

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).)