Part 2: Review of Sales and Use Tax, Timber Yield Tax, and Special Taxes and Fees

Article 1: Application of this Part


This part shall apply to petitions for redetermination, late protests, applications for administrative review, claims for refund, and requests for relief filed with the Board pursuant to the:

(a) Sales and Use Tax Law. Part 1 of Division 2 of the Revenue and Taxation Code.


(c) Use Fuel Tax Law. Part 3 of Division 2 of the Revenue and Taxation Code.

(d) Tax on Insurers Law. Part 7 of Division 2 of the Revenue and Taxation Code.


(f) Alcoholic Beverage Tax Law. Part 14 of Division 2 of the Revenue and Taxation Code.

(g) Timber Yield Tax Law. Part 18.5 of Division 2 of the Revenue and Taxation Code.

(h) Energy Resources Surcharge Law. Part 19 of Division 2 of the Revenue and Taxation Code.

(i) Emergency Telephone Users Surcharge Law. Part 20 of Division 2 of the Revenue and Taxation Code.

(j) Hazardous Substance Tax Law, which is also applicable to the Childhood Lead Poisoning Prevention Fee and Occupational Lead Poisoning Prevention Fee. Part 22 of Division 2 of the Revenue and Taxation Code.


(l) Oil Spill Response, Prevention, and Administration Fees Law. Part 24 of Division 2 of the Revenue and Taxation Code.
(m) Underground Storage Tank Maintenance Fee Law. Part 26 of Division 2 of the Revenue and Taxation Code.


**Article 2A: Petitioning Notices of Determination & Notices of Deficiency Assessment**

**2010 Persons Permitted to File Petitions for Redetermination.**

☐ Agree  ☐ Disagree  ☐ Modify

(a) Any person, supplier, distributor, insurer, surplus line broker, user, or taxpayer against whom a notice of determination or notice of deficiency assessment is issued, or a representative who requested a notice of determination pursuant to Revenue and Taxation Code sections 7675.1, 8782.1, or 60316, that disagrees with any item included in the notice of determination or notice of deficiency assessment (except an item described in sections 2017, subdivision (a), 2018, and 2019) may file a petition for redetermination requesting that the Board reconsider the notice of determination or notice of deficiency assessment.

(b) Any person directly interested in a notice of determination issued against a person described in subdivision (a) may file a petition for redetermination requesting that the Board reconsider the notice of determination, but only if the notice of determination was issued pursuant to one of the following sections of the Revenue and Taxation Code:

(1) Sales and Use Tax Law: Sections 6481 or 6511.

(2) Alcoholic Beverage Tax Law: Sections 32271 or 32291.

(3) Timber Yield Tax Law: Sections 38416 and 38425.

(4) Hazardous Substances Tax Law: Section 43201.

(5) Integrated Waste Management Fee Law: Section 45201.

(6) Oil Spill Response, Prevention, and Administration Fees Law: Sections 46201 or 46251.

(7) Underground Storage Tank Maintenance Fee Law: Section 50113.

2011. Successor’s Petition for Reconsideration. □ Agree □ Disagree □ Modify

A successor served with a notice of successor liability pursuant to Revenue and Taxation Code sections 6814, 9024, 38564, 46454, or 60474 may file a petition for reconsideration of its successor liability in the manner provided in this article for petitioning any other liability imposed under the Sales and Use Tax Law, Use Fuel Tax Law, Timber Yield Tax Law, Oil Spill Response, Prevention, and Administration Fees Law, or Diesel Fuel Tax Law, respectively.

2012. Limitation Period. □ Agree □ Disagree □ Modify

(a) A petition for redetermination must be filed within 30 days from the date that the Board mailed the notice of determination or notice of deficiency assessment to the person, supplier, distributor, insurer, surplus line broker, user, or taxpayer against which the notice was issued.

(b) Notwithstanding subdivision (a), petitions for redetermination of determinations issued pursuant to Revenue and Taxation Code section 30173 (Cigarette and Tobacco Products Tax Law) must be filed within 10 days from the date that the Board mailed the notice of determination to the distributor.

(c) A determination contained within a notice of determination or notice of deficiency assessment becomes final if a petition for redetermination is not filed within the time periods provided for in subdivisions (a) and (b).

(d) A petition for redetermination is not timely if it is filed before a notice of determination, notice of deficiency assessment, or notice of successor liability is issued.

(e) The filing of a timely petition for redetermination will prevent the notice of determination or notice of deficiency assessment being petitioned from becoming final.

(a) Every petition for redetermination shall:

(1) Be in writing.

(2) Identify the amounts the petitioner wishes to contest (petitioners may contest all or a portion of the amount shown on a notice).

(3) State the specific grounds or reasons why the Board should reconsider the determination.

(4) Be signed by the petitioner or the petitioner’s authorized representative.

(b) A petition for redetermination may include a request for an appeals conference with the Appeals Division, a request for an oral hearing before the Board, or both. If a petition for redetermination only includes a request for an appeals conference, an oral hearing before the Board may still be requested in accordance with section 2106.

(c) The filing of a completed form provided by the Board for use as a petition for redetermination will satisfy the requirements of subdivision (a).

(d) A petitioner should submit any supporting documentation along with its petition for redetermination.

2014. Amendments to Petitions for Redetermination.

A petition for redetermination may be amended to state additional grounds or reasons why the Board should reconsider the determination at any time prior to the date on which the Board issues its order or decision upon the petition for redetermination.

2015. Accrual of Interest.

The filing of a petition for redetermination does not stop the accrual of interest.
2016. **Filing Petitions for Redetermination Pursuant to the Tax on Insurers Law.**

☐ Agree  
☐ Disagree  
☐ Modify

An insurer or surplus line broker filing a petition for redetermination with the Board in regards to a notice of deficiency assessment issued pursuant to the Tax on Insurers Law, shall file a copy of its petition with the Commissioner of Insurance at the same time it files its petition for redetermination with the Board.

2017. **Scope of Petition for Redetermination Filed Pursuant to Hazardous Substance Tax Law.**

☐ Agree  
☐ Disagree  
☐ Modify

(a) **Hazardous or Extremely Hazardous Waste.** The Board will not consider a petition for redetermination prepared pursuant to the authority contained in Revenue and Taxation Code section 43301, if the petition is founded upon the grounds that the Director of Toxic Substances Control improperly or erroneously determined that any substance is a hazardous or extremely hazardous waste. An appeal based upon such grounds should be filed with the Director of Toxic Substances Control as provided in Revenue and Taxation Code section 43301.

(b) **Childhood Lead Poisoning Prevention Fee.**

1. The Board will accept a petition for redetermination of the Childhood Lead Poisoning Prevention Fee that is founded upon the grounds that:

   (A) The petitioner’s industry did not contribute in any manner to environmental lead contamination;

   (B) The petitioner’s lead or lead containing product does not currently or did not historically result in quantifiable persistent lead contamination; or

   (C) The petitioner contends that the amount of the fee assessed does not reflect the petitioner’s market share or is incorrectly computed.

2. The Board will not act upon a petition described in paragraph (1) of this subdivision until after the State Director of Health Services has acted upon the petitioner’s application for exemption from the fee or reassessment of the fee. Applications for exemption should be submitted to the State Department of Health Services in the manner provided in California Code of Regulations, title 17, section 33040. Applications for reassessment should be submitted to the State Department of Health Services in the manner provided in California Code of Regulations, title 17, section 33050.

A petition for redetermination requesting that the Board reconsider a determination on the grounds that an item is or is not a covered electronic device should be filed with the Department of Toxic Substances Control. If the Board receives such a petition, the Board will forward the petition to the Department of Toxic Substances Control.


A petition for redetermination under the Fee Collection Procedures Law should be filed with the State Water Resources Board if the petition requests reconsideration of a determination by the State Water Resources Control Board that a person or entity is required to pay a water rights fee, or the amount of such fee.


Petitions for redetermination should be mailed to one of the following addresses based upon the tax or fee law at issue:

(a) Sales and Use Tax Law.

   Petitions Section, MIC: 38  
   State Board of Equalization  
   P.O. Box 942879  
   Sacramento, CA 94279-0038

(b) Hazardous Substances Tax Law (Except Childhood Lead Poisoning Prevention Fee), Occupational Lead Poisoning Prevention Fee, Covered Electronic Waste Recycling Fee, and Marine Invasive Species Fee Collection Law.

   Environmental Fees Division, MIC: 57  
   Refund and Petition Group  
   State Board of Equalization  
   P.O. Box 942879  
   Sacramento, CA 94279-0057
(c) Tax on Insurers Law, Cigarette and Tobacco Products Tax Law, Alcoholic Beverage Tax Law, Energy Resources Surcharge Law, Emergency Telephone Users Surcharge, Integrated Waste Management Fee Law, Tire Recycling Fee, and Natural Gas Surcharge.

Excise Taxes and Fees Division, MIC: 56
Refund and Petition Group
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0056


Fuel Tax Division, MIC: 30
Petition Group
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0030


(a) After receiving a petition for redetermination, the Board will assign the petition to the appropriate section or group listed in section 2020 based upon the type of tax or fee at issue.

(b) Once a petition for redetermination is assigned to the appropriate section or group, Board staff from that section or group will send the petitioner a letter acknowledging receipt of its petition for redetermination.

(c) If necessary, the acknowledgement letter may request additional information or documentation to support the petition for redetermination.

2022. Review of the Petition and Referral to District Office or Audit Group.

(a) The section or group to which the petition is assigned will refer the petition back to the district office or audit group that issued the notice being petitioned for further investigation and comment.
(b) Once the assigned section or group is satisfied that the district office or audit group has completed its investigation and prepared appropriate comments, the assigned section or group will review the petition, the notice of determination, and the district office’s or audit group’s comments.

(c) The assigned section’s or group’s review will look for consistency, adequacy of procedures, proper application of law, and consideration of any recent law changes or Board Memorandum Opinions that may affect the audit or investigation findings.

(d) Once the assigned section or group has completed its review of a petition for redetermination, the section or group will do either of the following:

1. Agreement with District or Audit Group. If the petitioner agrees with the comments of the district or audit group, the assigned section or group will issue a notice of redetermination in accordance with the district or audit group’s comments.

2. Disagreement with District or Audit Group. If the petitioner disagrees with any of the comments made by the district or audit group and indicates its disagreement by requesting an appeals conference with the Appeals Division or an oral hearing before the Board, the assigned section or group will prepare a summary analysis.

(e) The summary analysis is a written summary of the petitioner’s contentions, the appropriate department’s findings, and the reasons why the assigned section or group believes that the appropriate department’s position should be sustained.

2023. Assignment of Petition to Appeals Division. □ Agree □ Disagree □ Modify

Once the assigned section or group completes its summary analysis of the petition for redetermination, the entire petition file is forwarded to the Case Management Section of the Board Proceedings Division to schedule an appeals conference with the Appeals Division or an oral hearing before the Board.

Article 2B: Filing a Late Protest

2030. Untimely Petition as Late Protest. □ Agree □ Disagree □ Modify

(a) If the Board receives a petition for redetermination filed after the expiration of the applicable time periods provided for in section 2012, the Board may treat the untimely petition as a late protest.
(b) If the Board treats an untimely petition as a late protest, the late protest will be reviewed just like any other petition for redetermination.

(c) Notwithstanding subdivision (b) of this section, the Board has discretion to grant or deny an appeals conference or oral hearing before the Board on a late protest.

2031. Accrual of Interest.

The Board’s treatment of an untimely petition as a late protest does not stop the accrual of interest.

2032. No Stay of Collection Activities.

The Board’s treatment of an untimely petition for redetermination as a late protest does not stay the Board’s efforts to collect any unpaid amounts at issue in the late protest. This is because the notice of determination or notice of deficiency assessment being protested became final when the time to file a timely petition for redetermination expired.

Article 2C: Contesting a Jeopardy Determination

2040. A Notice of Jeopardy Determination Is Immediately Due and Payable.

(a) If the Board believes that the collection of any tax or fee or any amount of tax or fee required to be collected and paid to the state, or of any determination or other amount required to be paid to the state will be jeopardized by delay, the Board may issue a notice of jeopardy determination.

(b) The notice of jeopardy determination shall state the tax or fee, or amount of tax or fee required to be collected or other amount.

(c) The amounts stated in the notice of jeopardy determination are immediately due and payable.

2041. Persons Who May Petition a Notice of Jeopardy Determination.
The person against whom a jeopardy determination is made may file a petition for redetermination of the jeopardy determination by mailing such petition to the address shown on the notice of jeopardy determination.

2042. Contents of Petition for Redetermination of Notice of Jeopardy Determination.  

☐ Agree  
☐ Disagree  
☐ Modify  

A petition for redetermination of a jeopardy determination shall satisfy all the requirements for a petition for redetermination as provided in Article 2A of this Part.

2043. Limitation Period for Petition for Redetermination of Notice of Jeopardy Determination.  

☐ Agree  
☐ Disagree  
☐ Modify  

(a) A petition for redetermination of a notice of jeopardy determination must be filed within the earlier of 10 days from the date that the Board mailed the notice of jeopardy determination or 10 days from the date the Board personally served the notice of jeopardy determination.

(b) The provisions of Article 2A of this Part do not apply to the time period in which to file a petition for redetermination of a notice of jeopardy determination.


☐ Agree  
☐ Disagree  
☐ Modify  

The Board will not accept a petition for redetermination of a jeopardy determination unless the petitioner deposits with the Board the amount of security indicated in the notice of jeopardy determination within the 10 day period specified in section 2043.


☐ Agree  
☐ Disagree  
☐ Modify  

(a) A petition for redetermination of a jeopardy determination may raise any objections the petitioner has to the notice of jeopardy determination, including objections to the appropriateness of the Board’s issuance of the notice of jeopardy determination.

(b) The administrative review of a petition for redetermination of a jeopardy determination follows the same procedures applicable to the review of other petitions for redetermination.
2046. Application for Administrative Hearing.

In lieu of filing a petition for redetermination, the person against whom a jeopardy determination is made may apply for an administrative hearing for one or more of the following purposes and only those purposes:

(a) To establish that the jeopardy determination is excessive.

(b) To establish that the sale of the property that may be seized after issuance of the jeopardy determination, or any part thereof, shall be delayed pending the administrative hearing because the sale would result in irreparable injury to the person.

(c) To request the release of all or part of the property to the person.

(d) To request a stay of collection activities.

2047. Limitation Period for Applications for Administrative Hearing.

(a) An application for administrative hearing shall be filed within 30 days from the date that the Board mailed the notice of jeopardy determination or personally served the notice of jeopardy determination, whichever period is shorter.

(b) If an application for administrative hearing is filed after the expiration of the time period provided for in subdivision (a), the application should be accompanied by a statement demonstrating why the person believes there was good cause for the person’s failure to file a timely application.

(c) If the Board agrees that good cause existed for the person’s failure to file a timely application, the Board may still accept the person’s untimely application and grant the person an administrative hearing.

2048. Contents of Application for Administrative Hearing.

Every application for administrative hearing shall:

(a) Be in writing.
(b) Identify the purpose for which the person has applied for an administrative hearing.

(c) State the specific factual or legal grounds upon which the application is founded.

(d) Be signed by the person or the person’s authorized representative.

2049 Option to Post Security

(a) A person is not required to post security to obtain an administrative hearing from the Board.

(b) The filing of an application for administrative hearing will stay the sale of property seized after issuance of the notice of jeopardy determination that has not already been sold.

(c) The filing of an application for an administrative hearing will not stay other collection activities not identified in subdivision (b). A stay of other collection activities will only arise if the person deposits with the Board the amount of security indicated in the notice of jeopardy determination within the 10 day period specified in section 2044.

2049.5 Assignment of Application for Administrative Hearing to Appeals Division

(a) Upon receipt of an application for administrative hearing, the application will be assigned to the Appeals Division.

(b) The Appeals Division will hold the administrative hearing and shall issue a determination as to each issue raised in the application.

(c) If the applicant disagrees with the determination of the Appeals Division, the applicant may request an oral hearing before the Board. The Board has discretion to grant or deny an oral hearing on an application for administrative hearing.

Article 3: Claims for Refund

2050 Persons Who May File a Claim for Refund

(a) Any person, supplier, distributor, insurer, surplus line broker, user, or taxpayer who believes that it has overpaid a tax or fee, or interest or penalty thereon, or other
refundable amount to the Board may file a claim for refund. An authorized representative may file a claim for refund on such persons’ behalf.

(b) Motor Vehicle Fuel Tax Law. A claim for refund based upon the following grounds should be filed with the Controller and is not governed by the provisions of this part:

(1) The motor vehicle fuel was purchased and used for a purpose other than operating motor vehicles on public highways in California.

(2) The motor vehicle fuel was exported for use outside of California.

(3) The motor vehicle fuel was sold to the armed forces of the United States for use in ships or aircraft, or for use outside of California in a manner that would qualify for an exemption under Section 7401 of the Revenue and Taxation Code.

(4) The motor vehicle fuel was purchased for and used in construction equipment, which is exempt from vehicle registration under the Vehicle Code.

(5) The claimant is a supplier who sold motor vehicle fuel to a consulate office or consulate employee under circumstances that would have entitled the supplier to an exemption under paragraph (4) of subdivision (a) of Section 7401 of the Revenue and Taxation Code.

(6) The claimant is a supplier that:

   (A) Removed motor vehicle fuel from a rack and paid tax on that removal, or purchased tax-paid motor vehicle fuel outside the bulk transfer/terminal system; and

   (B) Delivered the tax-paid motor vehicle fuel to another approved terminal from which the supplier subsequently removed the tax-paid motor vehicle fuel at the terminal rack and paid a second tax on the same amount of motor vehicle fuel.

(7) The claimant is a supplier who purchased tax-paid motor vehicle fuel in the bulk transfer/terminal system and subsequently removed the tax-paid motor vehicle fuel at the terminal rack, and paid tax upon the same amount of motor vehicle fuel twice.

(8) The claimant used tax-paid motor vehicle fuel to propel passenger carrying vehicles used for the transportation of persons for hire, compensation, or profit.
(9) The claimant paid tax attributable to the distribution of motor vehicle fuel for use or used in propelling a vessel operated by its owner on waters located on private property owned or controlled by it.

(c) Hazardous Substances Tax Law.

(1) The Board will not consider a claim for refund filed pursuant to the authority contained in Revenue and Taxation Code section 43452, if the claim is based upon the grounds that the Director of Toxic Substances Control has improperly or erroneously determined that any substance is a hazardous or extremely hazardous waste.

(2) The Board will only consider a claim for refund described in paragraph (1) after the claimant has filed an appeal based upon such grounds with the Director of Toxic Substances Control and the Director of Toxic Substances Control has acted upon the appeal.

(3) Childhood Lead Poisoning Prevent Fee.

(A) The Board will accept a claim for refund of the Childhood Lead Poisoning Prevention Fee that is founded upon the grounds that:

(i) The petitioner’s industry did not contribute in any manner to environmental lead contamination;

(ii) The petitioner’s lead or lead containing product does not currently or did not historically result in quantifiable persistent lead contamination; or

(iii) The petitioner contends that the amount of the fee assessed does not reflect the petitioner’s market share or is incorrectly computed.

(B) The Board will not act upon a claim for refund described in this paragraph (3) until after the State Director of Health Services has acted upon the claimant’s application for exemption from the fee or reassessment of the fee. Applications for exemption should be submitted to the State Department of Health Services in the manner provided in California Code of Regulations, title 17, section 33040. Applications for reassessment should be submitted to the State Department of Health Services in the manner provided in California Code of Regulations, title 17, section 33050.
(d) Covered Electronic Waste Recycling Fee. A claim for refund based upon the grounds that an item is or is not a covered electronic device should be filed with the Department of Toxic Substances Control.

(e) Water Rights Fee Law. The Board cannot accept a claim for refund filed under the Fee Collection Procedures Law that is based upon the assertion that the State Water Resources Control Board improperly or erroneously determined that a person or entity was required to pay a water rights fee, or the amount of such fee. A claim for refund based upon these grounds should be directed to the State Water Resources Control Board. This prohibition does not apply if the determination has already been set aside by the State Water Resources Control Board or a court reviewing the determination.

2051. Limitation Period.

(a) The Board cannot approve a refund requested in a claim for refund, unless the claim for refund is filed with the Board within the time periods provided in this section.

(b) General Limitation Periods. In general, a claim for refund is timely if it is filed with the Board within:

(1) Three years from the last day of the calendar month following the close of the reporting period for which the overpayment was made;

(2) Six months from the date the determination became final, if the overpayment was made pursuant to the notice of determination; or

(3) Six months from the date of the overpayment.

(c) Alcoholic Beverages Tax Law. Paragraph (1) of subdivision (b) of this section does not apply to claims for refund filed pursuant to the Alcoholic Beverage Tax Law. In lieu thereof, a claim for refund filed pursuant to the Alcoholic Beverage Tax Law is timely if it is filed with the Board within three years from the 15th day of the calendar month following the close of the period for which the overpayment being claimed was made.

(d) Cigarette and Tobacco Products Tax Law.

(1) Stamps and Meter Register Settings. Paragraph (1) of subdivision (b) of this section does not apply to claims for refund for overpayments made with regard to purchases of stamps or meter register settings. In lieu thereof, a claim for refund for an overpayment made with regard to a purchase of stamps or meter register settings shall be timely if filed with the Board within three
years from the due date for the payment of the purchase for which the overpayment was made.

(2) Other Claims for Refund. The provisions of paragraph (1) of subdivision (b) of this section do not apply to claims for refund filed pursuant to the Cigarette and Tobacco Products Tax Law, which are not described in paragraph (1) of this subdivision. In lieu thereof, a claim for refund described in this paragraph (3) is timely if it is filed with the Board within three years from the 25th day after the close of the monthly period for which the overpayment being claimed was made.

(3) Exported Tobacco Products. Notwithstanding subdivision (b) of this section and paragraphs (1) and (2) of this subdivision, claims for refund based upon the grounds that the tobacco products upon which the tax was paid were exported, must be filed with the Board within three months after the close of the calendar month in which the tobacco products were exported.

(e) Tax on Insurers Law. The provisions of paragraph (1) of subdivision (b) of this section do not apply to claims for refund filed pursuant to the Tax on Insurers Law. In lieu thereof, a claim for refund filed pursuant to the Tax on Insurers Law shall be timely if it is filed with the Board within four years after April 1st of the year following the year for which the overpayment was made. A claim for refund filed pursuant to the Tax on Insurers Law may be filed with the Board or the Commissioner of Insurance.

(f) Emergency Telephone Users Surcharge Law. The provisions of paragraph (1) of subdivision (b) of this section do not apply to claims for refund filed pursuant to the Emergency Telephone Users Surcharge Law. In lieu thereof, a claim for refund filed pursuant to the Emergency Telephone Users Surcharge Law is timely if it is filed with the Board within three years after the last day of the second month following the close of the month for which the overpayment being claimed was made.

(g) Hazardous Substances Tax Law. The provisions of paragraph (1) of subdivision (b) of this section do not apply to claims for refund filed pursuant to the Hazardous Substances Tax Law. In lieu thereof, a claim for refund filed pursuant to the Hazardous Substance Tax Law is timely if it is filed with the Board within three years after the date taxes were due and payable for the period for which the overpayment was made.

(h) Fee Collection Procedures Law, Integrated Waste Management Fee Law, Underground Storage Tank Maintenance Fee Law, and Oil Spill Response, Prevention, and Administration Fees Law. The provisions of paragraph (1) of subdivision (b) of this section do not apply to claims for refund filed pursuant to the Fee Collection Procedures Law, Integrated Waste Management Fee Law, Underground Storage Tank Maintenance Fee Law, and Oil Spill Response,
Prevention, and Administration Fees Law. In lieu thereof, a claim for refund filed with the Board pursuant to these laws is timely if it is filed with the Board within three years after the due date of the payment for the period for which the overpayment was made.

(i) Diesel Fuel Tax Law. Subdivision (b) of this section does not apply to claims for refund filed pursuant to Revenue and Taxation Code section 60501 (diesel fuel lost sold or removed) or 60502 (ultimate vendor claims). In lieu thereof, a claim for refund described in this subdivision is timely if it is filed with the Board within three years from the date of the purchase of the diesel fuel to which the claim relates, or, if the tax was not invoiced at the time of the purchase of the diesel fuel, six months after the receipt of an invoice for the tax, whichever period expires later.

(j) Waivers.

(1) In addition, where a claimant has executed a waiver extending the statute of limitation for assessment applicable to a reporting period, any claim for refund filed with the Board with regard to that reporting period during the time agreed to in the waiver will be timely filed.

(2) This subdivision does not apply to claims for refund filed pursuant to the Tax on Insurers Law, the Emergency Telephone Users Surcharge Law, and sections 60501 and 60502 of the Diesel Fuel Tax Law.

(k) Financially Disabled Persons.

(1) The periods described in subdivisions (b), (c), (f), (g), and (h), and paragraph (2) of subdivision (d) of this section are suspended during any period of a person’s life that the person is financially disabled.

(2) A person is financially disabled if:

(A) The person is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment of the person that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months; and

(B) Proof of the person’s impairment is furnished to the Board.

(3) A person is not financially disabled during any period that the person’s spouse or any other person is authorized to act on behalf of the person in financial matters.
(4) This subdivision does not apply to claims for refund filed pursuant to the Tax on Insurers Law or claims for refund of overpayments made with respect to purchases of stamps or meter register settings filed pursuant to the Cigarette and Tobacco Products Tax Law.

(i) Levies and Liens. A claim for refund for an overpayment of a sales or use tax collected by the Board by means of levy, through the use of liens, or by other enforcement procedures is timely if it is filed within three years of the overpayment.

2052.Failure to File Timely Claim.

The Board shall decide whether a claim for refund is timely. The claimant’s failure to file a claim within the applicable time period, as provided for in section 2052, constitutes a waiver of any demand against the State on account of the overpayment.

2053.Contents of Claim.

(a) All Claims. Every claim for refund shall be in writing, shall be signed by the claimant or the claimant’s authorized representative, and shall include:

(1) The specific grounds or reasons why the claimant made the overpayment being claimed as a refund.

(2) The reporting period with regard to which the claimant made the overpayment being claimed as a refund.

(3) The amount of the refund being claimed, if known.

(4) Information necessary to contact the claimant or its authorized representative.

(b) Sales and Use Tax Claims. For claims for refund filed pursuant to the Sales and Use Tax Law, the claim for refund should also include a breakdown of the refund into state, local, and district tax amounts.

(c) Multiple Claims. If a single claim for refund is filed for more than one reporting period, the claimant should separately state the information required by subdivisions (a) and (b) for each reporting period.

(d) Supporting Documentation. Claims for refund should be accompanied by whatever supporting documentation is necessary for the Board to verify and approve the claim. Failure to include such information along with a claim may delay its processing.
(e) Forms. The use of a completed form provided by the Board for use as a claim for refund will satisfy the requirements of this section (other than subdivision (d)).


Notwithstanding section 2053, claims for refund of payments made with respect to the Diesel Fuel Tax Law must be prepared and filed in the following manner:

(a) Diesel Fuel that is Lost, Sold, or Removed.

   (1) A claim for refund must satisfy the requirements of paragraph (2) of this subdivision if it is based upon the grounds that:

      (A) Tax was imposed on the diesel fuel to which the claim relates;

      (B) The claimant bought or produced the diesel fuel to which the claim relates and the same diesel fuel was:

         (i) Used for purposes other than operating motor vehicles upon the public highways of California;

         (ii) Exported for use outside of California;

         (iii) Used in construction equipment that is exempt from registration pursuant to the Vehicle Code;

         (iv) Used in the operation of a motor vehicle on any highway that is under the jurisdiction of the United States Department of Agriculture;

         (v) Used in any motor vehicle owned by any county, city and county, city, district, or other political subdivision or public agency;

         (vi) Sold by a supplier to any consulate office or consulate employee;

         (vii) Lost in the ordinary course of handling, transportation, or storage;

         (viii) Sold to the United States, its agencies, or instrumentalities;
(ix) Sold to a train operator for use in a diesel-powered train or other off-highway use; or

(x) Removed from an approved terminal at the terminal rack.

(2) A claim for refund based upon the grounds described in paragraph (1) of this subdivision must:

(A) Be prepared and filed on a form prescribed by the Board.

(B) Be accompanied by the original invoice showing the purchase, or, if no original invoice was created, an electronic invoice and the original bill of lading or fuel manifest.

(C) Include the name, address, telephone number, and permit number of the person that sold the diesel fuel to the claimant and the date of the purchase.

(D) Include the claimant’s statement that the diesel fuel covered by the claim did not contain visible evidence of dye.

(E) Include a statement by the person who sold the diesel fuel to the claimant that the diesel fuel did not contain visible evidence of dye.

(F) Identify the total amount of diesel fuel covered by the claim.

(G) Describe the use made of the diesel fuel.

(H) Be accompanied by proof that the diesel fuel was exported, if the claim is based upon the grounds that the diesel fuel was exported.

(3) Claims for refund based upon the grounds provided for in paragraph (1) of this subdivision must be filed on a calendar year basis, except that claims for refund of more than $750 may be filed for a quarter of a calendar year.

(b) Ultimate Vendors of Diesel Fuel. A claim for refund based upon the grounds that the claimant was an ultimate vendor that sold tax-paid diesel fuel to an ultimate purchaser for use on a farm for farming purposes, or use in an exempt bus operation may not be filed for an amount less than $200 or a period shorter than one week and must:

(1) Be prepared and filed on a form prescribed by the Board.

(2) Contain the claimant’s permit number.
(3) Include the name, address, telephone number, and permit number of the person that sold the diesel fuel to the claimant and the date of the purchase.

(4) Include the name, address, telephone number, and federal taxpayer identification number of each farmer or the permit number of each exempt bus operator that bought the diesel fuel from the claimant and the number of gallons of diesel fuel the claimant sold to each.

(5) Include the claimant’s statement that the diesel fuel covered by the claim did not contain evidence of visible dye.

(6) Identify the total amount of diesel fuel covered by the claim.

(7) Include the claimant’s statement that it has an unexpired exemption certificate described in section 60503 of the Revenue and Taxation Code and has no reason to believe the certificate is false.

(8) Include the claimant’s statement that the amounts claimed have not been refunded to the claimant previously.

(c) Persons filing claims for refund pursuant to this section should contact the Board’s Fuel Taxes Division and must use the proper form prescribed by the Board.

(d) Other Claims. Claims for refund under the Diesel Fuel Tax Law that are not described in subdivision (a) or (b) of this section may be filed in the manner provided for in section 2053.

2055. Claims for Refund Regarding Lost, Unmarketable or Condemned Alcoholic Beverages

☐ Agree  ☐ Disagree  ☐ Modify

A claim for refund based upon the grounds provided for in Revenue and Taxation Code section 32407 must satisfy the requirements of California Code of Regulations, title 18, section 2553.

2056. Contents of Claims for Refund Filed under the Cigarette and Tobacco Products Tax Law.

☐ Agree  ☐ Disagree  ☐ Modify

In addition to the requirements of section 2053, claims for refund of amounts paid with regard to purchases of stamps or meter register settings shall satisfy the requirements of and be prepared and filed on any form required by California Code of Regulations, title 18, sections 4061 through 4065. All other claims for refund filed pursuant to the Cigarette and Tobacco Products Tax Law are not required to comply with this additional
requirement. Contact the Board’s Excise Taxes and Fees Division for the appropriate form.

2057. Address for Filing Claims for Refund.

(a) Claims for refund filed pursuant to the Sales and Use Tax Law should be mailed to:

Audit Determination and Refund Section, MIC: 39
Board of Equalization
P.O. Box 942879
Sacramento, CA 95814

(b) Claims for refund filed pursuant to other tax or fee laws should be mailed to the appropriate address for such tax or fee:

(1) Hazardous Substance Tax (Except Childhood Lead Poisoning Prevention Fee), Occupational Lead Poisoning Prevention Fee, Covered Electronic Waste Recycling Fee, and Marine Invasive Species Fee Collection Law.

   Environmental Fees Division, MIC: 57
   Refund and Petition Group
   State Board of Equalization
   P.O. Box 942879
   Sacramento, CA 94279-0057


   Excise Taxes and Fees Division, MIC: 56
   Refund and Petition Group
   State Board of Equalization
   P.O. Box 942879
   Sacramento, CA 94279-0056


   Fuel Tax Division, MIC: 30
   Refund Group
2058. Acknowledgment of Claim. □ Agree □ Disagree □ Modify

Once a claim for refund is received, it will be assigned to staff in the appropriate refund section or group, who will send the claimant a letter acknowledging the claim.

2059. Review Process and Request for Additional Information. □ Agree □ Disagree □ Modify

Claims for refund are generally reviewed in the order that they are received. If additional documentation is needed to verify and approve a claim, staff from the appropriate refund section or group will contact the claimant and request such information. The failure to provide such information may result in a claim for refund being denied.

2060. Action on the Claim. □ Agree □ Disagree □ Modify

(a) Once the appropriate refund section or group has reviewed a claim for refund, it will make a recommendation as to whether the claim should be:

(1) Granted in its entirety.

(2) Granted in part and denied in part.

(3) Denied in its entirety.

(b) If the appropriate section or group recommends that a claim should be granted in its entirety, it will:

(1) Send the claimant a notice of refund showing the amount to be refunded (subject to the requirements of section 2062); and

(2) Have a refund warrant prepared and sent to the claimant after determining if such amounts should be credited or offset against other liabilities as provided in section 2063.
(c) If the appropriate section or group recommends that any amount claimed as a refund should be denied, it will send the claimant a letter containing its recommendation and an explanation of its reasons for making such recommendation.

(d) A claimant receiving a letter described in subdivision (c) may choose to agree or disagree with the recommendation in whole or in part.

(1) If the claimant agrees with a recommendation to grant a partial refund, the appropriate section or group will send the claimant a notice of refund showing the partial refund (subject to the requirements of section 2062). Thereafter, the appropriate section or group will have a refund warrant prepared and sent to the claimant, but only after determining if such amounts should be credited or offset against other liabilities as provided in section 2063.

(2) If the claimant agrees with a recommendation to deny a refund in its entirety, the appropriate section or group will send the claimant a notice of denial of claim for refund.

(3) If the claimant disagrees with a proposed recommendation to grant a partial refund or deny a refund in its entirety, the claimant may request that the recommendation be reconsidered in an:

   (A) Appeals conference with the Appeals Division; and/or

   (B) Oral hearing before the Board.

2061. Discretion to Grant or Deny Conferences and Hearings.

The Board has discretion to grant or deny a request for an appeals conference or oral hearing on a claim for refund. Requests will be liberally granted, however, requests may be denied if the claimant has already been provided with an appeals conference and oral hearing on the same issue.

2062. Refunds Over $50,000.

(a) If the appropriate section or group has determined that a refund in excess of $50,000 should be granted, the appropriate section or group shall submit its recommendation for the proposed refund to the Board.
(b) Once the recommendation is submitted to the Board, the Board has discretion to make its own determination as to whether a refund is warranted and in what amount, and will do so without further documentation or testimony from the claimant.

(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 $50,000 must be submitted to the Executive Director for approval. If the Executive Director approves, the appropriate section or group 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) Diesel Fuel Tax Law. Claims for refund filed pursuant to Revenue and Taxation Code sections 60501 and 60502 may be approved without complying with the requirements of this section.

2063. Credits and Offsets.

(a) The amount shown as a refund on a notice of refund is the amount due to the claimant. However, that amount may not be paid directly to the claimant in a refund warrant because such amounts are subject to being credited or offset against other amounts owed by the claimant, which are then due and payable.

(b) Any portion of a claimant’s refund remaining after the Board has credited or offset the refund against other amounts that are then due and payable from the claimant will be refunded to the claimant and paid to the claimant in a refund warrant.

(c) Diesel Fuel Tax Law. Credits claimed on a return in lieu of claiming a refund pursuant to Revenue and Taxation Code sections 60501 and 60502 are not subject to the requirements of this section.

Article 4A: Requests for Innocent Spouse Relief Under the Sales and Use Tax Law

2070. Requests for Innocent Spouse Relief.

(a) Who May Request Relief. A divorced or separated person that has a sales or use tax liability and meets the requirements of subdivision (a) of California Code of
Regulations, title 18, section 1705.1, may file a request for innocent spouse relief with the Board.

(b) Request Requirements. A request for innocent spouse relief shall be:

(1) In writing.

(2) Signed and dated by the spouse requesting relief.

(3) Specifically request innocent spouse tax relief.

(4) Identify the tax from which relief is sought.

(5) Contain all of the information requested on Form BOE-682-A, including a specific explanation as to why the spouse requesting relief believes he or she should not be held responsible for the tax liability at issue.

(c) Use of Forms. A request for innocent spouse relief prepared and filed on Form BOE-682-A will satisfy all the requirements of subdivision (b) of this section.

(d) Limitation Period. A request for innocent spouse relief must be filed with the Board within the time periods provided in subdivision (e) of California Code of Regulations, title 18, section 1705.1.

(e) Place to File. Requests for innocent spouse relief should be mailed to the Board’s Offer in Compromise Section at the following address:

Offer in Compromise Section, MIC: 52  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0052.

2071. Reviewing Requests for Innocent Spouse Relief.

(a) Assignment and Review. Once received, a request for innocent spouse relief will be assigned to staff in the Board’s Offer in Compromise Section who will:

(1) Acknowledge receipt of the request in writing.

(2) Inform the non-requesting spouse that the request has been filed and the basis for the request, and permit the non-requesting spouse to submit information to support or counter the request.
(3) Evaluate the merits of the request.

(4) Request additional documentation from the spouse requesting relief, if necessary.

(b) Granted Request for Innocent Spouse Relief. If the Offer in Compromise Section approves a request for innocent spouse relief, it will prepare and send the spouse who requested the relief a letter explaining the relief that was granted.

(c) Denied Request for Innocent Spouse Relief. If the Offer in Compromise Section determines that a request for innocent spouse relief should be denied, it will:

(1) Prepare and send the spouse requesting relief a letter explaining why it denied the request; and

(2) If it appears that the spouse requesting relief might be eligible for other equitable relief as provided for in California Code of Regulations, title 18, section 1705.1, subdivision (h), the Offer in Compromise Section will include a questionnaire and financial statement for the spouse requesting relief to complete and return.

(d) Requests for Other Equitable Relief. If the spouse requesting relief returns a completed questionnaire and financial statement to the Board, the Offer in Compromise Section will review the documents to see if other equitable relief is warranted using the factors provided for in California Code of Regulations, title 18, section 1705.1, subdivision (h). Once this review is completed, the Offer in Compromise Section will mail the spouse requesting relief a letter granting or denying equitable relief and explaining why such relief was granted or denied.

2072. Request for Reconsideration by the Board.

(a) If the Offer in Compromise Section denies a request for other equitable relief as provided for in California Code of Regulations, title 18, section 1705.1, subdivision (h), the spouse requesting relief may request that the denial be reconsidered by the Board at an oral hearing.

(b) An oral hearing may be requested by following the instructions contained on the denial letter described in section 2071, subdivision (d).

(c) If an oral hearing is requested, the Board may require that the spouse requesting relief participate in an appeals conference with the Appeals Division prior to the oral hearing.
Article 4B: Successor’s Request for Relief of Penalty Under the Sales and Use Tax Law.

2075.Successor’s Request for Relief.

An unrelated successor requesting relief from penalties as provided for in California Code of Regulations, title 18, section 1702, subdivision (d)(2), should include its request for relief in its petition for reconsideration or amend its previously filed petition to include such request. If the unrelated successor has not filed a petition for reconsideration and does not intend to do so, the unrelated successor may file a request for relief from penalties without filing a petition for reconsideration. Every unrelated successor’s request for relief shall include a written statement signed under penalty of perjury stating the facts upon which the claim for relief is based, whether or not the request is included in a petition for reconsideration.

Article 4C: Other Requests for Relief of Penalties and Interest

2080.No Independent Right to Oral Board Hearing.

(a) In general, a person filing a request for relief described in this article does not have a right to an oral hearing before the Board on such request. The Board has discretion to grant or deny an oral hearing on a request for relief.

(b) If a request for relief described in this article is included in a timely filed petition for redetermination or petition for reconsideration, or claim for refund, the procedures applicable to such petitions or claims will apply to the request for relief. A request for relief included in a petition for redetermination or petition for reconsideration, or claim for refund must satisfy all of the requirements of this article applicable to such request for relief.

(c) The Board has discretion to associate any request for relief filed pursuant to this article with any pending petition for redetermination, petition for reconsideration, or claim for refund filed by the same person and covering the same periods as the request for relief.

2081.Request for Relief for Reasonable Cause.

(a) Authority to Grant Relief. If the Board finds that a person’s failure to make a timely return, report, payment, or prepayment, or failure to comply with a written notice issued pursuant to Revenue and Taxation Code section 6074, subdivision (a) is due to
reasonable cause and circumstances beyond the person’s control, and occurred
notwithstanding the exercise of ordinary care and the absence of willful neglect, the
person may be relieved of the following penalties imposed under:

(1) Sales and Use Tax Law. Sections 6074, 6476, 6477, 6479.3, 6480.4, 6480.8,
6511, 6565, 6591, 7051.2, 7073, and 7074 of the Revenue and Taxation Code.

(2) Motor Vehicle Fuel Tax Law. Sections 7655,7659.5, 7659.6, 7659.9, 7660,
7705, 7713, 7726, and 7727 of the Revenue and Taxation Code.

(3) Use Fuel Tax Law. Sections 8760, 8801, 8854, and 8876 of the Revenue and
Taxation Code.

(4) Tax on Insurers Law. Sections 12258, 12282, 12287, 12631, 12632, and
12633 of the Revenue and Taxation Code.

(5) Cigarette and Tobacco Products Tax Law. Sections 30171, 30190, 30221,
30264, and 30281 of the Revenue and Taxation Code.

(6) Alcoholic Beverage Tax Law. Sections 32252, 32260, 32291, and 32305 of
the Revenue and Taxation Code.

(7) Timber Yield Tax Law. Sections 38421 and 38451 of the Revenue and
Taxation Code.

(8) Energy Resources Surcharge Law. Section 40067, 40081, 40096, and 40101
of the Revenue and Taxation Code.

(9) Emergency Telephone Users Surcharge Law. Sections 41060, 41080, 41090,
and 41095 of the Revenue and Taxation Code.

(10) Hazardous Substances Tax Law. Sections 43155, 43170, and 43306 of the
Revenue and Taxation Code.

(11) Integrated Waste Management Fee Law. Sections 45153, 45160, and 45306
of the Revenue and Taxation Code.

(12) Oil Spill Response, Prevention, and Administration Fees Law. Sections
46154, 46154.1, 46160, 46251, and 46356 of the Revenue and Taxation
Code.

(13) Underground Storage Tank Maintenance Fee Law. Sections 50112, 50112.7,
and 50119 of the Revenue and Taxation Code.

(15) Diesel Fuel Tax Law. Sections 60207, 60250, 60301, 60338, 60355, 60361, and 60361.5 of the Revenue and Taxation Code.

(b) Contents of Request.

(1) A request for relief based upon reasonable cause and circumstances beyond the person’s control shall be in writing, identify the penalty from which relief is sought, state the specific facts upon which the request for relief is based, and be signed by the person requesting relief under penalty of perjury.

(2) Form BOE-735, Request for Relief of Penalty, may be used to prepare and submit a request for relief pursuant to this section.

2082. Request for Relief Due to Unreasonable Error or Delay.

(a) The Board has discretion to relieve a person of interest imposed under the tax and fee laws described in subdivision (b) of this section, if the person was charged interest:

(1) Unreasonable Error or Delay.

(A) Due to an unreasonable error or delay by a Board employee acting in his or her official capacity; and

(B) No significant aspect of the error or delay is attributable to an act or failure to act by the tax or fee payer.

(2) Due to an error by an employee of the Department of Motor Vehicles in calculating the use tax due on a vehicle or vessel registered with the Department of Motor Vehicles.


(c) A request for relief of interest based upon the ground set forth in subdivision (a) of this section shall:

(1) Be in writing;
Specifically identify the error or delay that caused the person requesting relief to be charged interest;

(3) The period for which interest relief is sought; and

(4) Be signed by the person requesting relief under penalty of perjury.

(d) Form BOE 735-A, Request for Relief of Interest Unreasonable Error or Delay, may be used to prepare and submit a request for relief pursuant to this section.

2083. Request for Relief Due to Reasonable Reliance on Written Advice.

(a) A person may be relieved from the liability for the payment of a tax or fee imposed under the tax and fee laws identified in subdivision (c) of this section, including any penalties and interest added thereto, where the liabilities resulted from the person’s failure to make a timely report, return or payment and such failure was found by the Board to be due to reasonable reliance on:

(1) Written advice given by the Board under the conditions set forth in California Code of Regulations, title 18, section 1705, subdivision (b) or section 4902, subdivision (b); or

(2) Written advice in the form of an annotation or legal ruling of counsel under the conditions set forth in California Code of Regulations, title 18, section 1705, subdivision (c), or section 4902, subdivision (c); or

(3) Written advice given by the Board in a prior audit of that person under the conditions set forth in California Code of Regulations, title 18, section 1705, subdivision (d), or 4902, subdivision (d).

(b) Written advice from the Board may only be relied upon by the person to whom it was originally issued or a legal or statutory successor to that person.

(c) This section applies to taxes and fees imposed under the Sales and Use Tax Law, Motor Vehicle Fuel Tax Law, Use Fuel Tax Law, Cigarette and Tobacco Products Tax Law, Alcoholic Beverage Tax Law, Timber Yield Tax Law, Energy Resources Surcharge Law, Emergency Telephone Users Surcharge Law, Hazardous Substances...

(d) A request for relief due to reliance upon written advice from the Board shall:

(1) Be in writing;

(2) Include the specific facts upon which the request for relief is based;

(3) Be signed by the person requesting relief under penalty of perjury; and

(4) Include an attached copy of the person’s written request to the Board for written advice and a copy of the Board’s written advice.

2084 Request for Relief Due to Disaster.

(a) If the Board finds that a person’s failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the Board may relieve the person of interest imposed under:

(1) Sales and Use Tax Law. Sections 6459, 6480.4, 6480.8, 6513, 6591, and 6592.5 of the Revenue and Taxation Code.


(3) Use Fuel Tax Law. Sections 8754, 8760, 8803, and 8876 of the Revenue and Taxation Code.

(4) Tax on Insurers Law. Sections 12258, 12287, 12307, 12631, and 12632 of the Revenue and Taxation Code.


(12) Oil Spill Response, Prevention, and Administration Fees Law. Sections 46153, 46154, 46160, and 46253 of the Revenue and Taxation Code.

(13) Underground Storage Tank Maintenance Fee Law. Sections 50111, 50112, and 50112.7 of the Revenue and Taxation Code.


(b) A request for relief of interest due to a disaster shall:

   (1) Be in writing;

   (2) Identify the disaster due to which relief is sought;

   (3) Identify the period for which relief is sought; and

   (4) Be signed by the person requesting such relief under penalty of perjury.

(c) Form BOE-27, Penalty and Interest Relief for Disaster Victims, may be used to prepare and submit a request for relief pursuant to this section.

2085 Addresses for Filing Requests for Relief.

☐ Agree
☐ Disagree
☐ Modify
(a) A request for relief of an unpaid amount should be mailed to the address indicated in section 2020 for the specific tax or fee law concerned.

(b) A request for relief of a previously paid amount should be mailed to the address indicated in section 2057 for the specific tax or fee law concerned.

2086. Assignment of Requests for Relief.

(a) Sales and Use Tax Law.

(1) Generally, a request for relief of an unpaid amount filed pursuant to the Sales and Use Tax Law shall be reviewed by the Petitions Section. However, a request for relief of an amount included in a return, filed pursuant to Revenue and Taxation Code section 6593 (Disaster), shall be reviewed by the Return Analysis Section whether the amount is paid or not.

(2) A request for relief of a previously paid amount filed pursuant to the Sales and Use Tax Law may be treated as a claim for refund and reviewed by the Audit Determination and Refund Section under the procedures contained in article 3 of this part.

(b) Special Taxes.

(1) A request for relief filed pursuant to any tax or fee law governed by this part (other than the Sales and Use Tax Law), shall be reviewed by the appropriate petition group responsible for the particular tax or fee law concerned.

(2) If the request for relief concerns previously paid amounts, the request will be treated as a claim for refund and reviewed by the appropriate refund group under the procedures contained in article 3 of this part.

(c) Once the request for relief is assigned, the assigned staff will acknowledge receipt of the request in writing and may request additional information.

(d) The provisions of this section do not apply to requests for relief included in a petition for redetermination, petition for reconsideration, or claim for refund that are reviewed in accordance with the procedures applicable to such petitions or claims.

2087. Reviewing Requests for Relief.

(a) The assigned staff member will review a request for relief to:
(1) Determine if the request satisfies the requirements of this article 4C; and

(2) Determine if relief is warranted.

(b) In reviewing a request for relief, the assigned staff member may request additional information from the person requesting relief.

(c) Once the assigned staff member has completed his or her review, he or she may determine that:

(1) No relief is warranted;

(2) Partial relief is warranted; or

(3) Full relief is warranted.

(d) Once the determination in subdivision (c) of this section is made, the assigned staff member shall prepare and mail the person requesting relief a letter containing his or her decision and an explanation thereof.

Article 5: Claims (Inquiry) of Incorrect or Non-Distribution of Local Tax

2090. Reviewing Claims for Reallocation of Local Taxes.

(a) A claim or inquiry regarding the allocation of local taxes shall meet the requirements of California Code of Regulations, title 18, section 1807, and shall be mailed to the:

Allocation Group
Audit Determination and Refund Section, MIC: 39
Board of Equalization
P.O. Box 942879
Sacramento, CA 95814

(b) Once a claim or inquiry is received by the Allocation Group it will be acknowledged and reviewed in accordance with the procedures contained in California Code of Regulations, title 18, section 1807.

Article 6: Appeals Conferences

2100. Referral to Appeals Division for Appeals Conference.
(a) If a petition for redetermination, petition for reconsideration, claim for refund, or request for innocent spouse or other equitable relief is referred to the Appeals Division for an appeals conference, Board staff will contact the petitioner, claimant, or person requesting relief:

(1) To verify and update the persons contact information; and

(2) Inquire as to whether the person would prefer that the appeals conference be held at a specific location.

(b) Unless the petitioner, claimant, or person requesting relief indicates another preference, the appeals conference will be held in the district office that conducted the petitioner’s audit, recommended denial of the claimant’s claim for refund, or recommend denial of a person’s requested for relief.

2101. Notice of Appeals Conference.

(a) The Board Proceedings Division will prepare and mail the petitioner, claimant, or person requesting relief a Notice of Appeals Conference, which shall include the date, time, and location of the appeals conference.

(b) The Board Proceedings Division shall include a Response to Notice of Conference form with each Notice of Appeals Conference. The Board requests that all recipients of a Notice of Appeals Conference complete and return the Response to Notice of Conference within 10 days of receipt. If the Response to Notice of Conference is not returned, the appeals conference will still be held at the time and at the place indicated in the Notice of Conference.

(c) If the petitioner, claimant, person requesting relief, or other person described in section 2104 (other than the hearing officer) has not already submitted all of its written arguments and documentary evidence to the Board prior to the issuance of the Notice of Appeals Conference, the arguments and evidence should be submitted to the Appeals Division within the time period provided in subdivision (b). The conference holder may not consider an argument or item of evidence that is withheld from the hearing officer until the date of the appeals conference or after.

(d) The Board does not record appeals conferences. If the petitioner, claimant or person requesting relief would like to record the appeals conference it must check the appropriate box on the Response to Notice of Conference and agree to provide a copy of any recording or transcript to the Appeals Division upon request.
2102. Rescheduling or Postponing Appeals Conferences.

(a) Requests to postpone or reschedule an appeals conference shall be directed to the:

Board Proceedings Division, MIC: 81
State Board of Equalization
450 N Street
P.O. Box 942879
Sacramento, CA 94279-0081

(b) Rescheduling. If there is a scheduling conflict for an appeals conference scheduled to be held in-person at headquarters, by videoconference or by telephone, the appeals conference may be rescheduled to accommodate the parties. At the discretion of the Chief of Board Proceedings, a second rescheduling may be allowed. The Board Proceedings Division may reschedule an appeals conference scheduled to be heard at a district office to a different district office, to headquarters, to a videoconference, or a telephone conference, or may postpone the appeals conference to the same district office as provided in subdivision (c).

(c) Postponement. Postponements are only applicable to appeals conferences that are scheduled at a district office. A postponement results in the case being placed back into the inventory of unassigned cases. If a party requests a postponement of an appeals conference to be held at the district office within 15 days after the date of the notice of the appeals conference sent by the Board Proceedings Division and has sufficient justification for requesting the postponement, the Board Proceedings Division may allow the postponement. If a party requests a postponement of the appeals conference later than 15 days after the date of the notice of the appeals conference, and can demonstrate extreme hardship for requesting the postponement, the Board Proceedings Division may allow the postponement. While only one postponement may be granted, an appeals conference may be rescheduled as provided in subdivision (b).

2103. Expediting An Appeals Conference.

(a) The Board Proceedings Division will schedule an appeals conference within 60-days of receiving written notice that the petitioner, claimant, or person requesting relief has agreed to:

(1) Attend an appeals conference at the Board headquarter located at 450 N Street, Sacramento, California.
(2) Attend a video conference from certain district offices.

(3) Participate in a telephone conference (the Board will place the call).

(b) Subdivision (a) of this section only applies to written notices sent to the Board at or before the due date of the Response to Notice of Conference and such a written notice may be included in the Response to Notice of Conference.

(c) Once the deadline to file the written notice described in subdivision (a) of this section has expired, the Board Proceedings Division will still try to schedule an appeals conference as soon as practicable, if the petitioner, claimant, or person requesting relief informs the Board Proceeding Division that it is willing to appear on shortened notice.

2104. Conducting the Appeals Conference.

(a) Conference Holder. The appeals conference will be held by an attorney or auditor assigned to the Appeals Division who has not had any prior involvement in the matter being discussed at the appeals conference. It is the responsibility of the conference holder to take a fresh look at the law and the facts and make his or her own objective recommendation.

(b) Audit Representative. Generally, a representative from the Board’s audit staff will be present at the appeals conference to provide the audit staff’s reasons for determining that a tax or fee is due, a claim for refund should be denied, or a request for relief should not be granted. Where appropriate, a representative of the Board’s collection staff will be present at the appeals conference instead of a representative from the Board’s audit staff.

(c) Department of Insurance or Department of Toxic Substances Control Representative. A representative from the Department of Insurance or Department of Toxic Substances Control may be present at appeals conferences where the tax or fee at issue is administered by the representative’s department. Such a representative will provide its department’s reasons for determining that the tax or fee at issue is due.

(d) Nature of Appeals Conference. The appeals conference is not an adversary proceeding, it is an informal discussion of the relevant facts and applicable laws. As such, it is important that all relevant information be presented to the conference holder.

(1) A party may submit additional documentation to the Appeals Division at any time before or during the appeals conference.
(2) If any party requests permission to submit additional documentation at the appeals conference, the conference holder may grant that party 15 days after the appeals conference to submit additional documentation. If there is sufficient justification, the conference holder may also grant an additional 15 days to submit additional documentation. No further extensions of time to submit additional documentation will be granted without the approval of the Assistant Chief Counsel for the Appeals Division or his or her designees.

(3) If a party submits additional documentation after the appeals conference, the other party will be granted 15 days to respond to such documentation.

(e) Failure to Appear. If a petitioner, claimant, or person requesting relief, or their authorized representative fails to appear at an appeals conference, the conference holder will still hold the appeals conference as scheduled.

(f) Once the appeals conference is concluded, the conference holder will take the petition, claim for refund, or request for relief under consideration.

2105.Issuing Decision and Recommendation.

(a) Within 90 days after the submission of any additional documents as authorized in subdivision (d) of section 2104, the conference holder shall issue a written report of his or her findings, called a Decision and Recommendation, copies of which shall be sent to all parties. The Chief Counsel or his or her designee may allow additional time beyond the 90 days to prepare the Decision and Recommendation. Both the request for additional time and the granting of additional time shall be in writing and copies provided to all parties to the appeals conference.

(b) If a party did not appear at the appeals conference, the Decision and Recommendation will be based on the information in the file and the information obtained from the other party.

(c) The Decision and Recommendation shall include all of the following:

(1) A concise statement of each issue raised by the petitioner, claimant, or person requesting relief;

(2) The audit staff’s position on each issue raised by the petitioner, claimant, or person requesting relief;

(3) A statement of the relevant law applicable to each issue raised by the petitioner, claimant, or person requesting relief;
(4) A clear application of the relevant law to all the relevant information presented to the conference holder;

(5) The conference holders conclusions and recommendations after applying the relevant law to all of the relevant information; and

(6) A summary of any additional information or documentation that was not presented to the conference holder, which the conference holder believes might be relevant to a resolution of the issues raised by the petitioner, claimant, or person requesting relief.

(d) If any party receiving a Decision and Recommendation discovers a significant factual error, they should contact the conference holder or the Appeals Division immediately. Decisions and Recommendations may be revised by the conference holder or the Appeals Division to correct such errors.

2106 Conference Holder Recommendations.

- Agree
- Disagree
- Modify

(a) The conference holder may make the following recommendations in the Decision and Recommendation:

(1) Deny the petition, claim, or request for relief in its entirety.

(2) Grant the petition, claim, or request for relief in its entirety.

(3) Grant the petition, claim, or request for relief in part.

(4) Order the appropriate department to re-audit the issues raised in the petition, claim, or request for relief to obtain additional information.

(b) If the Decision and Recommendation recommends denial of the petition, claim, or request for relief in whole or in part, the petitioner, claimant or person requesting relief may:

(1) File a written request for the Appeals Division to reconsider the petition, claim, or request for relief. The Appeals Division will generally reconsider a petition, claim, or request for relief, if the request for reconsideration provides a basis for modifying the Decision and Recommendation.

(2) Disagree and request an oral hearing before the Board. If an oral hearing is requested the Board Proceedings Division will schedule an oral hearing before the Board. However, an oral hearing will not be provided if an oral hearing is not required by statute and the Board declines to grant such person
a discretionary oral hearing. For example, the Board has discretion to grant or deny an oral hearing on a late protest or application for administrative hearing.

(3) Agree with the Decision and Recommendation.

(c) If the Decision and Recommendation recommends that a petition, claim, or request for relief be granted in whole or in part, the recommendation to grant such petition, claim, or request will be sent to the Board for approval.

(d) Notwithstanding subdivision (c) of this section, if a conference holder recommends that a petition, claim for refund, or request for relief filed under the Tax on Insurers Law be granted in whole or in part, the Department of Insurance may request an oral hearing before the Board.

(e) If the Appeals Division receives a request for reconsideration, the conference holder will prepare a Supplemental Decision and Recommendation to addressing any new information provided with or arguments made in the request for reconsideration. A Supplemental Decision and Recommendation shall satisfy all the requirements of section 2105, subdivision (c).

2107.Post Appeals Conference Notices

☐ Agree
☐ Disagree
☐ Modify

The Board will issue a Notice of Redetermination, Statement of Account, Notice of Refund, or Denial of Claim based on the Decision and Recommendation if:

(a) The petitioner, claimant, or person requesting relief and the department or other agency represented at the appeals conference agree with the Decision and Recommendation in its entirety;

(b) The petitioner, claimant, person requesting relief, or another agency represented at the appeals conference do not request an oral hearing before the Board; or

(c) The petitioner, claimant, or person requesting relief has requested a discretionary oral hearing before the Board and the Board declines to grant the requested hearing.