

BOARD OF EQUALIZATION RULES FOR TAX APPEALS

California Code of Regulations
Title 18. Public Revenues
Division 2.1. State Board of Equalization – Rules for Tax Appeals
Chapter 2: Sales and Use Tax, Timber Yield Tax, and Special Taxes and Fees

ARTICLE 3: CLAIMS FOR REFUND

5237. DEPUTY DIRECTOR REQUIRED FOR REFUNDS OVER

(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 Deputy Director of the assigned section's Department for approval except where such a claim is one for overpayment of diesel fuel tax filed under Revenue and Taxation Code section 60501 or 60502, or where such a claim is for overpayment of insurance tax prepayments.

(b) Once the recommendation is submitted to the Deputy Director, the Deputy Director may approve the assigned section's recommendation or exercise discretion to make the 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 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 Deputy Director makes his or her own determination, then the Deputy Director will send the taxpayer a letter notifying the taxpayer of the determination. If the result of the Deputy Director's determination will be more favorable to the taxpayer than the result of the assigned section's recommended determination, then the Deputy Director's letter shall advise the taxpayer that its claim for refund will be granted or denied in accordance with the Deputy Director's determination. However, if the result of the 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 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 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 Division 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 Deputy Director of the assigned section's Department for approval as provided in subdivision (b). If the 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 Deputy Director of the assigned section's Department 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.

Note: Authority cited: Section 15606, Government Code; and Sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code. Reference: Sections 6901, 8126, 9151, 12977, 30361, 32401, 38601, 40111, 41100, 43451, 45651, 46501, 50139, 55221 and 60521, Revenue and Taxation Code.

- History:
1. New section adopted 9-12-2007; effective 2-6-2008.
 2. Amendments adopted October 6, 2009, effective February 19, 2010. Replaced \$50,000 with \$100,000 in title and subdivisions (a), (d), and (f), and added new subdivision (g).
 3. Amendments adopted November 19, 2013, effective April 1, 2014. The amendments deleted "Board Staff in" from before and deleted "or group" after "the assigned section" and added the text after "Board" in subdivision (a); replaced "a refund is warranted and in what amount" with "the claim for refund should be granted, denied, or granted in part and denied in part and replaced "will" with "may" in the first sentence in subdivision (b); added the second sentence to subdivision (b); deleted "Board Staff in" from before "the assigned section" in subdivision (d); deleted subdivision (e); renumbered subdivisions (f) and (g) as subdivisions (e) and (f), respectively; deleted "Board Staff in" from before "the assigned section," replaced "disagreed with such determination by requesting" with "requested," replaced "oral" with "Board" before and deleted "before the Board" after "hearing," and deleted "as provided in subdivision (a)" from after "approval" in the first sentence in renumbered subdivision (e); added the second sentence to renumbered subdivision (e); and replaced "Board Staff" with "the assign section" in renumbered subdivision (f).
 4. Amendments adopted December 16, 2015, effective March 1, 2016. The amendments replaced "Board" with "Deputy Director" in the regulation's title; replaced "Board" with "Deputy Director of the Assigned Section's Department" and deleted "where such a claim is for a duplicate or erroneous payment made through the electronic funds transfer program," from after "except" in subdivision (a); replaced "Board" with "Deputy Director," replaced "Board has" with "Deputy Director may approve the assigned section's recommendation or exercise," replaced "its" with "the Deputy Director's," and replaced "claimant" with "taxpayer" in the first sentence in subdivision (b); reformatted the second sentence in subdivision (b) as subdivision (b)(1) and added a new subdivision (b)(2); replaced "Where the Board approves" with "If the Deputy Director approves the assigned section's recommendation to grant" at the beginning of subdivision (b)(1); deleted subdivisions (c) and (d) and renumbered subdivisions (e) and (f) as (c) and (d), respectively; replaced "claimant" with "taxpayer," replaced "Board" with "Deputy Director of the assigned section's Department," and added "as provided in subdivision (b)" after "approval" in the first sentence in renumbered subdivision (c); replaced "Board" with "Deputy Director" in the second sentence in renumbered subdivision (c); added "or the Deputy Director of the assigned section's Department" to renumbered subdivision (d); and deleted "and the determination is not required to be submitted to the Board" from after "granted" in renumbered subdivision (d).