
60501, 60502, 60506, 60507, 60521, 60522 and 60581, 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 subdivision (f), and added new subdivision (g).
3. Amendments adopted November 19, 2013, effective April 1, 2014. The amendments replaced
“Staff” with “Division,” replaced “Oral” with “Board,” and inserted “; Supplemental Decision and
Recommendation” in the title of the regulation; inserted “The” and replaced “Staff” with “Division”
in subdivision (a); replaced “petition, claim, or request for relief” with “appeal” in subdivisions
(a)(1), (2), and (3) and (b); deleted “Board Staff in” from after “That” and replaced “re-audit the
issues raised in the petition, claim, or request for relief” with “perform a reaudit” in subdivision
(a)(4); inserted “or a reaudit,” replaced “petitioner, claimant, or person requesting relief” with
“taxpayer,” and inserted the text after “may” in subdivision (b); replaced “File a” with “A” and
replaced “Appeals Staff to reconsider the petition, claim, or request for relief no later than 30
days after the Decision and Recommendation was issued” with “reconsideration to the Appeals
Division” in the first sentence in subdivision (b)(1); add the second sentence to subdivision
(b)(1); replaced “Disagree and file a” with “A,” replaced “file an oral” with “a Board,” and
replaced “before the Board no later than 30 days after the Decision and Recommendation was issued”
with “to the Board Proceedings Division if the taxpayer has not previously done so” in the first
sentence in subdivision (b)(2); deleted the second sentence in subdivision (b)(2); and deleted
subdivision (b)(2)(A); replaced “an oral” with “a Board,” inserted the “Appeals Division believes
the taxpayer accepts the recommendation of the Appeals Division or,” replaced “petitioner,
claimant, or person requesting relief” with “taxpayer,” and replaced “(or supplemental Decision
and Recommendation) Board Staff will:” with “,” the Appeals Division may ask the taxpayer to
confirm the request for Board hearing,” in subdivision (b)(2)(B); deleted subdivision (b)(2)(B)(i)
and (ii); renumbered subdivision (b)(2)(B) as subdivision (b)(2)(A) and added a new subdivision
(b)(2)(B); deleted subdivision (b)(3); replaced “a petition, claim, or request for relief” with “the
appeal” and replaced “Department represented at the appeals conference, and any state
agency represented at the appeals conference may” with “or a reaudit” in subdivision (c); replaced
“File” with “The Department and any state agency represented at the appeals conference may submit,”
replaced “for Appeals Staff to reconsider the petition, claim, or request for relief” with “for reconsideration to the Appeals Division,” inserted “issuance of the,” and replaced “was issued” with “or letter from the Appeals Division explaining the results of the
reaudit” in the first sentence in subdivision (c)(1); added a new second sentence to subdivision
(c)(1); deleted subdivision (c)(2); replaced “Notwithstanding subdivision (c), if the Decision and
Recommendation recommends that a petition, claim for refund, or request for relief be granted in
whole or in part, any” with “Any,” replaced “file” with “submit,” replaced “an oral” with “a Board,”
replaced “before the Board no later than” with “to the Board Proceedings Division, within,”
inserted “issuance of the,” and replaced “was issued” with “or letter from the Appeals Division explaining the results of the reaudit” in the first sentence in subdivision (d); replaced “an oral” with “a Board” twice; inserted “the” before “Board Proceedings,” replaced “Staff” with “Division,”
and deleted “before the Board” from after the second reference to “hearing” in the second
sentence in subdivision (d); replaced “an oral” with “a Board” and replaced “oral” with “Board” in
the third sentence in subdivision (d); renumbered subdivision (d) as subdivision (c)(2); replaced
“If Appeals Staff receive a” with “If a party submits a timely,” replaced “Appeals Staff” with “as
provided in subdivision (b) and (c)(1) of this section, the Appeals Division,” replaced “addressing
any new information provided in” with “to respond to,” and replaced “, copies of which will be
sent to all parties” with “and address any other matter the Appeals Division deems warranted” in
the first sentence in subdivision (e); replaced “Appeals Staff” with “The Appeals Division” and replaced all the text following “Recommendation” in second sentence in subdivision (e); added a new third sentence to
subdivision (e); reformatted the last sentence in subdivision (e) as subdivision (e)(4) and added the
text following “subdivision (c)” to subdivision (e)(4); added subdivisions (e)(1), (2), (3), and
(5) and renumbered subdivision (e) as subdivision (d); and deleted subdivisions (f) and (g).