

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 6: PETITIONS FOR REHEARING AND REHEARINGS

5461. PETITIONS FOR REHEARING.

(a) Definitions. For purposes of this article:

- (1) The “Filing Party” is the party who files a Petition for Rehearing.
- (2) The “Non-Filing Party” is the party who does not file a Petition for Rehearing.

(b) Time for Filing. A Petition for Rehearing is timely if it is mailed within the 30-day period described in section 5460, subdivision (a). The date of mailing is determined under section 5422, subdivision (c).

(c) Format and Contents of the Petition for Rehearing. Every Petition for Rehearing must be in writing, must meet the formatting requirements of section 5430, subdivision (e), and must contain the following:

- (1) The name or names of the party or parties filing the Petition for Rehearing;
- (2) The address and telephone number of each party and, if applicable, each party’s authorized representative;
- (3) Any portion of the amount at issue conceded by the party;
- (4) The signature of each party or the signature of an authorized representative made on behalf of each party filing the Petition for Rehearing; and
- (5) All the facts and legal authorities necessary to:
 - (A) Identify an irregularity in the Board’s proceedings that prevented the fair consideration of the appeal;
 - (B) Identify an accident or surprise that occurred, which ordinary caution could not have prevented;
 - (C) Identify newly discovered, relevant evidence, which the Filing Party could not have reasonably discovered and provided prior to the Board’s decision; or
 - (D) Demonstrate there was insufficient evidence to justify the Board’s decision or the decision is contrary to law.

(d) Accepting or Rejecting the Petition for Rehearing.

(1) Upon receipt of a Petition for Rehearing, the Chief of Board Proceedings must determine whether the Petition for Rehearing is timely. If any question arises as to the timelines of a Petition for Rehearing, the Chief of Board Proceedings will refer the Petition to the Chief Counsel.

(2) If the Chief of Board Proceedings or the Chief Counsel determines that the Petition for Rehearing is timely, the Chief of Board Proceedings must accept the Petition for Rehearing. The Chief of Board Proceedings then will notify all parties in writing of the acceptance. The notice will explain each party’s rights and obligations under this article. The Chief of Board Proceedings will provide one copy of the Petition for Rehearing and any supporting documents to the Non-Filing Party.

(3) If the Chief of Board Proceedings or the Chief Counsel determines that the Petition for Rehearing is not timely, the Chief of Board Proceedings must reject the Petition for Rehearing. The Chief of Board Proceedings then will notify all parties in writing of the rejection and the reasons therefor.

(e) Perfecting the Petition for Rehearing.

(1) The briefing and resolution of a Petition for Rehearing cannot begin until the Petition for Rehearing is perfected. A Petition for Rehearing is “perfected” if it contains substantially all of the information required by subdivision (c). A Petition for Rehearing is not perfected until it contains sufficient information to identify

and contact each Filing Party or authorized representative, along with the signature of each Filing Party or authorized representative.

(2) If a timely Petition for Rehearing is not perfected, the Chief of Board Proceedings will notify the Filing Party in writing of the need to perfect the Petition for Rehearing. That notice will explain what information is necessary to perfect the Petition for Rehearing.

(A) The Filing Party must perfect the Petition for Rehearing not later than 30 days from the date of the notice. The Chief of Board Proceedings may extend the deadline for perfecting a Petition for Rehearing upon a showing of extreme hardship or upon written agreement by the parties. All parties will be notified in writing of any extension.

(B) Perfecting the Petition for Rehearing is accomplished by submitting the information necessary to perfect the Petition for Rehearing to the Chief of Board Proceedings.

(C) If the Filing Party fails to perfect the Petition for Rehearing within the 30-day period, or within any extension period granted by the Chief of Board Proceedings, the Petition for Rehearing will be rejected. All parties will be notified in writing of the rejection.

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.

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