

Memorandum

To: Honorable Sally J. Lieber, Chair
Honorable Ted Gaines, Vice Chair
Honorable Antonio Vazquez, Third District
Honorable Mike Schaefer, Fourth District
Honorable Malia M. Cohen, State Controller

Date: March 11, 2026

From: Richard Moon
Chief Counsel
Legal Department (MIC: 121)

Subject: ***Board Meeting, March 25, 2026.
Chief Counsel Matters – Rulemaking
Authorization to Adopt Proposed Amendments to Rule for Tax Appeals 5237 Under
California Code of Regulations, Title 1, Section 100***

We request that the Board vote to adopt the proposed amendments to Rule for Tax Appeals¹ (Rule) 5237 under California Code of Regulations, title 1, section 100, *Publication of “Changes Without Regulatory Effect”* (Section 100). The proposed amendments to Rule 5237 make the rule consistent with changed California statutes.

I. Background

California Code of Regulations, title 18, section (Rule) 5237, *Chief Deputy Director Approval Required for Refunds Over \$100,000*, sets forth procedures relating to refunds over \$100,000 for certain special taxes and fees and, in subdivision (d), requires that a determination with respect to a refund in excess of \$50,000 be available as a public record for a specified period. Revenue and Taxation Code (RTC) section 12977, subdivision (c) and RTC 32401 likewise provide that any determination by the Board pursuant to those sections with respect to an amount in excess of fifty thousand dollars (\$50,000) be available as a public record for at least ten days after the effective date of that determination.

Senate Bill No. 889, which was signed by the Governor and went into effect on January 1, 2024, amended RTC section 32401 to state that “Any determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000) shall be available

¹ All references to “Rule for Tax Appeals” or “Rules” are to sections of title 18 of the California Code of Regulations.

as a public record for at least 10 days *after* the effective date of that determination” (emphasis added), rather than “prior to” the effective date. Similarly, Senate Bill No. 1528, which was signed by the Governor and went into effect on January 1, 2025, amended RTC 12977 subdivision (c) to state, “Any determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days *after* the effective date of that determination” (emphasis added), rather than “prior to” the effective date.

Rule 5237 currently states in subdivision (d) that “If the assigned section or the Chief Deputy Director determines that a refund in excess of \$50,000 should be granted, the proposed determination must be available as a public record for at least 10 days *prior* to its effective date.” (Emphasis added.)

The proposed amendments to Rule 5237 are to update subdivision (d) to reflect the change in timing of records being available to the public to “10 days after” rather than “10 days prior” to match the changed statutes of both RTC 12977 and RTC 32401. The amendments also delete the word “proposed” in subdivision (d) because under sections 12977 and 32401 as amended, the public record requirement applies to the Board’s determination after its effective date, not to a proposed determination before the effective date.

Staff has determined that the changes to Rule 5237 are appropriate for processing under California Code of Regulations, title 1, section 100 because the changes make “a regulatory provision consistent with a changed California statute” where “the regulatory provision is inconsistent with and superseded by the changed statute” and the Board has “no discretion to adopt a change that differs in substance from the one chosen.” (Cal. Code Regs., tit. 1, § 100, subd. (a)(6).) Furthermore, the changes merely conform the rule text to existing statutory language and therefore, they do “not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.” (Cal. Code Regs., tit. 1, § 100, subd. (a).)

II. Staff’s Recommendation

Based on the information stated above, staff requests that the Board vote to adopt the proposed changes to Rule 5237 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.

The proposed amendments to the Rule are attached hereto, in strikeout and underline format. If you need more information or have any questions, please contact Richard Moon, Chief Counsel, at 949-224-4830.

Recommended by:

/s/ Richard Moon

Richard Moon, Chief Counsel

Approved:

/s/ Lisa Renati for Yvette Stowers

Yvette M. Stowers, Executive Director

Approved:

/s/ David Yeung

David Yeung, Deputy Director
Property Tax Department

BOARD APPROVED on: _____

Catherine Taylor, Chief
Board Proceedings Division

RM:mwc

Attachment: Proposed text for Rule for Tax Appeals 5237

cc: Ms. Yvette M. Stowers
Mr. David Yeung
Mr. Ted Angelo
Ms. Lisa Thompson

**CHANGES WITHOUT REGULATORY EFFECT UNDER CALIFORNIA CODE OF REGULATIONS, TITLE
1, SECTION 100**

Statement of Explanation

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*, Article 3. Claims for Refund

Section 5237, *Chief Deputy Director Approval Required for Refunds over \$100,000*

California Code of Regulations, title 18, section (Rule) 5237, *Chief Deputy Director Approval Required for Refunds Over \$100,000*, sets forth procedures relating to refunds over \$100,000 for certain special taxes and fees and, in subdivision (d), requires that a determination with respect to a refund in excess of \$50,000 be available as a public record for a specified period. Revenue and Taxation Code (RTC) section 12977, subdivision (c) and RTC 32401 likewise provide that any determination by the Board pursuant to those sections with respect to an amount in excess of fifty thousand dollars (\$50,000) be available as a public record for at least ten days after the effective date of that determination.

Senate Bill No. 889, which was signed by the Governor and went into effect on January 1, 2024, amended RTC section 32401 to state that “Any determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days *after* the effective date of that determination” (emphasis added), rather than “prior to” the effective date. Similarly, Senate Bill No. 1528, which was signed by the Governor and went into effect on January 1, 2025, amended RTC section 12977, subdivision (c) to state, “Any determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days *after* the effective date of that determination” (emphasis added), rather than “prior to” the effective date.

Rule 5237 currently states in subdivision (d) that “If the assigned section or the Chief Deputy Director determines that a refund in excess of \$50,000 should be granted, the proposed determination must be available as a public record for at least 10 days *prior to* its effective date.” (Emphasis added.)

The proposed amendments to Rule 5237 are to update subdivision (d) to reflect the change in timing of records being available to the public to “10 days after” rather than “10 days prior” to match the changed statutes of both RTC 12977 and RTC 32401. The amendments also delete the word “proposed” in subdivision (d) because under sections 12977 and 32401 as amended, the public record requirement applies to the Board’s determination after its effective date, not to a proposed determination before the effective date.

The State Board of Equalization has determined that the changes to Rule 5237 are appropriate for processing under California Code of Regulations, title 1, section 100 because the changes make “a regulatory provision consistent with a changed California statute” where “the regulatory provision is inconsistent with and superseded by the changed statute” and the Board has “no discretion to adopt a change that differs in substance from the one chosen.” (Cal. Code Regs., tit. 1, § 100, subd. (a)(6).) Furthermore, the changes merely conform the rule text to existing statutory language and therefore, they do “not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.” (Cal. Code Regs., tit. 1, § 100, subd. (a).)

State of California
BOARD OF EQUALIZATION
PROPERTY TAX RULES

California Code of Regulations, Title 18
Division 2.1. State Board of Equalization-Rules for Tax Appeals
Chapter 2. Special Taxes and Fees
Article 3. Claims for Refund

§ 5237. Chief Deputy Director Approval Required for Refunds Over \$100,000.

(a) If the assigned section determines that a refund in excess of \$100,000 should be granted, the recommendation for the proposed refund must be submitted to the Chief Deputy Director for approval except where such a claim is for overpayment of insurance tax prepayments.

(b) Once the recommendation is submitted to the Chief Deputy Director, the Chief Deputy Director may approve the assigned section's recommendation or exercise discretion to make the Chief Deputy Director's own determination as to whether the claim for refund should be granted, denied, or granted in part and denied in part, and may do so without further documentation or testimony from the taxpayer.

(1) If the Chief Deputy Director approves the assigned section's recommendation to grant a refund, the assigned section will send the taxpayer a notice of refund showing the amount to be refunded, and will have a refund warrant prepared and sent to the taxpayer after determining if such amounts should be credited or offset against other liabilities as provided in section 5238.

(2) If the Chief Deputy Director makes his or her own determination, then the Chief Deputy Director will send the taxpayer a letter notifying the taxpayer of the determination. If the result of the Chief Deputy Director's determination will be more favorable to the taxpayer than the result of the assigned section's recommended determination, then the Chief Deputy Director's letter shall advise the taxpayer that its claim for refund will be granted or denied in accordance with the Chief Deputy Director's determination. However, if the result of the Chief Deputy Director's determination will be less favorable to the taxpayer than the result of the assigned section's recommended determination, then:

(A) The letter shall advise the taxpayer that the claim for refund will be granted or denied in accordance with the Chief Deputy Director's determination, unless the taxpayer requests an appeals conference or Board hearing within 30 days of the date of the letter; and

(B) If the taxpayer thereafter timely requests an appeals conference or Board hearing and the request is not denied under section 5236, the Board Proceedings Division will schedule an appeals conference; otherwise, the claim for refund will be granted or denied in accordance with the Chief Deputy Director's findings.

(c) If the assigned section determines that a refund in excess of \$100,000 should be denied, and the taxpayer has not requested an appeals conference with the Appeals Attorney or Board hearing, or confirmed a prior request for such a conference or hearing, or such prior requests were denied, the recommendation to deny the refund must be submitted to the Chief Deputy Director for approval as provided in subdivision (b). If the Chief Deputy Director approves the assigned section's determination, the assigned section will send the taxpayer a notice of denial of claim for refund in accord with that determination.

(d) If the assigned section or the Chief Deputy Director determines that a refund in excess of \$50,000 should be granted, the proposed determination must be available as a public record for at least 10 days ~~prior to~~ after its effective date.

Authority: Section 15606, Government Code; and Sections 13170 and 32451, Revenue and Taxation Code.

Reference: Sections 12977 and 32401, Revenue and Taxation Code.