

# CALIFORNIA CODE OF REGULATIONS

## Title 18. Public Revenues Division 2.3 State Board of Equalization - Access to Records

### ARTICLE 1. PUBLIC ACCESS TO RECORDS PERTAINING TO TAX AND FEE PROGRAMS

#### REGULATION 8000. PURPOSE AND SCOPE.

(a) Access to public records maintained by the Board is governed by the California Public Records Act (Government Code Section 6250 and following). The term "public record," as used in this article, is defined in subdivision (e) of Section 6252 of the Government Code.

(b) The purpose of this article is to facilitate public access to Board records so as to provide a better understanding of the tax and fee programs administered by the Board. Therefore, the information in this article is not directly applicable to a request by a taxpayer or taxpayer's representative to obtain copies of records pertaining to the taxpayer's own account(s). Nonetheless, a request for a taxpayer's own records may be addressed to the Executive Director or Disclosure Officer as provided in Regulation 8004.

*Note:* Authority: Government Code Sections 6253.4 and 15652. References: Government Code Sections 6250, 6251, 6252, and 6253.

*History:* 1. New division 2.3 (article 1 sections 8000-8016), article 1 (sections 8000-8016) and sections filed 11-15-2000; operative 12-15-2000.

#### REGULATION 8002. DISCLOSURE POLICY.

Public records that are not exempt from disclosure by state or federal law may be inspected and copied pursuant to the procedures set forth in this article.

*Note:* Authority: Government Code Sections 6253.4 and 15652. References: Government Code Sections 6250, 6253, 6254, 6254.20, 6254.25, 6254.9, and 6255.

*History:* New section filed 11-15-2000; operative 12-15-2000.

#### REGULATION 8004. PROCEDURES FOR REQUESTING PUBLIC RECORDS.

(a) Requests to inspect or obtain copies of public records shall provide a sufficiently specific description so as to allow the Board to identify the requested records.

(b) The Board's mailing address is State Board of Equalization, P.O. Box 942879, Sacramento, CA 94279. In addition, use of the appropriate Mail Identification Code ("MIC"), as provided in this article, will ensure that a request for public records is promptly forwarded to the appropriate subdivision of the Board.

(c) Except as otherwise provided in this article, requests to inspect or obtain copies of public records shall be made in writing and shall be addressed to either the Executive Director, MIC: 73 or the Disclosure Officer, MIC: 54.

(d) Certain publications identified in this article may be requested by calling the Board's Customer Service number, 1-800-400-7115, by writing the Board's Supply Unit at: State Board of Equalization, Supply Unit, 3920 West Capitol Avenue, West Sacramento, CA 95691, or by faxing to 916-372-6078.

(e) Many of the records described in Regulations 8010 through 8016 are also available on the Board's website at <http://www.boe.ca.gov>. Check the website for currently available records.

*Note:* Authority: Government Code Sections 6253.4 and 15652. References: Government Code Section 6253.

*History:* 1. New section filed 11-15-2000; operative 12-15-2000.

#### REGULATION 8006. COST FOR COPIES OF PUBLIC RECORDS.

(a) Except as provided in (b) through (e) below, or as otherwise provided in this article, any person making a request for copies of public records shall reimburse the Board ten cents (.10¢) per page for each page copied.

(b) Copying costs may be waived when the total copying cost for the records requested is less than ten dollars (\$10) per quarter.

(c) Current issues of the Board's Annual Report, Current Legal Digests, tax information pamphlets and publications, and newsletters are available free of charge.

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(d) The following publications are available for purchase at cost: the Assessors' Handbook, the Business Taxes Audit Manual, the Business Taxes Law Guide, the Compliance Policy and Procedures Manual, Letters to Assessors, and the Property Taxes Law Guide.

(e) Charges for transcripts of testimony heard before the Board shall be made at the rates specified in Section 69950 of the Government Code unless a copy of the transcript is already available, in which case the cost shall be consistent with (a) and (b) above.

*Note:* Authority: Government Code Sections 6253.4 and 15652. References: Government Code Sections 6253, 15622 and 69950.

*History:* 1. New section filed 11-15-2000; operative 12-15-2000.

**REGULATION 8008. DETERMINATION REGARDING DISCLOSURE OF PUBLIC RECORDS.**

(a) Upon a request for inspection or copies of records, the Board shall have up to 10 calendar days from the receipt of the request to determine whether the request is for disclosable public records in the possession of the Board. In "unusual circumstances," as defined in Section 6253 of the Government Code, the Board may send a written notice to the requestor to extend the period of determination up to an additional 14 calendar days.

(b) After making the determination set forth in (a) above, the Board shall promptly notify the requestor of the Board's determination to disclose the requested records or why some or all of the requested records cannot be disclosed. A notification of denial of any request for records shall set forth the name and title or position of the person responsible for the denial.

(c) After a determination that the Board will disclose the requested records, the Board shall have a reasonable amount of time in which to review the records and, if necessary, to redact any confidential taxpayer information from the requested records. After this review, copies of disclosable records shall be promptly provided to the requestor.

*Note:* Authority: Government Code Sections 6253.4 and 15652. References: Government Code Sections 6250, 6253, 6254, 6254.20, 6254.25, 6254.9, and 6255.

*History:* 1. New section filed 11-15-2000; operative 12-15-2000.

**REGULATION 8010. BUSINESS TAXES RECORDS.**

The sales and use tax program and special taxes programs are collectively referred to as business taxes. The business taxes records include:

(a) Annotations. Annotations are summaries of the conclusions reached in selected legal rulings of counsel. Business Taxes annotations are published in the Business Taxes Law Guide.

(b) Annotation Back-Up Opinions. An annotation back-up opinion is a redacted copy of the legal ruling of counsel on which an annotation is based. Confidential taxpayer information will be redacted from a back-up opinion prior to disclosure. Requests for copies of business taxes annotation back-up opinions may be sent directly to the Legal Librarian, MIC:82.

(c) Board Staff Memoranda or Letters. Memoranda or letters written by Board staff may be requested by author, date, subject, statute, or regulation. Confidential taxpayer information will be redacted prior to disclosure. Documents protected by the attorney-client privilege or attorney work product privilege will not be disclosed.

(d) Business Taxes Law Guide. The Business Taxes Law Guide is a four-volume compilation of Business Taxes statutes, regulations, case law synopses, annotations, and memorandum opinions. The Business Taxes Law Guide may be requested as provided in subdivision (d) of Regulation 8004.

(e) Business Taxes Current Legal Digests. Business Taxes Current Legal Digests are sent to interested parties to review drafts of additions, amendments, and deletions of annotations before the draft annotations are finalized and incorporated into the Business Taxes Law Guide. There is an interested parties mailing list for Business Taxes Current Legal Digests.

(f) Business Taxes General Bulletins. Business Taxes General Bulletins were used to provide guidance to staff. Almost all Business Taxes General Bulletins are now obsolete.

(g) Decision and Recommendation. A Decision and Recommendation represents an Appeals Attorney's or Appeals Auditor's recommendation regarding a petition for redetermination or a claim for refund after hearing an appeals conference. A Decision and Recommendation does not reflect the ultimate disposition of the appeal by the Board. A Decision and Recommendation has no precedential value. Copies of Decisions and Recommendations may be requested by subject, statute, or regulation. Confidential taxpayer information will be redacted prior to disclosure.

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(h) Manuals and Guidelines.

(1) Audit Policy and Management Guidelines. The Audit Policy and Management Guidelines (the "APMG") addresses special policy areas and procedures relating mainly to the sales and use tax audit program, as well as management of the audit program and the audit selection system. In order to safeguard the integrity of the Board's audit program, most of the content of the APMG will not be disclosed to the public.

(2) Business Taxes Audit Manual. The Audit Manual provides guidance to auditors performing business taxes audits. The purpose of the manual is to ensure that audits are conducted and reports are prepared in a uniform manner consistent with approved tax audit practices. The Business Taxes Audit Manual may be requested as provided in subdivision (d) of Regulation 8004.

(3) Compliance Policy and Management Guidelines. The Compliance Policy and Management Guidelines ("the CPMG") addresses special policy areas and procedures relating mainly to the sales and use tax compliance program. In order to safeguard the integrity of the Board's compliance program, most of the content of the CPMG will not be disclosed to the public.

(4) Compliance Policy and Procedures Manual. The Compliance Policy and Procedures Manual ("the CPPM") contains Board policy guidelines, specific standards, and uniform procedures to guide staff with taxpayer registration, account maintenance, tax return processing, the application of security, account close-outs and clearances, and collection and cashing functions. The manual includes established methods and procedures to provide for uniform, effective, and efficient operations. The CPPM may be requested as provided in subdivision (d) of Regulation 8004.

(5) Other Business Taxes Manuals and Guidelines. Various units of the Board have informal manuals to assist employees in performing their duties. Many of these manuals and guidelines are listed below:

- (A) Alcoholic Beverage Tax Audit Manual.
- (B) Cigarette Tax Audit Manual.
- (C) Cigarette Tax Enforcement Manual.
- (D) Close-Out Procedures - Alcoholic Beverage and Cigarette and Tobacco Product Tax Programs.
- (E) Consumer Use Tax Section Guidelines for Documents Required to Support a Claim for Exemption of Use Tax.
- (F) Emergency Telephone Users Surcharge Audit Manual.
- (G) Excise Taxes Division Refund Manual.
- (H) Excise Taxes Division Relief of Penalty Manual.
- (I) Fuel Taxes Audit Manual.
- (J) Fuel Taxes Procedure Bulletins.
- (K) Fuel Taxes Section Collection Desk Manual.
- (L) International Fuel Tax Agreement Audit Manual.
- (M) International Fuel Tax Agreement Procedures Manual.
- (N) Truck Inspection Program Procedures Manual.
- (O) Use Fuel Tax Clearance Process.

These manuals and guidelines are not updated on a regular basis. Some manuals and guidelines contain confidential information that must be redacted before the document may be released to the public.

(i) Memorandum Opinions. A formal Business Taxes opinion issued by the Board is called a Memorandum Opinion. The Board has issued a very limited number of Memorandum Opinions. Memorandum Opinions are published in the Business Taxes Law Guide. Individual copies of Memorandum Opinions may be requested by name or subject.

(j) Newsletters. The Board issues the following newsletters: the Tax Information Bulletin (published quarterly), the Fuel Taxes Newsletter (published twice a year), and the Environmental Fees Newsletter (published twice a year). Newsletters may be requested as provided in subdivision (d) of Regulation 8004.

(k) Operations Memoranda. Operations Memoranda ("Ops Memos") are used to inform Board staff and the public of changes in laws and Board procedures. Ops Memos are public unless they contain confidential information, in which

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case, when it is possible to do so, a redacted copy will be provided. Ops Memos may be requested by subject, title, or Ops Memo number. In time, individual Ops Memos become obsolete. A list of current Ops Memos may be requested.

(l) Policy Memoranda Issued to Districts. Policy memoranda are circulated to the Districts as needed to clarify departmental issues and/or policies relating to specific topics. Policy memoranda may be requested by subject or date.

(m) Rulemaking Files. A rulemaking file contains a record of the steps taken by an agency to adopt a regulation. A copy of a rulemaking file may be requested directly from the Regulations Coordinator, Board Proceedings Division, MIC: 81. Request rulemaking files by regulation number and the date of the adoption, amendment, or repeal.

(n) Settlements. Whenever a reduction of tax or fee in an administrative settlement in excess of five hundred dollars (\$500) is approved, the Board creates a public record of the settlement. Public records of administrative settlements are available for inspection at the reception desk of the Board's Headquarters located at 450 N Street, Sacramento, California. Copies of up to fifty (50) pages may be obtained directly from the reception desk. Requests for more than 50 pages will be mailed to the requestor within one week. Requests for copies may also be addressed to the Executive Director, MIC: 73.

(o) Tax Pamphlets and Publications. A list of tax pamphlets and publications is available. Tax pamphlets and publications may be requested as provided in subdivision (d) of Regulation 8004.

(p) Training Courses - Sales and Use Tax. A list of Sales and Use Tax training courses may be requested. The materials in some courses may be restricted to use by Board employees. If a course contains restricted information, a redacted copy of course materials will be provided.

*Note:* Authority: Government Code Sections 6253.4 and 15652. References: Government Code Sections 6250, 6252, 6253, 6254, 6254.20, 6254.25, 6254.9, and 6255.

*History:* 1. New section filed 11-15-2000; operative 12-15-2000.

**REGULATION 8012. PROPERTY TAXES RECORDS.**

The Board's property taxes records include:

(a) Annotations. Annotations are summaries of the conclusions reached in selected legal rulings of counsel. Property Taxes annotations are published in the Property Taxes Law Guide.

(b) Annotation Back-Up Opinions. An annotation back-up opinion is a redacted copy of the legal ruling of counsel on which the annotation is based. Confidential taxpayer information will be redacted from the back-up opinion prior to disclosure.

(c) Assessment Practices Surveys.

(1) Periodic Surveys. Periodic surveys are conducted of the county assessor offices throughout the state. The findings are summarized in an Assessment Practices Survey report containing recommendations for improving assessment practices in the county. These reports may be requested by the name of the county.

(2) Special Topic Surveys. Statewide surveys of the 58 county assessors are occasionally conducted on a specific assessment issue. The resulting Special Topic Survey summarizes the findings of the survey, reviews the applicable law, and presents the Board's views. These reports may be requested by topic.

(d) Board Staff Memoranda or Letters. Memoranda or letters written by Board staff may be requested by author, date, subject, statute, or regulation. Confidential taxpayer information will be redacted prior to disclosure. Documents protected by the attorney-client privilege or attorney work product privilege will not be disclosed.

(e) Findings and Decisions. Formal property taxes opinions by the Board pertaining to petitions for reassessment and to applications for review are called Findings and Decisions. Findings and Decisions are issued upon the taxpayer's request. Copies of these decisions may be requested by providing the taxpayer's name or appeals number and the year of the decision. Findings and Decisions are not indexed by subject matter.

(f) Formal Opinions of the Board. The Board has issued a very limited number of formal property taxes opinions that may be requested by taxpayer name from the Legal Division, MIC:82.

(g) Letters to Assessors. Letters to Assessors provide ongoing advisory service for county assessors and other interested parties. The letters provide Board staff opinions of property tax assessment rules, laws and court decisions. The letters also include summaries of court rulings, legal opinions, highlights of enacted legislation, property tax rules, and technical bulletins for assessment problems. A yearly subscription to the Letters to Assessors is available by

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contacting the Policy, Planning, and Standards Division, MIC:64. An annually updated subject list of Letters to Assessors is also available and specific letters will be provided upon request. Some of the Letters to Assessors Only titled "CAO" (County Assessors Only) contain confidential taxpayer information and, therefore, are not disclosed to the public.

(h) Manuals.

(1) Assessment Appeals Manual. The Assessment Appeals Manual is provided as an informational resource to members of local boards of equalization throughout the state, and is intended to advance standardization of assessment appeals practices within California.

(2) Assessors' Handbook. The Assessors' Handbook is a collection of manuals containing information on property tax appraisal and assessment practices. A list of these manuals is available.

(3) County Property Tax Division Procedures Manuals.

(A) Procedure Manual for Survey/Sampling Program. The Procedure Manual for Survey/Sampling Program sets forth the basic policies and procedures followed by County Property Tax Division appraisal staff when conducting county assessment practices surveys and sampling county assessment rolls.

(B) Timber Tax Procedures Manual. The Timber Tax Procedures Manual includes the following subjects: Forest Property Appraisal, Timber Harvest Operation and Timber Tax Registration. Each subject in the manual may be requested separately.

(4) Procedure Manual for Welfare Exemptions Unit. The Procedure Manual for Welfare Exemptions Unit provides a general description of the operations of the Welfare Exemptions Unit.

(5) Unitary Valuation Methods Manual. The Unitary Valuation Methods Manual documents the valuation models used by the Board's staff in the preparation of value indicators and facilitates discussion of the relevancy of the various models or specific aspects of particular models.

(6) Valuation Division Audit Manual. This manual provides guidance to auditors performing state assessed property audits. The purpose of the manual is to ensure that audits are conducted in a uniform manner.

(7) Private Railroad Car Tax Procedures Manual. The purpose of the Private Railroad Car Tax Procedures Manual is to document the source of legal authority, processes, procedures, interrelationships of employees, and controls in the Private Railroad Car Tax Program.

(i) Operations Memoranda. Operations Memoranda ("Ops Memos") are used to inform Board staff and the public of changes in laws and Board procedures. Ops Memos are public unless they contain confidential information, in which case, when it is possible to do so, a redacted copy will be provided. Ops Memos may be requested by subject, title, or Ops Memo number. In time individual Ops Memos become obsolete. A list of current Ops Memos may be requested.

(j) Property Taxes Current Legal Digest. The Property Taxes Current Legal Digest is sent to interested parties to review drafts of additions, amendments, and deletions of annotations before the draft annotations are finalized and incorporated into the Property Taxes Law Guide. There is an interested parties mailing list for the Property Taxes Current Legal Digests.

(k) Property Taxes Law Guide. The Property Taxes Law Guide contains statutes, regulations, case law synopses, and annotations. The Property Taxes Law Guide may be requested as provided in subdivision (d) of Regulation 8004.

(l) Rulemaking Files. A rulemaking file contains a record of the steps taken by an agency to adopt a regulation. A copy of any official rulemaking file may be requested directly from the Regulations Coordinator, Board Proceedings Division, MIC: 81. Request rulemaking files by regulation number and the date of the adoption, amendment, or repeal.

(m) State Assessee Newsletter. The State Assessee Newsletter is published annually. The newsletter contains information on the state assessee valuation process and is provided to all state assessees in lieu of an annual reporting seminar.

(n) State Assessed Board Roll. The Board roll of state assessed property, sometimes referred to as the "utility roll," includes all property subject to local taxation required to be assessed by the Board. The State Assessed Board Roll is available in three formats (microfiche, magnetic tape, or cartridge tape) through the Budget Section, MIC: 25. Contact the Budget Section for the cost of obtaining this document.

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(o) Tax Pamphlets and Publications. A list of tax pamphlets and publications is available. Tax pamphlets and publications may be requested as provided in subdivision (d) of Regulation 8004.

(p) Training Courses. A list of training courses for Property Tax Appraisers may be requested. These courses are designed to present the policies and procedures that have been approved and/or adopted by the Board of Equalization. The materials in some courses may be restricted to use by the Board. If course materials contain restricted information, a redacted copy of the materials will be provided. Test questions, scoring keys, and other examination data required to carry out the provisions of Sections 670, 671 and 673 of the Revenue and Taxation Code are exempt from public disclosure.

(q) Welfare Exemption Claim Files. Material submitted to the Board in a welfare exemption claim is public and may be requested by taxpayer name or by subject.

*Note:* Authority: Government Code Sections 6253.4 and 15652. References: Government Code Sections 6250, 6252, 6253, 6254, 6254.20, 6254.25, 6254.9, and 6255.

*History:* 1. New section filed 11-15-2000; operative 12-15-2000.

**REGULATION 8014. FRANCHISE OR INCOME TAX APPEALS RECORDS.**

The Board's franchise or income tax appeals records include:

(a) Franchise or Income Tax Appeal Files. Material submitted to the Board in a franchise or income tax appeal is public and may be requested by taxpayer name.

(b) Formal Opinions. A franchise or income tax formal opinion is public and may be requested by taxpayer name or subject.

(c) Summary Decisions. Summary decisions issued in franchise or income tax appeals are public and may be requested by taxpayer name or subject.

*Note:* Authority: Government Code Sections 6253.4 and 15652. References: Government Code Sections 6250, 6252, 6253, 6254, 6254.25, and 6255.

*History:* 1. New section filed 11-15-2000; operative 12-15-2000.

**REGULATION 8016. OTHER PUBLIC RECORDS.**

(a) Board records that are not specific to a particular tax or fee program include:

(1) Annual Report of the Board of Equalization.

(2) Board Meeting Records. The following Board meeting records may be requested directly from the Board Proceedings Division, MIC: 81:

(A) Board Meeting Agendas.

(B) Minutes of Board Meetings and Board Committee Meetings.

(C) Transcripts of Board Meetings.

(3) Issue Papers. The Board staff prepares issue papers addressing topics on which the Board will be making decisions. Issue papers may be requested by title or issue paper number. A subject index of issue papers is not maintained.

(4) Legislative Analyses. The Board's Legislative Division tracks bills that may have an impact on the Board. A copy of a bill analysis may be requested by providing the bill number and year.

(b) A request to inspect or obtain a copy of any public record that is not included in this article may be made in writing to either the Executive Director MIC: 73 or the Disclosure Officer MIC: 54.

*Note:* Authority: Government Code Sections 6253.4 and 15652. References: Government Code Sections 6250, 6252, 6253, 6254, 6254.20, 6254.25, 6254.9, and 6255.

*History:* 1. New section filed 11-15-2000; operative 12-15-2000.

