

California State
Board of Equalization



Guide to Your
Appeal Hearing
Before the Board Members

Overview

Purpose

An Appeals Hearing may be a new experience for you. The Board Members understand this and want to make the process as easy to understand and as simple as possible for you.

This guide is intended to do just that.

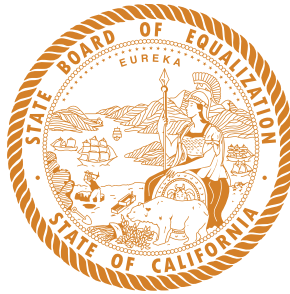


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An Introduction to Board Hearings

Who are the Board Members

The California State Board of Equalization (BOE) has five Board Members. Four are elected from each of California's four Equalization districts and one is the State Controller, who is elected statewide.

- *Note:* The State Controller may designate a deputy to act on his or her behalf.

The five Board Members as of 2015 are:

First District	Sen. George Runner (RET.)	Lancaster
Second District	Fiona Ma, CPA	San Francisco
Third District	Jerome E. Horton	Los Angeles County
Fourth District	Diane L. Harkey	Orange County
State Controller	Betty T. Yee	Sacramento
Executive Director	Cynthia Bridges	Sacramento



Types of Hearings

The BOE decides on, or adjudicates, appeals of taxes and fees administered by the BOE and the Franchise Tax Board (FTB).

The packet you received along with this guide has information and forms specific to your type of case.

Board Proceedings Division

Who We Are

Once your case has moved into the stage where it can be brought before the Board Members, the BOE's Board Proceedings Division is your main contact for questions related to your Board hearing.

The Board Proceedings Division's contact information is:

Board Proceedings Division, MIC:80
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0080
Phone: 1-916-322-2270
Fax: 1-916-324-3984

The Forms You Received in This Packet

Notice of Board Hearing

This notice informs you when and where your appeal will be heard. Usually, the hearings are in Sacramento or Culver City; however, the Board may hold hearings in other locations.

This notice also provides the case identification number, a contact name and phone number for a staff member in the BOE's Board Proceedings Division, and a due date to return the *Response to Notice of Board Hearing*.

Response to Notice of Board Hearing

This form asks you to inform the BOE which of the following options you want to pursue:

- *Attend the Hearing.* This form asks who will appear at the hearing and make an oral presentation. You and/or a representative may attend and make an oral presentation.
- *Waive your right to appear.* If you do this, your case will be decided based on the information previously submitted.
- *Withdraw your request for an oral hearing.* If you do this, your case will be decided based on the information previously submitted.

Note: If you do not return a completed *Response to Notice of Hearing* form, your case will be submitted to the Board Members without an oral Hearing and the Board Members will make their decision based on the written material available.

There is also the option on this form to request an interpreter in the language of your choice.

Authorization for Electronic Transmission of Data

This form lets the BOE electronically transmit—via email—information about your case to you.

Privacy Notice

This notice informs you of your rights, the California laws that protect your rights, the fact that you can review your records upon request, and that the Chief of Board Proceedings is responsible for maintaining these records.

It also gives you contact information for the BOE Disclosure Officer, who you would contact if you want to review your records, as well as contact information for the Chief of Board Proceedings.

What to Expect at Your Hearing

This document informs you of what will happen on your hearing day, for example, where to sit and who will greet you. A map of the Board Room is located on the back for your convenience.

Forms for the BOE

If you are appealing a tax or fee administered by the BOE, you will also receive the following forms:

- *Settlement Deadlines.* This informs you that you typically have up to 15 days before your hearing to make a settlement offer, if you want to make one. It also provides you contact information for the Settlement Division.
- *Briefing Requirements.* This provides information about what needs to be in Opening Briefs, Reply Briefs, and Response to Reply Briefs. This form also provides deadlines for when the briefs need to be filed.
- *Notice about the Rules for Tax Appeals (RTA).* The BOE must use the RTA when deciding your case. The RTA is available to you, if you want it. This notice gives you information about how to find it on the BOE website at www.boe.ca.gov or to obtain a copy.

Postponing Your Hearing

You have the right to request a postponement of your hearing. You must request a postponement in writing. An email will satisfy this requirement.

You will be notified in writing if your request is granted or denied. You can request that this notice be emailed.

Factors that contribute to the decision whether or not to grant a postponement include whether or not you've requested a postponement before and how soon before the hearing you make the request.

Your Representation at the Hearing

Who Can Represent You

You can of course represent yourself at your hearing. However, you have the right to have others represent you, if you wish. You may be represented by any person who is at least 18 years old.

Usually, this person is an accountant or an attorney.

Tax Appeals Assistance Program

Those with appeals before the Members of the BOE may request free legal assistance through the BOE's [Tax Appeals Assistance Program](#), which is managed by the Taxpayers' Rights Advocate. Qualified law students, who are supervised by BOE tax attorneys reporting to the Advocate, advise individuals (appellants) with appeals under \$20,000. The students research and draft appeal briefs as well as handle other matters on behalf of the appellant.

Assistance is available to qualifying appellants with state income tax, consumer use tax, Cigarette and Tobacco Products Licensing Act, and dual determination appeals in which a decision by the Board of Equalization has been requested.

For additional information about this program, call the Administrative Analyst in the Taxpayers' Rights Advocate Office at 1-916-319-9199.

Settlement Requests

What is a Settlement

While your case is under appeal, you have the right to propose a settlement. A settlement is a voluntary agreement between you and the BOE or FTB, that allows one of the following:

- Paying the state less than the BOE or FTB states you owe;
or
- Refunding you an amount that differs from the amount you claimed.

If you and the BOE or FTB agree to a settlement, the agreement is final and cannot be appealed at a later date.

Deadlines and Who to Contact

For a settlement to be made without an oral hearing before the Board, be sure to follow the appropriate deadlines.

For settlements with the:

BOE, please call 1-916-324-2836.

FTB, please call 1-916-845-5034.

More Information on Settlements

More information on BOE settlements is available online at www.boe.ca.gov or www.boe.ca.gov/sutax/boe393n.htm, or by calling 1-800-400-7115 (TTY:711) and requesting a copy of publication 17, *Appeals Procedures: Sales and Use Taxes and Special Taxes*.

You will need to fill out and return a timely **BOE 393**, *Settlement Proposal*, for your settlement to be considered.

Advance Payment and Interest Charges

What This Is

If you are appealing an unpaid tax or fee, the unpaid amount will continue to accrue interest while your appeal is being processed.

You can stop accruing interest by paying the disputed amount.

Paying the Amount Does Not Affect Your Case

If you have filed a timely Petition, paying the disputed amount does not affect your case or your rights. If you win your appeal, the amount you paid will be refunded to you, along with the interest accrued for the duration of time after your advance payment was made. If your Petition was untimely, but treated as an Administrative Protest, a claim for refund should be filed for each payment made towards the disputed amount to preserve your rights.

If you have any questions, please contact the Board Proceedings Division.

Contribution Disclosure Statements

What They Are

The Board Members who will adjudicate your case are elected by the public. As such, they raise funds to run their campaigns.

To ensure that all parties involved in your appeal are not influenced by political contributions, you must fill out and return the [Contribution Disclosure Statement](#).

Your Contribution Disclosure Statement will be mailed to you approximately 45 days before your hearing, requiring you to disclose any campaign contributions to a Board Member within the 12 months prior to your hearing.

Who Needs to Fill Them Out

You might not be the only person who needs to complete and return a Contribution Disclosure Statement. If applicable, the following people need to complete and return this statement:

- *Party/Taxpayer or Feepayer*: Any person who has a case pending before the BOE.
- *Participant*: Someone not actually liable for any money, but either lobbies for the party or is a witness for the party.
- *Agent or Representative*: Someone who represents a party or participant. This is usually an attorney or accountant.

Exhibits for Your Hearing

Please Submit Them Early

If you are disputing any facts in your case, you can submit exhibits for the Board Members to review before your case is heard.

We recommend that you submit them two weeks in advance. This will provide the Board Members with enough time to review the exhibits. Please provide fourteen copies.

Contribution Disclosure Forms

If your exhibits include witness affidavits or declarations, each person who signs an affidavit or declaration must complete a “participant” contribution disclosure form.

How a Board Meeting is Conducted

What to Expect at Your Hearing

In the packet that came with this document is a one-page flyer entitled *What to Expect at Your Hearing*.

This flyer lets you know how to physically navigate yourself through the Board meeting.

Arrive Early

You should arrive at the Board meeting a half an hour before the scheduled start time. The schedule for the day is subject to change, although the Chief of Board Proceedings will announce any changes at the start of the meeting. If you arrive early, you won't miss your chance to be heard.

Written Information Reviewed by the Board

Before you present your case, the Board will have already reviewed written information submitted to them by staff.

This information will include your case history and any legal summary provided by the BOE Legal Department.

Your case will be decided based on the written record as well as the oral presentations.

Following are the types of written information the Board will review:

- Exhibits submitted to the Board Proceedings Division
 - An *exhibit* differs from a legal brief. It is used to verify a fact but does not argue a point based on legal opinion.
- Any briefs you or the BOE Department or other state agency filed in your matter.
 - A *legal brief* is a document that argues a point of view based on the facts of the case and legal authorities, like statutes and regulations.
- Board Hearing Summary
 - A *hearing summary* is prepared by the BOE's Appeals Division. It summarizes the state's and your arguments. Copies are provided to Board Members, to BOE staff participating in the hearing, and to you approximately four weeks before your hearing.

What to Expect

When you arrive, you will be greeted by a Board Proceedings staff member, who will ask you to sign in and provide you with an agenda. They will also accept any exhibits you did not previously provide.

You should then find a seat and look for your case on the agenda.

When the Chief of Board Proceedings calls your case, please take a seat at the table and adjust your microphone as needed. (See the one-page flyer, *What to Expect at Your Hearing*, for a map of the Board Room and where you will sit.)

A BOE representative will then introduce your case. You will have 10 minutes to make your presentation.

Oral hearings are intended to be brief, to the point, and informal. You and the BOE or FTB have the same amount of time to present your case.

- *Note:* If you believe you'll need more than 10 minutes, please request more time by writing the Chief of Board Proceedings no later than 15 days before your meeting. In your letter, please explain why you require more time. An email or fax will suffice as well.

Next, the BOE or FTB will have 10 minutes to present their case.

After that, you will have 5 minutes to reply.

- The Board Members can grant more time to either side if they think it's needed.

Then, the Board will either make its decision immediately or it will take your case under submission.

"Under Submission"

As mentioned above, if your case is not decided immediately, it is "taken under submission." This means the Board will decide on your case later, usually the same day. Regardless, you will be notified of their decision in writing.

Any discussions by the Board Members about the basis of their decision will occur during the Board's public hearing. The hearings are live streamed on the BOE's website, and a video and audio recording of the hearing will be available approximately 24 hours following the hearing. See "Board Meetings" on our homepage at www.boe.ca.gov.

Further Appeals

If You Don't Agree with the Board's Decision

If you don't succeed in your appeal hearing, you may have a right to a further appeal, depending on your case.

If you wish to learn more about these rights, please consult the following:

- [Publication 17](#), *Appeals Procedures: Sales and Use Taxes and Special Taxes*
- [Publication 81](#), *Franchise and Personal Income Tax Appeals*

You should have already received these, but if you need new copies, these publications are available at www.boe.ca.gov in the “Forms and Pubs” section.

You can contact the Board Proceedings Division at 1-916-322-2270 if you have any questions or if you are appealing a tax or fee that is not discussed in the above publications.

You may want to consult with an attorney, tax professional, or other expert to learn more about your rights.

Hearing Record Transcripts

How to Obtain Them

All Board hearings are transcribed by a hearing reporter. However, printed transcripts are not automatically prepared for tax or feepayers.

You can request them when you sign in for your Board hearing, or you can contact the Board Proceedings Division after the hearing.

Contacts

Taxpayers' Rights Advocate

For more information about your rights, or if you have a disagreement you cannot resolve through normal channels, you may contact the Taxpayers' Rights Advocate.

For sales and use tax, special taxes and fees, and property tax cases, contact:

Taxpayers' Rights Advocate Office, MIC:70
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0070
Toll-free: 1-888-324-2798
Phone: 1-916-324-2798
Fax: 1-916-323-3319

For personal income tax, franchise taxes, bank taxes, and corporation taxes cases, contact:

Executive Liaison Section
Franchise Tax Board
PO Box 157
Rancho Cordova, CA 95741-0157
Toll-free: 1-800-883-5910
Fax: 1-916-843-6022

Board Proceedings Division

Call the Board Proceedings Division if you have questions about hearing procedures.

Board Proceedings Division, MIC:80
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0080
Phone: 1-916-322-2270
Fax: 1-916-324-3984
meetinginfo@boe.ca.gov

Appeals Division

Appeals Division, MIC:85
State Board of Equalization
PO Box 942879
Sacramento, CA 942879-0085
Phone: 1-916-323-3166
Fax: 1-916-324-2618

Settlement and Taxpayer Services Division

Settlement Division, MIC:87
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0087
Phone: 1-916-324-2836
Fax: 1-916-323-3387

State-Assessed Properties Division

State-Assessed Properties Division, MIC:61
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0061
Phone: 1-916-322-2323
Fax: 1-916-324-2787

Websites

www.boe.ca.gov
www.ftb.ca.gov

Publications

If you would like to receive a copy of the following publications, visit www.boe.ca.gov under the “Forms and Pubs” section or call the Customer Service Center at 1-800-400-7115 (TTY:711).

- **Publication 17**, *Appeals Procedures: Sales and Use Taxes and Special Taxes*
- **Publication 70**, *Understanding Your Rights as a California Taxpayer*
- **Publication 81**, *Franchise and Personal Income Tax Appeals*
- **Publication 231**, *Hit the Wall Trying to Solve your Tax Problem?*
- **Rules for Tax Appeals: Chapter 5**—General Board Hearing Procedures

The State Assessment Manual, which describes principles and procedures used by the BOE in the assessment of state-assessed property, can be found online at www.boe.ca.gov/proptaxes/sappcont.htm.

