

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 5: General Board Hearing Procedures¹

ARTICLE 7: CORRESPONDENCE, PUBLIC HEARING RECORDS, AND COPIES

5573. CONFIDENTIALITY.

Board hearings are generally conducted during open session at public meetings held in accordance with Government Code sections 11120 and 11123.

(a) Appeals from Actions of the Franchise Tax Board. The filing of an appeal under chapter 4 constitutes a waiver of the appellant's right to confidentiality with regard to all of the information provided to the Board by the appellant or the Franchise Tax Board, including, but not limited to, information contained in a hearing summary prepared under section 5444.

(b) Sales and Use Tax, Timber Yield Tax, and Special Taxes and Fees. The filing of a written request for a Board hearing under chapter 2 constitutes a waiver of the taxpayer's right to confidentiality with regard to information provided to or obtained by the Board that is actually disclosed on the transcript of the taxpayer's Board hearing or included in the hearing summary prepared for the taxpayer's Board hearing.

(c) Property Taxes.

(1) A taxpayer waives its right to confidentiality when the taxpayer:

(A) Files a petition described in section 5310, subdivision (a)(1), (3), or (4) of chapter 3, and submits a written request for a Board hearing; or

(B) Files an application described in section 5310, subdivision (a)(2) of chapter 3.

(2) The waiver described in paragraph (1) of this subdivision only applies to:

(A) The taxpayer's petition or application filed under chapter 3 of this division, and any documents filed in support of the petition or application;

(B) Any briefs filed in response to or in support of the taxpayer's petition or application, and any documents filed in support of such briefs;

(C) The Hearing Summary or Summary Decision prepared for the taxpayer's Board hearing; and

(D) Any other information provided to or obtained by the Board that is actually disclosed on the transcript of the taxpayer's Board hearing.

(d) Effective Date of Waiver.

(1) A waiver described in subdivision (b) or (c) of this section is effective on the date the Board issues its first Public Agenda Notice providing public notice of the date and time of the taxpayer's Board hearing to which the waiver applies.

(2) A waiver described in subdivision (b) or (c) may be rescinded by the taxpayer at any time before it becomes effective, if the taxpayer agrees to waive its Board hearing. At the time a taxpayer waives a Board hearing under this paragraph, the taxpayer may request that the Board decide the taxpayer's appeal as a nonappearance matter or dismiss the taxpayer's appeal.

(e) Exceptions.

¹ Editorial change renaming subchapters to subarticles (Register 2008, No. 13.).

(1) Protection from Identity Theft.

(A) The waivers described in subdivisions (a), (b), and (c) do not apply to any person's address, telephone number, social security number, federal identification number, or other account number, and such information will not be provided to the public in response to a request made pursuant to the California Public Records Act (Gov. Code, §§ 6250 et seq.).

(B) Nothing in this paragraph prohibits any party to a Board hearing, Board Members, or Board Staff from referring to information described in this paragraph in briefs filed under this division, or in a manner that will not disclose any person's actual address, telephone number, social security number, federal identification number, or bank account number at a Board hearing conducted during an open session at a public meeting.

(2) Closed Session. The waivers described in subdivisions (b) and (c) do not apply to:

(A) Information that is only discussed during a portion of a Board hearing conducted during a closed session held pursuant to Government Code section 11126, and the procedures contained in section 5574; and

(B) The portion of a Hearing Summary, if any, containing information that is only scheduled to be discussed during a closed session.

(f) Published Opinions. Even in the absence of a waiver, there is no right to confidentiality as to relevant information that the Board or Board staff includes in a written opinion that is required to be published pursuant to section 5552.

Note: Authority cited: Article XIII, Section 11, California Constitution; Sections 15606 and 15640, Government Code; and Sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code. Reference: Article XIII, Section 11, California Constitution,; Sections 6254, 11124.1, 11125.1, 15606, 15619 and 15640, Government Code; and Sections 40, 251, 743, 833, 1840, 7051, 7056, 8251, 8255, 9251, 9255, 11651, 11655, 13170, 19542, 19545, 30451, 30455, 32451, 32455, 38701, 38705, 38706, 40171, 41128, 43501, 45851, 46601, 50152, 55301, 60601 and 60609, Revenue and Taxation Code.

History: 1. New section adopted 9-12-2007; effective 2-6-2008.
2. Amendments adopted November 19, 2013, effective April 1, 2014. The amendments deleted "Waiver of" from the beginning of the regulation's title; replaced "Oral" with "Board" at the beginning of the regulation; inserted ", but not limited to," in subdivision (a); changed "an oral hearing before the Board" to "a Board hearing" in subdivisions (b) and (c)(1)(A); changed "oral hearing before the Board" to "Board hearing" after the second and third references to "taxpayer's" in subdivision (b), after the references to "taxpayer's" in subdivision (c)(2)(C) and (D), and at the end of the first sentence in subdivision (d)(2); capitalized the first letters in the references to "hearing summary" and "summary decision" in subdivision (c)(2)(C); replaced "oral" with "Board" before "hearing" in subdivision (d)(1); replaced "an oral" with "a Board," inserted "appeal as a nonappearance," deleted the text between "matter" and "or," and replaced "matter" with "appeal" in the second sentence in subdivision (d)(2); replaced "an oral" with "a Board" before the second reference to "hearing" in subdivision (e)(1)(B); replaced "an oral" with "a Board" in subdivision (e)(2)(A); capitalized the first letters in "hearing summary" in subdivision (e)(2)(B); added a new subdivision (f) to implement Revenue and Taxation Code section 40; and added a citation to Revenue and Taxation Code section 40 to the regulation's reference note.