

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 4: Appeals from Actions of the Franchise Tax Board

ARTICLE 3: BRIEFING SCHEDULES AND PROCEDURES

5430. GENERAL REQUIREMENTS.

(a) Generally. Submissions in the forms of briefs are required in all appeals from actions of the Franchise Tax Board. The parties to an appeal must adhere to the briefing schedules and other requirements set forth in this article. Unless otherwise provided, the rules contained in this section apply to all briefs and briefing schedules.

(b) Determining the briefing schedule; notification. Upon receipt of a perfected appeal, the Chief of Board Proceedings will provide written notification to each party that a perfected appeal has been filed and that briefing will begin under section 5431 or section 5432, whichever is applicable.

(1) If an appeal involves a jeopardy determination, the Chief Counsel will compose a suitable briefing schedule after due consideration of all the facts and circumstances of that appeal.

(2) The notification issued under this section may be included, if appropriate, in the acknowledgment letter issued under section 5423.

(3) Throughout the briefing schedule, the Chief of Board Proceedings will inform the parties of applicable deadlines, extensions, and other requirements by written notification, and will ensure that all parties receive copies of any correspondence.

(c) Extensions. Any request to extend the period for filing a brief must be in writing and must be made prior to the scheduled due date for that brief. Extensions and deferrals of briefing may be granted under the provisions of section 5522.8.

(d) Submission and acknowledgment. The party filing a brief is responsible for submitting one copy of the brief and any supporting exhibits to the Board Proceedings Division. Upon receipt of any brief filed within the scope of the applicable briefing schedule, including any applicable deadlines and extensions, the Chief of Board Proceedings will provide written acknowledgement of receipt to all parties and will provide each opposing party with a copy of the brief and any supporting exhibits.

(e) Formatting. All briefs must be no longer than 30 double-spaced 8½" by 11" pages, or 15 single-spaced 8 ½" by 11" pages, excluding any table of contents, table of authorities, and exhibits. All briefs must be handwritten or typed, and printed only on one side in a type-font size of at least 10 points or 12 characters per inch. The Chief of Board Proceedings may grant an exception to these requirements upon written request that establishes why an exception is necessary. If a brief is filed that does not comply with the requirements of this subdivision, the Chief of Board Proceedings may, in his or her discretion, return the brief to the filing party and grant 10 days in which to file a corrected brief. Failure to file a corrected brief within the 10-day period is a waiver of the right to file that brief. Except as otherwise provided in the applicable briefing schedule, that waiver will conclude the briefing schedule.

(f) Failure to file a brief. The failure to file a brief within the scope of the applicable briefing schedule, including any applicable deadlines, extensions, and other requirements, is a waiver of the right to file that brief. Except as otherwise provided in the applicable briefing schedule, that waiver will conclude the briefing schedule. However, the Board, in its discretion, may accept any documentary evidence and related arguments submitted at a hearing pursuant to section 5523.6.

(g) Non-party briefing. Non-Party (Amicus) Briefs may be filed, subject to any generally applicable conditions of this section and the specific conditions of this subdivision.

(1) Any individual or entity may file a Non-Party Brief, whether unsolicited or upon request of the Appeals Division. No individual or entity may file more than one Non-Party Brief, unless the Appeals Division specifically allows otherwise.

(2) Unless the Appeals Division specifically allows otherwise, all Non-Party Briefs must be filed prior to the conclusion of briefing under section 5431 or section 5432, whichever is applicable.

(3) If a Non-Party Brief is filed, the Chief of Board Proceedings will acknowledge receipt of the brief and provide one copy to each party. Each party may file a reply to the Non-Party Brief not later than 30 days from the date the Chief of Board Proceedings acknowledges receipt of the Non-Party Brief.

(4) For purposes of articles 4 and 5 of this chapter, briefing is considered concluded when the deadline for replying to all unsolicited Non-Party Briefs has passed.

Note: Authority cited: Government Code section 15606.

Reference: Revenue and Taxation Code sections 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, and 20645.

History: 1. New section adopted 9-12-2007; effective 2-6-2008.