

Memorandum

To: Honorable Antonio Vazquez, Chairman
Honorable Mike Schaefer, Vice Chair
Honorable Ted Gaines, First District
Honorable Malia M. Cohen, Second District
Honorable Betty T. Yee, State Controller

Date: March 8, 2021

From: Henry D. Nanjo
Chief Counsel
Legal Department (MIC: 121)

Subject: *Board Meeting, March 23, 2021*
Chief Counsel Matters - Item G – Rulemaking
Authorization to Adopt Proposed Amendments to Rules for Tax Appeals, Sections 5216, 5240, 5262, and 5570 Under CCR, Title 1, Section 100

We request your adoption of the proposed amendments to Rules for Tax Appeals,¹ Rules 5216, 5240, 5262, and 5570 under California Code of Regulations, title 1, section 100, *Publication of “Changes Without Regulatory Effect”* (Section 100). The amendments incorporate changes to the Board Proceedings Division’s (BPD’s) facsimile (fax) number and email address for appeals-related documents.

I. Background

Currently, Rules 5216, 5240, 5262, and 5570 reference the previous fax number for BPD as (916) 322-2270. As a result of a physical office move in late 2020, the fax number has changed to (916) 324-3984.

In addition, Rules 5216 and 5570 reference the email address, meetinginfo@boe.ca.gov, which traditionally has been used by the public to reach BPD staff for information related to the Board’s meetings, agendas, agenda items, records, participation, comments, and other Board Meeting related matters. BPD has determined that a separate email address specific for the appeals process is more appropriate and accordingly, appealsscheduling@boe.ca.gov has been created.

Importantly, Rule 5570 provides contact information for the transmission of all appeals documents for Tax Appeals before the Board, and is generally applicable to Rules 5216, 5240, and 5262.² To avoid confusion or missed communications, the BPD contact information should be the same in all four rules. To accomplish this and to avoid continued reference to a fax number no longer in service, the fax number should be updated within all four Rules. Further, the word “FAX:” should be added immediately prior to the fax number in Rules 5240 and 5262 for clarity. In addition, Rules 5216 and 5570 should be updated to include appealsscheduling@boe.ca.gov. Finally, appealsscheduling@boe.ca.gov should be inserted into Rule 5262, which currently references an email address but does not provide one, and Rule 5240, which

¹ Rules for Tax Appeals are regulations promulgated under title 18 of the California Code of Regulations. Subsequent references to a Rules for Tax Appeals section or sections shall be referred to as “Rule” or “Rules.”

² See Cal. Code Regs., tit. 18, § 5510.

currently neither references nor provides one. These updates to BPD's contact information will allow for accurate and consistent contact information throughout the Board's Rules for Tax Appeals.

II. Staff's Recommendation

Based on the information stated above, staff requests the adoption of the proposed changes to Rules 5216, 5240, 5262, and 5570 under Section 100, without the normal notice and public hearing process. These changes are appropriate for processing under Section 100 because the changes are consistent with current law and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

Recommended by:

/s/ Henry D. Nanjo
Henry D. Nanjo, Chief Counsel

Approved:

/s/ BFleming
Brenda Fleming, Executive Director

Approved:

/s/ David Yeung
David Yeung, Deputy Director
Property Tax Department

BOARD APPROVED on: 03/23/2021

/s/ Catherine Taylor
Catherine Taylor, Chief
Board Proceedings Division

Attachment(s): Proposed Text of Rules 5216, 5240, 5262, and 5570

cc: Ms. Rose Smith
Ms. Indhu Srinivasan
Mr. Lawrence Lin

Text of Proposed Amendments to
California Code of Regulations
Title 18. Public Revenues
Division 2.1 State Board of Equalization – Rules for Tax Appeals
Chapter 2. Special Taxes and Fees

5216. Filing Petitions for Redetermination.

(a) A petition or related document may be electronically transmitted (e.g., facsimile, e-mail, etc.) to the Board if an electronic copy of such document is transmitted to the fax number or email address specified in subdivision (b). A petition or related document may also be electronically transmitted to the Board in accordance with instructions provided on the Board's website at www.boe.ca.gov.

(b) A petition for redetermination and related documents may be hand delivered to the Board's headquarters or mailed to the address provided below:

BOARD PROCEEDINGS DIVISION, MIC:80
STATE BOARD OF EQUALIZATION
P.O. BOX 942879
SACRAMENTO, CA 94279-0080
~~MEETINGINFO@BOE.CA.GOV~~
APPEALSSCHEDULING@BOE.CA.GOV
FAX: ~~(916) 322-2270~~ (916) 324-3984

Note: Authority cited: Section 15606, Government Code; Sections 13170 and 32451, Revenue and Taxation Code. Reference: Sections 12428 and 32301, Revenue and Taxation Code.

5240. Persons Who May File, Contents of, and Manner of Filing Requests for Innocent Spouse Relief.

(a) Who May Request Relief. A divorced or separated individual may file a request for innocent spouse relief with the Board regarding taxes imposed under the Alcoholic Beverage Tax Law.

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

- (1) In writing.
- (2) Signed and dated by the individual requesting relief.
- (3) Specifically request innocent spouse 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 individual requesting relief believes he or she should not be held responsible for the liability at issue.

(c) Use of Forms. A request for innocent spouse relief prepared and filed on a completed Form BOE-682-A satisfies the requirements of subdivision (b).

(d) Limitation Period. A request for innocent spouse relief must be filed with the Board within the applicable time periods provided in California Code of Regulations, title 18, section 4903.

(e) Filing Requests. A request for innocent spouse relief or related document may be filed electronically under this section if a copy of the document is transmitted to the Board Proceedings Division in accordance with instructions provided on the Board's website at www.boe.ca.gov. Requests for innocent spouse relief may be mailed to the Board Proceedings Division at the following address:

BOARD PROCEEDINGS DIVISION, MIC:80
STATE BOARD OF EQUALIZATION
P.O. BOX 942879
SACRAMENTO, CA 94279-0080
APPEALSSCHEDULING@BOE.CA.GOV
FAX: (916) 322-2270 (916) 324-3984

A request for innocent spouse relief and related documents may also be hand delivered to the Board's headquarters or submitted to a collector that is already assigned to the account at issue.

Note: Authority cited: Section 15606, Government Code; and Section 32451, Revenue and Taxation Code. Reference: Section 32258, Revenue and Taxation Code.

5262. Requests to Reschedule or Postpone Appeals Conferences.

(a) A request to postpone or reschedule an appeals conference may be submitted to the Board Proceedings Division at the fax number or email address below or in accordance with instructions provided for the return of the Response to Notice of Appeals Conference form or instructions provided on the Board's website at www.boe.ca.gov. Requests to postpone or reschedule an appeals conference may also be hand delivered to the Board's headquarters or mailed to:

BOARD PROCEEDINGS DIVISION, MIC:80
STATE BOARD OF EQUALIZATION
P.O. BOX 942879
SACRAMENTO, CA 94279-0080
APPEALSSCHEDULING@BOE.CA.GOV
FAX: (916) 322-2270 (916) 324-3984

(b) Rescheduling. An appeals conference will be rescheduled only to a date within 30 days of the previously scheduled conference date, and only for a video or telephone conference or an in-person conference at the Board's headquarters. A party's initial written request to reschedule an appeals conference will be granted. A party's subsequent written request to reschedule an appeals

conference will only be granted if the Chief of Board Proceedings determines that there is reasonable cause.

(c) Postponement. An appeals conference will not be rescheduled to a date more than 30 days after the previously scheduled conference date, but may, instead, be postponed. When an appeals conference is postponed, the appeal is placed back into the inventory of unassigned cases and reassigned to a conference holder at a later date. When that appeal is thereafter scheduled for an appeals conference, the Board Proceedings Division will notify the taxpayer as specified in section 5261. If a party files a written request for a postponement of an appeals conference by the return date specified in the Response to Notice of Appeals Conference form, the request will be granted if the Chief of Board Proceedings determines that there is reasonable cause. If a party requests a postponement of the appeals conference after the return date specified in the Response to Notice of Appeals Conference form, or files a second or subsequent request for a postponement, the request will be granted only if the Chief of Board Proceedings determines that there is reasonable cause and that the postponement will not unduly delay the appeal.

(d) The Board Proceedings Division may also reschedule or postpone an appeals conference at the request of the Appeals Attorney for reasonable cause, including unavailability of the scheduled conference holder due to illness.

Note: Authority cited: Section 15606, Government Code; and Sections 13170 and 32451, Revenue and Taxation Code. Reference: Sections 12429, 12636, 12637, 12951, 12977, 12978, 12981, 32255, 32256, 32256.5, 32257, 32302, 32312, 32313, 32401, 32402, 32402.1, 32404, 32407 and 32440, Revenue and Taxation Code.

Text of Proposed Amendments to
California Code of Regulations
Title 18. Public Revenues
Division 2.1 State Board of Equalization – Rules for Tax Appeals
Chapter 5. General Procedures for Board Action

5570. Filing Documents.

During the Board's consideration of an appeal under this chapter, documents related to the appeal may be filed electronically pursuant to this section if a copy of such correspondence is transmitted to the Board Proceedings Division at the email address or fax number provided below or in accordance with instructions provided on the Board's website at www.boe.ca.gov. Correspondence during the hearing process may also be hand delivered to the Board's headquarters or mailed to the following address:

BOARD PROCEEDINGS DIVISION, MIC:80
STATE BOARD OF EQUALIZATION
P.O. BOX 942879
SACRAMENTO, CA 94279-0080
~~MEETINGINFO@BOE.CA.GOV~~
APPEALSSCHEDULING@BOE.CA.GOV
FAX: ~~(916) 322-2270~~ (916) 324-3984

Note: Authority cited: Article XIII, Section 11, California Constitution; Sections 15606 and 15640, Government Code; and Sections 251, 1840, 11651, 13170 and 32451, Revenue and Taxation Code. Reference: Article XIII, Section 11, California Constitution; Sections 15606 and 15640, Government Code; and Sections 251, 1840, 11651, 13170 and 32451, Revenue and Taxation Code.