

# Appeals Procedures

## *Sales and Use Taxes and Special Taxes*

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### Who should read this publication?

This publication provides general information about appeals procedures for sales and use taxes and “special” taxes and fees. Although, the California State Board of Equalization (BOE) administers numerous special taxes and fee programs, (for example, fuel taxes, excise taxes, and environmental fees), some appeals such as an appeal of the Fire Prevention Fee must be submitted directly to other agencies charged with responsibility to administer the appeals. Please see [page 17](#) for a full list of Special Taxes and Fees programs administered by the BOE. If you seek additional information regarding any of these programs, please contact the BOE’s Special Taxes and Fees Division (see [page 15](#)). For information on appeals of state-assessed property values or the timber yield tax, please contact the Board Proceedings Division (see [page 15](#)).

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If you disagree with a decision of the staff of the BOE regarding your liability for taxes or fees, you can usually contest that decision by filing a timely appeal. While the majority of appeals are resolved after discussion with BOE staff, some may proceed through a succession of steps to a hearing before the elected Members of the Board.

### Points to Remember

- You may challenge an assessment for a tax or fee by submitting an appeal within the time limits allowed by law. You do not lose this right even if you initially agreed that the tax or fee is due, as long as you file your appeal within the time allowed. Even if you pay a tax or fee without appealing the assessment, you may still dispute the tax or fee by filing a claim for refund within the time limits allowed by law.
- There are several steps involved in the appeals process. In some cases, an appeal can be referred back to a prior step. As a result, you may go through some of the steps in the appeals process more than once.
- You may seek settlement of certain liabilities and claims for which you have a pending appeal (see “Proposing a Settlement of a Disputed Tax or Fee Liability,” beginning on [page 12](#)). Your appeal will generally continue through the normal process while your settlement proposal is pending; however, you may delay both an appeals conference and Board hearing if your case has been accepted under the BOE’s Administrative Settlement Program.
- If you file an appeal, it is very important that you carefully read all notices and letters sent by the BOE. *Your appeal may be denied if you do not respond within the time limits stated in notices and letters sent to you.* If a filing deadline occurs on a Saturday, Sunday, or state holiday, it is extended to the next business day. For purposes of determining whether you have met a required deadline for documents you mail, you will be regarded as filing the document on the date of the postmark. All time periods described in this publication are *calendar*, not business days.
- Even if you appeal an assessment, interest will continue to accrue until the tax or fee liability is paid, so you may want to pay the amount of the tax or fee due while your appeal is pending (see [page 2](#), “A Note About Interest”). If you pay the tax or fee due while your appeal is pending, that payment will not be interpreted to mean that you agree with the amount you dispute in your appeal, but it will stop the accrual of interest.
- Filing an appeal of an assessment does *not* protect your right to a refund of a payment made towards that assessment, even if your appeal is eventually successful. To protect your right to a refund in case your appeal is successful, you may wish to file a “protective” claim for refund when you make the payment. This will ensure that you do not allow the deadline for filing a claim for refund to pass while your appeal of the assessment is resolved. As with any claim for refund, a protective claim must include the specific grounds for your claim—the reasons you think you overpaid the taxes or fees.

### BOARD MEMBERS (Names updated 2016)

DAVID J. GAU  
 Executive Director

SEN. GEORGE RUNNER (Ret.)  
 First District  
 Lancaster

FIONA MA, CPA  
 Second District  
 San Francisco

JEROME E. HORTON  
 Third District  
 Los Angeles County

DIANE L. HARKEY  
 Fourth District  
 Orange County

BETTY T. YEE  
 State Controller

### ***Make Sure You Have Complete and Current Information***

Please note that there may be minor differences between the procedures for sales and use tax appeals and those applicable to special tax programs. In addition, other state agencies may be involved in the appeals process for those programs. If you have procedural questions, you should call the BOE department or division that administers the specific tax or fee rather than relying solely on this publication (see phone numbers on [page 15](#)). You may also wish to obtain a copy of the applicable laws, regulations, or BOE publications that apply to your specific tax or fee (see [page 14](#) for ordering information). An excellent source for information is BOE's website at [www.boe.ca.gov](http://www.boe.ca.gov). You will find applicable laws and regulations as well as other helpful information.

The information in this publication is intended to be accurate as of its date of publication, April 2015. Please note that as with all laws and regulations, those governing appeals are subject to change, and if there is a conflict between information in this publication and the laws or regulations, the applicable laws and regulations are controlling. To ensure that you have the most current information, please contact the BOE office responsible for your tax or fee account.

### ***A Note About Interest***

Interest continues to accrue on the amount of the taxes or fees due, even though your appeal is pending. You may therefore wish to pay some or all of such taxes or fees while your appeal is pending, in order to stop the accrual of interest on whatever portion of the taxes or fees you pay. In making this decision, you should keep in mind that the interest rate the BOE pays on refunds is significantly lower than the interest rate you must pay on amounts you owe the BOE, and since July 1, 2009, the credit interest rate has been zero percent.

For example, for the period January 1, 2015, through June 30, 2015, the interest rate charged on unpaid taxes or fees is 6 percent per year, while the amount the BOE pays on refunds is zero percent per year. Interest rates may change every six months.

For some tax programs (for example, motor vehicle fuel tax and insurance tax), payments are always applied to interest and penalty before the actual tax or fee, with payments applied to the tax or fee due only after all interest and penalty are paid.

If the Board grants a refund of an overpayment of tax or fee paid pursuant to a Notice of Determination issued by the BOE and the credit interest rate exceeds zero percent, the Board will pay credit interest on the amount of tax or fee refunded to you, unless it determines that the overpayment was intentional or careless.

Please refer to the law and regulations for the specific instructions and interest calculation methods that apply to your situation.

### ***Gifts from Taxpayers***

BOE employees will not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value from a person or entity that the BOE employee knows or has reason to believe:

- Has or is seeking to obtain contractual or other business or financial relations with the BOE.
- Conducts business or other activities that are regulated or monitored by the BOE under circumstances from which it reasonably could be substantiated the gift was intended to influence the employee in his or her official action, or was intended as a reward for any official action performed by the employee.

## APPEALING A DETERMINATION OF TAXES OR FEES DUE

Taxpayers most often file appeals as the result of a BOE audit. If an audit finds that you have underpaid taxes or fees or if the BOE otherwise determines you owe additional amounts, you will be sent a billing, called (for most tax programs) a Notice of Determination or a Notice of Jeopardy Determination. It will state the amount of tax or fee and penalty due, plus the amount of interest that has accrued on the tax or fee due. If you do not agree with the amounts shown, you may appeal by filing a petition for redetermination (see next section), or you may pay the amount due and file a claim for refund (see "Filing a Claim for Refund," beginning on [page 8](#)).

For more information about the audit process, you may wish to obtain a copy of BOE [publication 76, Audits](#).

## Petition for Redetermination

### Filing Deadline

You must wait for the Notice of Determination to be issued before you file a petition for redetermination (petition); an appeal filed before the Notice of Determination is issued is not a valid petition. Generally, once a Notice of Determination has been issued to you, you have 30 days from the date it was mailed to you to file a petition. If you do not appeal the Notice of Determination by filing a petition before the filing deadline, your liability will be final and due and payable. An appeal filed after the filing deadline is not a valid petition. However, if you miss the filing deadline, you may still appeal the liability by paying all the tax or fee determined to be due and then filing a claim for refund (see “Filing a Claim for Refund” beginning on [page 8](#)).

For information on responding to a Notice of Jeopardy Determination, see “Application for Hearing Based on a Jeopardy Determination,” on [page 11](#).

### Content of Your Petition

Your petition, which can be in letter form, should include your tax or fee program account number, and must:

- Be in writing.
- Identify the amount(s) you wish to contest (you may contest all or part of the amount due as shown in the determination).
- State the specific grounds or reasons for your belief that you do not owe the tax or fee.
- Be signed by you or your authorized representative.

If you wish, you may use [BOE-416](#), *Petition for Redetermination*, to file your petition. A copy of this form is included in this publication and on our website, [www.boe.ca.gov](http://www.boe.ca.gov).

### Hearing and Settlement Requests

If you would like to have a hearing before the Members of the Board, you should include a request for a hearing in your petition. You should also indicate whether you would like to have an appeals conference to review your case (see “The Appeals Conference,” [page 4](#)). Note that, if you request a Board hearing, an appeals conference will usually be held first, even if you do not specifically request a conference.

When you file a petition, you may also request that your case be considered under the BOE’s Administrative Settlement Program. Review under the Settlement Program is confidential and will not affect your appeal rights. Please see “Proposing a Settlement of a Disputed Tax or Fee Liability,” beginning on [page 12](#) for additional information regarding the Settlement Program.

Please ensure that you mail your petition to the appropriate address. If you are filing a petition to dispute a Notice of Determination for sales and use tax, please mail your petition to:

Petitions Section, MIC:38  
State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0038

Taxes and fees other than sales and use tax are administered by the Special Taxes Department. If you are filing a petition to dispute a Notice of Determination for a special tax or fee program (see [page 17](#) for the list of programs), please mail your petition to:

Special Taxes and Fees Appeals Branch, MIC:33  
State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0033

### Presenting Additional Records or Documents

BOE staff will send you a letter confirming receipt of your petition, and may ask you to provide evidence to support your position. Staff may also contact you later to examine additional information. You may amend your petition to state additional grounds for disputing the determination at any time prior to the date the Board makes a final decision on the matter. Upon completing its consideration of your petition, BOE staff will notify you of its conclusions. Since most petitions are resolved at this level, if staff concludes that your petition should be denied in whole or in part, staff will generally ask you to confirm in writing your previous request for an appeals conference or Board hearing. If you do not timely respond to such a request for confirmation, or if you have not requested an appeals conference or Board hearing, a Notice of Redetermination will be issued to you based on staff’s conclusions. Thus, if you do not agree with those conclusions and wish to pursue your appeal to the next level, it is very important that you timely respond to the staff’s request that you confirm your desire for an appeals conference or Board hearing.

### ***The Appeals Conference***

If your dispute cannot be resolved by discussions with BOE staff and you have requested an appeals conference or Board hearing, or both (and confirmed that request if asked to do so), BOE staff will refer your case to the Appeals Division for conference by an Appeals Division attorney or auditor who has had no prior involvement with your case.

BOE staff will notify you if your case is referred to the Appeals Division, and will provide you a Verification of Appeals Conference form, which you will be asked to complete and return within 15 days. The information we request you provide on the form includes your current address, the name and address of your representative, if you have one, and your preference for the location of the appeals conference. Unless you specify a different location, the appeals conference will generally be held in the BOE field office that prepared your audit.

For more information about the appeals conference, you may wish to obtain a copy of BOE [publication 142A, Appeals Conferences](#). See page 14 for ordering information.

### ***Expediting Your Appeal***

The Case Management Section, which is part of the BOE's Board Proceedings Division, will schedule your appeals conference. You may ask the Case Management Section to expedite the scheduling of your conference by indicating on the Verification of Appeals Conference form that you agree to one of the following:

Attend an appeals conference at the BOE's Headquarters office in Sacramento.

Attend a video conference from certain field offices.

Participate in a telephone conference (BOE staff will place the call).

If you agree to one of these three types of conferences, the Case Management Section will schedule the conference within 60 days of receipt of your request.

### ***Appeals Conference Scheduling and Notification***

The Case Management Section will send you a Notice of Appeals Conference, letting you know the date, time, and location set for the appeals conference.

Included with your Notice of Appeals Conference will be a Response to Notice of Conference form that you will be asked to return within 15 days to confirm your attendance at the conference. You may also indicate on the response form that you waive your appearance at the conference (that is, that you still dispute the liability but do not wish to make a presentation at the conference). Waiving appearance at your conference will not affect your right to a Board hearing, but the applicable BOE Department (including any other state agency that might be a party to the dispute) retains the right to make a presentation at the conference in your absence. The Appeals Division will thereafter issue a Decision and Recommendation in your appeal based on all relevant arguments and evidence. Even if you waive appearance at your appeals conference, it is still very important that you submit to the Appeals Division any documentation or arguments on which you rely.

If you indicate on your Response to Notice of Conference form that you will attend the appeals conference but then fail to appear, the conference will be held as scheduled in your absence, and the applicable BOE Department or state agency will be permitted to make a presentation. A Decision and Recommendation will be issued based on all the relevant arguments and evidence submitted.

### ***Recording Your Appeals Conference***

The BOE does not record appeals conferences. If you wish to record the conference (at your expense), be sure to check the appropriate box on the Response to Notice of Conference form. If you do record the conference, whether electronically or by using a court reporter, you must provide a copy of the recording or transcript to the Appeals Division, upon request, at no cost to the BOE.

### ***Conduct of the Appeals Conference***

The appeals conference is intended to be an informal discussion of relevant facts and applicable law. A representative of the appropriate BOE Department (and, if applicable, a representative of the other state agency) will also be present at the conference. Rules of evidence are not strictly followed. The purpose

of the conference is for you to present your position and all your supporting evidence and arguments concerning the disputed matter that is the subject of your appeal to an Appeals Division attorney or auditor who has had no prior involvement with your case, and for the Department's representative to explain the Department's position.

You may submit written arguments and documentary evidence in support of your appeal to the Appeals Division at any time before or during the appeals conference, but may do so after the conference only with the consent of the Appeals Division. If you or the Department have not submitted all relevant materials before or during the appeals conference, either or both parties may, during the conference, request permission to submit additional written arguments and documentary evidence. If the conference holder concludes that the additional submission should be accepted, he or she will allow the requesting party at least 15 days, but not more than 30 days without the consent of the Assistant Chief Counsel of the Appeals Division, to make the submission. Where one or both parties is permitted to make such a post-conference submission, the conference holder will allow the other party or parties at least 15 days following that submission, but not more than 30 days without the consent of the Assistant Chief Counsel of the Appeals Division, to submit a response.

Whether or not you or the Department asks to submit additional arguments or evidence, the Appeals Division may request, on its own initiative at or after the appeals conference, that you or the Department submit additional argument or evidence, or provide clarification of the issues in dispute. While the Appeals Division will not always offer the other party an opportunity to respond, it will always do so before relying on such information in deciding an issue against the other party.

### ***Decision and Recommendation***

After the appeals conference, the Appeals Division will prepare a Decision and Recommendation containing an analysis, conclusion, and recommendation for the resolution of your case. The four basic types of recommendations are: (1) that your appeal be granted in full; (2) that your appeal be denied in full; (3) that your appeal be granted in part and denied in part; or (4) that the appropriate BOE Department perform a "reaudit" based on the guidance provided in the

Decision and Recommendation. The Decision and Recommendation will be mailed to you along with a letter explaining the status of your appeal. If the Decision and Recommendation recommends that your appeal be granted, denied, or granted in part and denied in part, the letter will explain your options for further action. If the Decision and Recommendation recommends that the appropriate BOE Department conduct a reaudit, the letter will ask for your cooperation in the reaudit. Thereafter, when the reaudit is completed, the Appeals Division will send another letter to you summarizing the results of the reaudit and explaining your options for further action.

If both you and BOE staff agree with the Decision and Recommendation, the BOE will generally issue a Notice of Redetermination or Statement of Account based on the Decision and Recommendation, and your appeal will end.

*Note:* There are circumstances where the Appeals Division recommends that your appeal be granted but final decision and action is delayed while a related case proceeds through the appeals process.

If you do not agree with the Decision and Recommendation, you may have a hearing before the Board, which you must request in writing. If you wish such a hearing and have not already requested one in writing (for example, in your petition for redetermination), then you must make your written request within 30 days from the date of the letter from the Appeals Division that explains your options for further action (that is, the letter accompanying the Decision and Recommendation or, if a reaudit is recommended, the letter explaining your options after the reaudit is completed). Where another state agency or Department is involved in your dispute, it may also request a hearing if it disagrees with the Decision and Recommendation.

*Note:* The Appeals Division may issue a Supplemental Decision and Recommendation as necessary to clarify or correct the information, analysis, or conclusion contained in a Decision and Recommendation or in a prior Supplemental Decision and Recommendation.

## THE BOARD HEARING

The Board of Equalization is comprised of five Members, and a quorum is three Members. That is, at least three Members must be present and participating to conduct business as the Board. The Board hearing is your opportunity to present oral arguments to the Board regarding the unresolved issues of fact or law remaining in your appeal. You may represent yourself at the hearing, or you may be represented by an attorney, an accountant, or any other person you choose.

The Board holds regular meetings each month in either Northern or Southern California. For example, for 2015, the Board has scheduled eight of its regular monthly meetings to be held in Sacramento and has scheduled four to be held in the Los Angeles area.

For more information about the Board hearing, you may wish to obtain a copy of BOE [publication 142, Hearings, An Introduction](#) and [publication 143, Your Appeal Hearing Before the Board Members](#). See [page 14](#) for ordering information.

### Before the Hearing

#### *Avoiding a Delayed Decision*

The Board hearing is not designed to accommodate the presentation of new arguments or evidence not previously considered by the Appeals Division. Generally, if new evidence is presented at the hearing, the Board orders that the new evidence be presented to the Appeals Division for its review, and then reaches its decision later after receiving the recommendation of the Appeals Division. Consequently, to avoid delaying the Board's decision on your appeal, you should submit all relevant evidence and arguments to the Appeals Division in connection with your appeals conference.

#### *Hearing Notification*

After receiving your hearing request, the Board Proceedings Division will send you (and your representative if you have one) an acknowledgment letter and related information. The letter will state the location planned for your Board hearing.

At least 75 days prior to the hearing date, the Board Proceedings Division will send you a Notice of Board

Hearing, a Response to Notice of Board Hearing form, a copy of the Board's regulations governing hearings (Board of Equalization [Rules for Tax Appeals](#)), and other information pertinent to your appeal. You must submit the completed Response to Notice of Board Hearing form within 15 days from the date of the Notice of Board Hearing. If you do not respond by the deadline, your case will be removed from the Board's agenda and submitted to the Members of the Board for decision based on the information in your case file. If you speak a language other than English and require an interpreter, you may request one in your Response to Notice of Board Hearing. If you do so, an interpreter will be provided to interpret for you at the Board hearing at no charge.

#### *Requesting a Postponement*

Your Notice of Board Hearing will specify a date by which you may request that your hearing be postponed. If you request a postponement by that date and provide sufficient justification, the request will be granted. If you request a postponement *after* the date specified in the notice of hearing, your request will be granted *only* upon a showing of extreme hardship and agreement of the parties. Once your hearing has been postponed, additional postponements will only be granted upon a showing of extreme hardship.

#### *Contribution Disclosure Form*

State law (Government Code section 15626) prohibits a Board Member from participating in a Board proceeding if he or she has received a contribution of \$250 or more from a party to or a participant in a proceeding (or an agent of either), within the preceding 12 months. BOE staff must inquire about and report on contributions made. To comply with this requirement, approximately 45 days prior to the scheduled Board hearing, you will be sent contribution disclosure forms that you are asked to complete and return.

#### *Filing Briefs*

The party who requested the Board hearing may file an opening brief with the Chief of Board Proceedings no later than 55 days before the Board hearing. The brief must contain a statement of the facts and issues and a discussion of applicable legal authorities. When an opening brief is filed, the other party may file a reply brief with the Chief of Board Proceedings no later than 35 days before the Board hearing. If,

*and only if*, the reply brief raises a new issue or argument, the party who filed the opening brief may file a response brief with the Chief of Board Proceedings no later than 20 days before the Board hearing. The purpose of such a response brief is *solely* to respond to the new issue or argument raised in the reply brief. A response brief that exceeds this scope *will be rejected*.

Generally, briefs cannot exceed 30 typed or handwritten, double-spaced, letter-size pages, printed on one side, in type no smaller than 12 characters per inch. Section 5270 of the Board of Equalization Rules for Tax Appeals (which is sent with your Notice of Board Hearing) describes the precise form and content requirements for briefs, and includes more specific information on filing deadlines.

You may file a brief in hard copy or electronically (see [page 15](#) for the mailing address for the Board Proceedings Division). We prefer electronic filings to be in Microsoft Word format whenever possible.

The Board may permit or require the filing of post-hearing briefs. However, post-hearing submissions are permitted only by order of the Board.

### ***Board Hearing Summary***

Prior to your hearing, the Appeals Division will prepare a summary of your case for the Board Members setting forth the remaining unresolved issues. You will be sent a copy, generally about 30 days before the hearing. A copy is also sent to the BOE Department (and other state agency, if applicable) involved in your appeal. If the summary is modified, such as to correct an error or update information, the modified summary will be transmitted to you promptly.

### ***Conduct of the Hearing***

Board hearings are brief and to the point. The Chief of the Board Proceedings Division will call your name and will ask you, your representative (if you have one), and representatives of the applicable BOE Department or other state agency to be seated in front of the Board Members. The Board Members will have a copy of the Decision and Recommendation you received after the appeals conference (and Supplemental Decision and Recommendation(s), if applicable), as well as the summary of your case and any briefs filed by the parties for the Board hearing. A representative from the Appeals Division will introduce the issues in your appeal. You will then usually be the first party asked to present oral arguments

on the issues that remain in dispute, generally being allowed ten minutes to present your case. Legal or technical language is not required. What you should be prepared to do is to give a clear and concise statement of your position. If facts are in dispute, you may bring witnesses to testify or use documents or other exhibits to help explain your position. The other party will be called upon to respond, and will also generally be given ten minutes. You will then generally be given five minutes rebuttal time.

*Note:* There may be circumstances where the Chairperson of the Board will call on the other party to present its oral argument first, with you being given the same amount of time to respond, and then the other party given rebuttal time. This may occur, for example, where the Department carries the burden for the most important disputed issue, or where another state agency is the party who requested the hearing.

### ***A Record Is Made of All Hearings***

All Board hearings are recorded by a certified court reporter. Transcript requests should be made by email, facsimile, or mailed to the Chief of the Board Proceedings Division (see [page 15](#)). If the request for a transcript is made after the hearing, it will be honored if BOE staff are able to prepare a transcript of the requested hearing.

*Note:* Board hearings are “streamed” over the Internet so you can listen to Board hearings live, and shortly after each Board meeting, a recording of the meeting is made available through our website at [www.boe.ca.gov](http://www.boe.ca.gov).

### ***The Board Decision***

At the close of the hearing, the Board Members may make an immediate decision or take the matter under submission for a decision at the end of that hearing day or for a decision at a later Board meeting. The most common reason that the Board defers its decision to a later meeting is to request additional review by the Appeals Division, which may involve additional submissions by the parties. When the Board defers its decision to a later meeting, the appeal is generally scheduled for that later meeting as a “nonappearance” matter, which means that the Appeals Division presents its recommendation to the Board without a further oral hearing, and the Board Members reach their final decision.

### **Notice of Redetermination**

When the Board makes its decision on your appeal of a Notice of Determination or other assessment, you will be sent a Notice of Redetermination or other appropriate notice within about 45 days from the date of the Board's decision.

If you appealed a Notice of Determination, you will be notified of the Board's decision in a Notice of Redetermination, which will indicate whether the Board determined that you owe any tax, fee, penalty, or interest. The Notice of Redetermination will become final 30 days after it is issued unless you file a timely petition for rehearing. If a timely petition for rehearing is filed, the Notice of Redetermination will become final: (1) 30 days after the mailing of the official notice of Board action to deny the petition for rehearing; or (2) if the Board grants a rehearing, 30 days after the mailing of the official notice of the Board decision on the rehearing.

You must pay the amount the Board determines you owe even if you disagree with the Board's decision. However, once you pay, you may proceed to the next step of the appeals process, which is to file a claim for refund.

If you do not pay the amount due by the time the Notice of Redetermination becomes final, you will be charged an additional ten percent penalty.

## **FILING A CLAIM FOR REFUND**

If you believe you have overpaid an amount and you wish to receive a refund of the overpaid amount, you must file a claim for refund with the BOE. Please bear in mind that a claim for refund cannot cover an amount you have not actually paid at the time the claim is filed, and covers only prior payments within the time limits established by statute. Where you make multiple payments, each of which you believe is not actually due (as when you make payments towards a Notice of Determination), you can file a claim for refund along with each payment. By doing so, you will ensure that you do not allow the deadline for filing a claim to pass.

### **Form of Claim for Refund**

You may be required to use a specific form if you are filing a claim for refund for diesel fuel or cigarette

taxes. (See note on this page under *Cigarette and Tobacco Products Tax* and *Diesel Fuel Tax*.)

Otherwise, you may submit a letter requesting a refund, or you may use **BOE-101**, *Claim for Refund or Credit*, to file your claim. If you are filing a claim for refund of use tax overpaid to the Department of Motor Vehicles (DMV), you may use **BOE-101-DMV**, *Claim for Refund or Credit for Tax Paid to DMV*. A copy of both claim forms is included in this publication and is available on our website, [www.boe.ca.gov](http://www.boe.ca.gov).

Your claim must be in writing and state all of the grounds or reasons you believe that the amount you seek refunded was not actually due. Your claim must specify the reporting period for which you made the payment you claim should be refunded and, if known, the amount of the refund you are seeking. Your claim must also include information necessary to contact you or your authorized representative, and should include all information requested on a specific claim form.

As with the case of a petition for redetermination, you may include a request for an appeals conference or Board hearing, or both, with your claim for refund. However, unlike a petition for redetermination where a petitioner has a right to a Board hearing, a person filing a claim for refund does not have an absolute right to an appeals conference or Board hearing, as discussed further on [page 9](#).

*Note:* For the following programs, you may be required to file a specific claim form.

### ***Cigarette and Tobacco Products Tax***

Distributors requesting a refund of cigarette tax stamps under the Cigarette and Tobacco Products Tax Law must use forms prescribed by the BOE. Contact the BOE's Special Taxes and Fees Division (see [page 15](#)).

### ***Diesel Fuel Tax***

Diesel fuel users, exporters, sellers (who sell diesel fuel to the U.S. government and to train operators), and ultimate vendors (vendors who make diesel fuel sales to farmers and exempt bus operators) must use forms prescribed by the BOE. Contact the BOE's

Special Taxes and Fees Division, Appeals Branch for more information (see [page 15](#)).

### ***Where to Mail Your Signed Claim***

Claims for sales and use taxes:

Audit Determination and Refund Section, MIC:39  
 State Board of Equalization  
 PO Box 942879  
 Sacramento, CA 94279-0039

Claims for use tax paid to DMV:

Consumer Use Tax Section, MIC:37  
 State Board of Equalization  
 PO Box 942879  
 Sacramento, CA 94279-0037

Claims for taxes and fees administered under the Special Taxes Department:

Special Taxes and Fees Appeals Branch, MIC:33  
 PO Box 942879  
 Sacramento, CA 94279-0033

Please see [page 17](#) for the list of tax and fee programs.

### ***Filing Period Limitations***

The time period for filing a claim for refund varies depending on a number of factors. The time periods for sales and use tax claims and for most special taxes and fee programs are given below. Please check the appropriate laws and regulations for the specific tax or fee for which you are filing a claim.

*Filing period limitations*—Whichever of the following dates occurs last is your filing deadline:

- Three years from the due date of the return for the period for which the claimed overpayment was made. In general, for use tax overpaid to the DMV, the claim must be filed within three years from the due date of registration with the DMV.
- Six months from the date of your claimed overpayment.
- For a payment made pursuant to a determination, six months from the date the determination became final.

Also, if the BOE collects an involuntary payment by the use of enforcement procedures such as levies or liens, a claim for refund will be timely if filed within three years of the date of the involuntary payment.

If you do not file your claim for refund within the specified time limit, *you will have no further recourse with the BOE* to recover overpaid taxes or fees.

*Caution:* This description of claim filing limitation periods is very general. Please use it only as a guideline and do not rely solely on it in filing a specific claim. For more specific information regarding filing time frames, please refer to the law governing the tax or fee for which you wish to file a claim for refund, or contact the BOE unit responsible for your tax or fee account (see [pages 15-16](#)).

### ***Multiple Payments and Claims for One Liability***

The BOE will not take action on a claim for refund until you have paid the full tax or fee amount determined to be due. If you file a claim for refund of a partial payment, the BOE will hold that claim until you have paid the entire tax or fee liability. You must file one or more additional claims for refund, as applicable, to cover all subsequent payments until the tax or fee liability has been paid in full to preserve your right to a refund of all such amounts. The BOE will be unable to refund to you any payment(s) for which you do not file a timely claim for refund, even if you convince the BOE that the amount was not due. As noted above, to ensure that this does not happen, you may file a “protective” claim along with each payment toward an amount you believe is not actually due.

*Note:* For sales and use tax liabilities and for certain other tax and fee liabilities, if a taxpayer files a claim for refund after having paid the full amount of the tax or fee at issue, but not all interest and penalty, the BOE’s *general* policy is to suspend its attempts to collect the interest or penalty remaining due pending resolution of the claim for refund. For further information on this policy and whether it may apply to your situation, please see “For More Information” on [pages 15-17](#) for contact information regarding your account.

### ***BOE Staff Review of Your Claim***

BOE staff will send you a letter acknowledging receipt of your claim for refund. Claims are generally reviewed in the order received. The review process may take several months, and during that process, you may be asked to submit additional information. BOE staff will consider your claim, review any

information you submit, and recommend that the claim be granted in its entirety, granted in part and denied in part, or denied in its entirety.

### ***If Staff Concludes Some or All of Your Claim Should Be Granted***

When BOE staff concludes that your claim for refund should be granted in an amount that exceeds \$100,000, staff must present that conclusion to the Board for approval except where the claim is for a duplicate or erroneous payment made through the electronic funds transfer program, involves an overpayment of diesel fuel tax under Revenue and Taxation Code section 60501 or 60502, or where the claim is for an overpayment of insurance tax payments. Refunds approved in excess of \$50,000 but less than \$100,000 are not required to be submitted to the Board but must be made available as a public record for at least 10 days prior to the effective date of the approved refund. If the Board approves the staff conclusion, a Notice of Refund showing the amount you overpaid is generally issued about four to eight weeks after the approval. Where staff concludes you overpaid tax in an amount of \$100,000 or less, a Notice of Refund showing the amount of overpaid tax is generally issued about four to eight weeks after staff reaches its conclusion. However, the amount the notice shows you overpaid will not be paid directly to you if that amount must be credited against other amounts you owe to the BOE or to other state agencies. You will be refunded the amount you overpaid, less the amounts credited against other amounts you owe.

### ***If Staff Concludes Some or All of Your Claim Should be Denied***

If BOE staff concludes that your claim for refund should be denied, you will receive a letter explaining the reasons for the denial. If you disagree with this conclusion, you may request an appeals conference with the Appeals Division, or a Board hearing, or both. Please note, however, that granting you an appeals conference or Board hearing for a claim for refund is discretionary. While such requests are liberally granted, your request will generally be denied if, for example, you have already had a hearing after which the Board denied your petition for redetermination in which you raised the same issues addressed in your claim for refund. Where such a request is granted, the appeals conference and Board

hearing follows the same procedures as discussed above for a petition for redetermination except that, upon conclusion of the proceedings, you will be sent a Notice of Refund or a Notice of Denial of Claim for Refund, as applicable.

If you do not request an appeals conference or Board hearing, or if your request for an appeals conference or Board hearing is denied, you will be sent a Notice of Denial of Claim for Refund.

## **FILING AN ACTION IN COURT**

If the Board denies your claim for refund and you wish to continue your appeal, the next step is to file a lawsuit for refund in court. If you wish to do so, you must file the lawsuit for refund within 90 days after the mailing of the Board's Notice of Denial of Claim for Refund. If you fail to file a lawsuit for refund within this 90-day period, then you have no further recourse and your appeal ends.

*Note:* You cannot file a lawsuit for refund of tax or fee unless you first file an administrative claim for refund with the BOE, as discussed above, and your lawsuit for refund is limited to the grounds identified in the claim for refund you filed with the BOE.

*Further note:* When you file a claim for refund with the BOE, if the BOE does not act on your claim within six months after you filed it, you may consider the claim denied by the BOE and file a lawsuit for the claimed refund. If you file a lawsuit for refund under such circumstances, the BOE's administrative review of your claim ceases, and the dispute will be resolved in the court action you filed.

The location of the court in which your lawsuit for refund must be filed depends on the type of tax or fee involved. You may wish to seek legal advice regarding whether to file a lawsuit and, if so, where it should be filed.

## APPEALING A FINDING OF SUCCESSOR'S LIABILITY

If a person who owes sales or use tax (or both), diesel fuel tax, motor vehicle fuel tax, use fuel tax, or oil spill response prevention fees sells you the business or stock of goods related to that tax or fee liability, you may be personally liable for those taxes, penalties, and interest, up to the amount of the purchase price. This is called successor's liability.

If BOE staff determines that you are liable for successor's liability, you will be mailed a Notice of Successor's Liability. You may contest the determination by filing a petition for reconsideration of the liability. Your petition must be filed in the same manner and within the same time limits described in "Appealing a Determination of Taxes or Fees Due," beginning on page 2, for filing a petition for redetermination, and the same procedures for an appeals conference and Board hearing are also applicable.

### *Notice of Reconsideration*

If your appeal results in a Board decision that successor's liability applies, you will be sent a Notice of Reconsideration, which will become final in 30 days. You must pay the amount due as set forth in the notice even if you disagree with the Board's decision. However, once you pay, you may proceed to the next step of the appeals process, which is to file a claim for refund, as described under "Filing a Claim for Refund," beginning on [page 8](#). Although no additional penalty applies if you do not pay the amount due within the 30-day time limit, applicable interest will continue to accrue.

## OTHER TYPES OF APPEALS

### *Administrative Protests*

If you do not file a petition for redetermination within 30 days after a Notice of Determination is mailed to you, the liability assessed in the Notice of Determination will become final. Once this happens, the only way provided by statute for you to appeal the liability is to pay the tax or fee in full and file a claim for refund. However, the BOE may, at its discretion, accept a late appeal as an "administrative protest." For example, if you file an appeal as a "petition for redetermination" more than 30 days after the Notice

of Determination was mailed, your appeal will not be accepted as a petition for redetermination, but might be accepted as an administrative protest. After receiving your appeal, BOE staff will send you a letter confirming receipt and advising you if your appeal has been rejected because it is late or has been accepted as an administrative protest. If accepted as an administrative protest, your appeal will generally be reviewed in the same manner as a timely petition for redetermination. Significant exceptions, however, are that activities to collect the remaining tax or fee, interest, and penalty might not be delayed, and you will not have an absolute right to an appeals conference or Board hearing (although a request for an appeals conference or Board hearing will be liberally granted).

### *Application for Hearing Based on a Jeopardy Determination*

Under certain circumstances, the BOE may serve a taxpayer with a "Notice of Jeopardy Determination" for tax due, plus any applicable penalties and interest. A jeopardy determination is due and payable upon service of the notice to the taxpayer, which means that the BOE may immediately take action to collect the determined liability.

If you receive such a notice, you have *10 days* from the date the notice was served on you (for example, the date of mailing) to file a petition for redetermination. With your petition, you need to deposit with the BOE the amount of security specified in the notice. If you file a timely petition for redetermination with the required deposit, collection actions will be stayed pending the BOE's decision on your petition.

If you do not file a petition for redetermination with the required deposit or pay the amount of the jeopardy determination within 10 days from the date the notice was mailed, you will be subject to a late payment penalty, and the BOE's collection activities will continue. However, there is an additional appeal procedure. You may, within 30 days of the service of the Notice of Jeopardy Determination, apply for an administrative hearing if you wish to:

- Establish that the determination is excessive.
- Establish that the sale of property that may be seized should be delayed pending the administrative hearing because the sale would result in irreparable injury.

- Request release of property.
- Request stay of collection.

*Note:* The administrative hearing will not consider whether the jeopardy determination was warranted.

If you submit a timely application for an administrative hearing, your appeal will be referred to the Appeals Division, and your case will follow the process described under “*The Appeals Conference*,” beginning on [page 4](#). However, filing an application for an administrative hearing will not keep the BOE from pursuing collection action.

## PROPOSING A SETTLEMENT OF A DISPUTED TAX OR FEE LIABILITY

While you are pursuing an appeal before the Board (for example, a petition for redetermination, an administrative protest, or a claim for refund), you may propose a settlement of your case. In order to settle your case, you must reach a formal agreement with the BOE’s Settlement staff and that agreement must be approved by the Members of the Board or, for small settlements, by BOE management. While your request for settlement is pending, you must continue to meet all applicable time deadlines for your pending appeal before the Board.

*Note:* The Members of the Board may not participate in any way in the settlement process except in the approval or denial of the agreement, as explained on [page 13](#). Thus, you should not attempt to contact a Board Member to discuss your settlement proposal. Such contact will jeopardize settlement of your case.

The procedures described in this section apply to the settlement of sales and use tax liabilities. Settlement procedures for special taxes and fees are generally the same. However, the settlement procedures outlined in the following sections do not apply to all programs administered by the BOE. Please contact the Special Taxes and Fees Division (see [page 15](#)) for any questions regarding settlement procedures related to your special taxes or fees program.

### ***Settlement Proposal***

To initiate settlement, you may request your case be considered under the settlement program by checking the appropriate box on [BOE-416](#), *Petition for Redetermination*; and/or you may submit your proposal on [BOE-393](#), *Settlement Review Request for Sales*

*and Use Tax and Special Tax and Fee Cases*; or you may submit a signed and dated written request for settlement. A copy of [BOE-393](#) is included in this publication and is available on our website, [www.boe.ca.gov](http://www.boe.ca.gov). All the following information should be included to ensure your case is properly acknowledged and processed:

- Your name, email address, phone number, and current address.
- If applicable, the name, address, email address, fax and telephone number of your representative, as well as a copy of your representative’s power of attorney, [BOE-392](#), *Power of Attorney*. A copy of this form is available on our website, [www.boe.ca.gov](http://www.boe.ca.gov).
- Your taxpayer (or fee payer) account number (for example, your seller’s permit number).
- The type of tax or fee (for example, sales and use tax) and periods involved.

Settlement requests may be emailed to: [settlement@boe.ca.gov](mailto:settlement@boe.ca.gov); faxed to 1-916-323-3387; or mailed to:

Settlement and Taxpayer Services Division, MIC:87  
State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0087

*Note:* The BOE’s policy is that to be considered for settlement, your settlement proposal must be submitted *at least 15 days before* the date scheduled for a hearing of your case before the Members of the Board.

### ***Consideration of Settlement Proposal***

Settlement staff will review your proposal and advise you or your representative whether your case is suitable for settlement consideration. If Settlement staff determines that there is a genuine factual or legal dispute, your case will generally be accepted for consideration. However, settlement is discretionary. A case may be rejected for a variety of reasons. For example, if Settlement staff perceives little litigation risk to the Board’s position or if sufficient facts to allow proper settlement evaluation have not been developed, your case will not likely be accepted for settlement consideration.

If your case is accepted for consideration, the amount for which you offer to settle may or may not be accepted, and Settlement staff may negotiate with you or your representative to settle your case for a different amount.

### Approval of Proposed Settlement

If you and BOE Settlement staff reach an agreement on a settlement amount, you will be sent a confirmation letter and a settlement agreement (a legal document containing the settlement terms and conditions). After you sign, date, and return the agreement, it will be forwarded for approval to BOE management. Larger cases are then forwarded to the Attorney General, who has 30 days to review and comment on the proposed settlement. The proposed settlement agreement and the Attorney General's comments are then submitted to the Members of the Board for approval.

The Board has 45 days from the date of the Board meeting at which your proposed settlement agreement is submitted to approve or deny the proposed settlement. If the Board fails to act within 45 days, the recommendation to settle the case is deemed approved.

If your proposal is approved and you are required to make a payment, you are generally required to pay the full settlement amount within 30 days of approval.

*Note:* If you and BOE Settlement staff cannot reach an agreement, you may appeal to the BOE's Assistant Chief Counsel, Settlement and Taxpayer Services Division. If an agreement is still not reached, or if you choose not to appeal the action of BOE Settlement staff, the settlement process ends and your appeal will continue through the normal appeals process.

### Board Member Approval or Denial

#### Proposal is Approved

If the Board Members approve the proposed settlement and the reduction of tax in the settlement exceeds \$500, certain information about the settlement will become a matter of public record, which will be available for review for one year at the office of the BOE's Executive Director.

The public record will include the following:

- The names of the taxpayers who are parties to the settlement.
- The total amount in dispute.
- The amount agreed to in the settlement.
- A summary of the reasons why the settlement is in the best interest of the state.

- When applicable, the Attorney General's conclusion regarding the reasonableness of the settlement.

*Note:* Information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure will not be included in the public record if its disclosure would adversely affect you. With the exception of the required public record, settlements are considered confidential information.

All settlements entered into under this program are final. They cannot be appealed unless one of the parties can show fraud or misrepresentation of a material fact.

#### Proposal is Denied

If the Board denies the proposed settlement, the matter is remanded to Settlement staff for further negotiation following the steps described above.

For more information or to submit a written settlement proposal, contact the BOE's Settlement and Taxpayer Services Division (see [page 16](#)). You may also wish to obtain additional information by visiting our website at [www.boe.ca.gov/sutax/boe393n.htm](http://www.boe.ca.gov/sutax/boe393n.htm).

### OFFER IN COMPROMISE

An Offer in Compromise (OIC) is a proposal to pay the BOE an amount that is less than the full tax, fee, or surcharge liability due. The OIC program is for taxpayers and fee payers that do not have, and will not have in the foreseeable future, the income, assets, or means to pay their tax, fee, or surcharge liability in full. You must satisfy all of the following criteria to qualify for the program:

- Have a final tax or fee liability on a *closed account* or a "qualified" final BOE-assessed tax or fee liability on an *active account* where you have not received reimbursement for taxes or fees owed and have not previously received a compromise,
- Are not currently disputing your tax or fee liability,
- Are not currently in a bankruptcy proceeding, *and*
- Are unable to pay the full amount due in a reasonable period of time, typically from five to seven years.

If you wish to propose an OIC, you must complete an OIC application ([BOE-490](#) for individuals, [BOE-490-C](#) for all others).

The completed application, along with the required supporting documentation (described in the application), must be submitted to the collector assigned to your account or directly to the OIC Section. To obtain an OIC application, please visit our website at [www.boe.ca.gov](http://www.boe.ca.gov) or call our Customer Service Center at 1-800-400-7115 (TTY:711). If you have questions regarding the OIC process or would like to order [publication 56](#), *Offer in Compromise*, please see “Publications” on this page, or for ordering information contact the OIC Section at 1-916-322-7931.

## IF YOU FILE A BANKRUPTCY PETITION

After the filing of a bankruptcy petition and while the automatic stay is in effect, the BOE may continue to:

- Perform an audit or reaudit,
- Make an assessment,
- Issue a notice of determination,
- Continue to investigate a tax liability,
- Recommend adjustments, *and*
- Hold an appeals conference or Board hearing.

The automatic stay prevents the Board from taking collection action.

While the automatic stay is in effect, the Board will:

- Accept a petition for redetermination or claim for refund filed in a timely manner; *and*

## For More Information

- File a proof of claim in the bankruptcy case based on the best information available.

## Hearing Procedure Regulations

You may wish to obtain a copy of the BOE’s regulations on petitions and hearing procedures, called the Board of Equalization [Rules for Tax Appeals](#), which consists of Regulations 5000 through 5605 (Title 18, California Code of Regulations, sections 5000-5605). See “Publications” below for information on how to order a copy.

The Board Proceedings Division will send you a copy of the portion of the Board of Equalization Rules for Tax Appeals explaining the BOE’s general hearing procedures, Regulations 5270-5271 and 5510 through 5576, when it sends you the Notice of Board Hearing.

## Publications

To inform taxpayers about the law, the BOE offers many free publications, some of which explain how the law and regulations apply to specific types of businesses. The BOE also publishes copies of the law and regulations for each of the taxes and fees it administers.

A list of BOE publications is found in [publication 51](#), *Board of Equalization Resource Guide to Free Tax Products and Services*.

To obtain BOE forms and publications, or for answers to your general tax questions, go online to [www.boe.ca.gov](http://www.boe.ca.gov), or call the BOE’s Customer Service Center at 1-800-400-7115 (TTY:711).

Representatives are available Monday-Friday, 7:00 a.m. to 5:00 p.m. (Pacific time), except state holidays. Faxback and other automated services are available 24 hours a day.

## Internet

Address: [www.boe.ca.gov](http://www.boe.ca.gov)

## For More Information

### Tax Advice

If you have questions about the application of a specific rule or procedure to a tax or fee affecting you, please call or write the appropriate BOE Department for specific information.

For your protection it is best to get tax advice in writing. You may be relieved of tax and any interest or penalty otherwise due on a transaction or activity if the Board determines that you did not pay the tax or fee because you reasonably relied on written advice from the BOE regarding the transaction or activity.

For this relief to apply, the advice you rely on must have been written specifically for your circumstances in response to a written request for advice that identified you as the taxpayer or feepayer and fully described the facts and circumstances of the transaction or activity. You cannot obtain tax relief by relying on a written opinion given to another person, even if your transactions are similar.

*Note:* While the BOE will also provide you verbal advice by telephone or in person, the law does not permit the BOE to grant you relief from tax and applicable interest and penalty otherwise due based on your reliance on verbal advice. By getting advice in writing, there is no dispute as to exactly what you asked and how the BOE responded, and you may then qualify for relief if you did not pay the tax or fee because you reasonably relied on that written advice.

For written advice regarding sales and use taxes, send your letter to:

Tax Policy Division, MIC:92  
State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0092

For written advice regarding special taxes and fee programs, send your letter to:

Special Taxes Policy and Compliance Division,  
MIC:31  
State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0031

### HEADQUARTERS OFFICES THAT MAY BE INVOLVED IN YOUR APPEAL

#### Appeals Division, MIC:85

State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0085  
1-916-323-3166 phone  
1-916-324-2618 fax

#### Petitions Section, MIC:38

State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0038  
1-916-445-2259 phone  
1-916-445-2249 fax

#### Audit Determination and Refund Section, MIC:39

State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0039  
1-916-445-1315 phone  
1-916-445-2249 fax

#### Consumer Use Tax Section, MIC:37

State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0037  
1-916-445-9524 phone  
1-916-324-2491 fax

#### Board Proceedings Division, MIC:81

State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0081  
1-916-322-2270 phone  
1-916-324-3984 fax

#### Special Taxes and Fees Division, Appeals Branch, MIC:33

State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0033  
1-800-400-7115 phone  
1-916-323-9297 fax

**For More Information**

**HEADQUARTERS OFFICES THAT MAY BE INVOLVED IN YOUR APPEAL**

**Settlement and Taxpayer Services Division,**  
 MIC:87  
 State Board of Equalization  
 PO Box 942879  
 Sacramento, CA 94279-0087  
 1-916-324-2836 phone  
 1-916-323-3387 fax

**BOE Field Offices for Sales and Use Tax Accounts**

City	Area Code	Number
Bakersfield	1-661	395-2880
Culver City	1-310	342-1000
El Centro	1-760	352-3431
Fairfield	1-707	427-4800
Fresno	1-559	440-5330
Glendale	1-818	543-4900
Irvine	1-949	440-3473
Norwalk	1-562	466-1694
Oakland	1-510	622-4100
Rancho Mirage	1-760	770-4828
Redding	1-530	224-4729
Riverside	1-951	680-6400
Sacramento	1-916	227-6700
Salinas	1-831	443-3003
San Diego	1-858	385-4700
San Francisco	1-415	356-6600
San Jose	1-408	277-1231
Santa Clarita	1-661	222-6000
Santa Rosa	1-707	576-2100
Ventura	1-805	677-2700
West Covina	1-626	480-7200
<b>For Out-of-State Accounts</b>		
Chicago, IL	1-312	201-5300
Houston, TX	1-713	739-3900
New York, NY	1-212	697-4680
Sacramento, CA	1-916	227-6600
<b>For Special Taxes and Fee Program Accounts</b>		
Sacramento, CA	1-800	400-7115 (TTY:711)

## For More Information

### Taxpayers' Rights Advocate Office

We want to make working with us as easy as possible. Consequently, we have appointed a Taxpayers' Rights Advocate to help you with problems you cannot resolve through normal channels.

If you have a question or concern about your case that has not been resolved, you are encouraged to contact this office. For more information, you may contact:

[Taxpayers' Rights Advocate Office](#), MIC:70

State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0070

1-916-324-2798 phone  
1-888-324-2798 toll-free phone  
1-916-323-3319 fax

### Property Taxes

[State-Assessed Properties](#), MIC:61

State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0061  
1-916-274-3270 phone

[Private Railroad Car Tax](#), MIC:61

State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0061  
1-916-274-3270 phone

[Timber Yield Tax](#), MIC:60

State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0060  
1-916-274-3330 phone  
1-916-285-0134 fax

### Special Taxes and Fees Programs

State Board of Equalization, MIC:88  
PO Box 942879  
Sacramento, CA 94279-0088

1-800-400-7115 phone  
1-916-323-9297 fax

- Aircraft Jet Fuel
- Alcoholic Beverage Taxes
- California Tire Fee
- Childhood Lead Poisoning Prevention Fee
- Cigarette and Tobacco Products Licensing
- Cigarette and Tobacco Products Taxes
- Diesel Fuel Tax\*
- Electronic Waste Recycling Fee
- Emergency Telephone Users Surcharge
- Energy Resources Surcharge
- Fire Prevention Fee
- Hazardous Substances Tax
  - Activity fees, disposal fees, environmental fees, facility fees, generator fees
- Insurance Tax
- Integrated Waste Management Fee
- Marine Invasive Species Fee
- Motor Vehicle Fuel Tax
- Natural Gas Surcharge
- Occupational Lead Poisoning Prevention Fee
- Oil Spill Prevention, and Administration Fee
- Oil Spill Response Fee
- Underground Storage Tank Maintenance Fee
- Use Fuel Tax\*
- Water Rights Fee

\*You may be paying these taxes under the [International Fuel Tax Agreement](#) (IFTA).

*Note:* The statements in this publication are general and are current as of the date on the cover. The law is complex and subject to change. If there is a conflict between this publication and the law, the law is controlling.

BUSINESS NAME	ACCOUNT NUMBER
TAXPAYER NAME	TYPE OF TAX OR FEE

**PETITION FOR REDETERMINATION**

Administrative Appeal

Generally, if you have received a notice of amount due from the Board of Equalization (BOE), you may file an administrative appeal of that notice using this Petition for Redetermination. There are two important deadlines:

1. If you received a *Notice of Determination*, a *Notice of Deficiency Assessment*, or a *Notice of Successor Liability*, you have **30 days** from the date on the notice to appeal.
2. If you received a *Jeopardy Notice of Determination*, you only have **10 days** from the date listed on that document to appeal and pay the amount due or deposit security considered acceptable by the BOE.

Look carefully at the notice you received for the specific conditions and requirements for filing this petition. Anyone submitting a petition should be prepared, upon request, to provide documents that support the specific grounds upon which the petition is founded.

I am filing a petition of the notice dated \_\_\_\_\_ for the period \_\_\_\_\_ in the amount of \$ \_\_\_\_\_.

Please indicate below the specific grounds upon which the petition is founded (*required*):

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You have the right to an appeals conference and an oral hearing before the Members of the Board (Board hearing). Please indicate below whether you request an appeals conference, a Board hearing, or both. (*Note: If you select only a Board hearing, an appeals conference will, nevertheless, normally be held first.*) *During its review of your petition, BOE staff may ask that you confirm your request for an appeals conference or Board hearing, and if you do still want an appeals conference or Board hearing, you must timely respond to that request.* Furthermore, if your case is accepted into the administrative appeals process, you may request that your case be considered under the BOE's administrative Settlement Program. Review under the Settlement Program is confidential and will not affect your appeal rights.

Please indicate below whether you request an appeals conference, a Board hearing, or both, and if you are interested in the Settlement Program.

- I request an appeals conference with an Appeals Division attorney or auditor at the BOE's nearest district office or in the BOE's Headquarters office in Sacramento.
- I request a Board hearing.
- I request my appeal be considered under the Settlement Program.

SIGNATURE	DATE SIGNED	DAYTIME TELEPHONE NUMBER
PRINTED NAME	TITLE/CAPACITY	EMAIL ADDRESS

*If there is a conflict between this form or the notice you received and the law, the law is controlling. The filing of a Petition for Redetermination does not protect your right to a refund of tax, interest, or penalty amounts paid in excess of amounts legally due. You must timely file a claim for refund if you believe you have overpaid tax, interest, or penalty amounts. Filing a petition will not prevent interest from accruing on any unpaid tax due.*

**CLAIM FOR REFUND OR CREDIT**

(Instructions on back)

NAME OF TAXPAYER(S) OR FEEPAAYER(S)	BOE ACCOUNT NUMBER
SOCIAL SECURITY NUMBER(S)* OR FEDERAL EMPLOYER IDENTIFICATION NUMBER	GENERAL PARTNER(S) <i>(if applicable)</i>
BUSINESS NAME <i>(if applicable)</i>	BUSINESS LOCATION ADDRESS <i>(if applicable)</i>
MAILING ADDRESS	

Please select the Tax or Fee Program that pertains to your claim for refund or credit.

- Sales and Use Tax
- Lumber Assessment

For overpayments of use tax by a purchaser of a vehicle or undocumented vessel to the Department of Motor Vehicles (DMV), please complete [BOE-101-DMV](#).

**For the above tax/fee programs, mail your completed form to:**  
 State Board of Equalization  
 Audit Determination and Refund Section, MIC:39  
 PO BOX 942879  
 Sacramento, CA 94279-0039

- Alcoholic Beverage Tax
- California Tire Fee
- Childhood Lead Fee
- Cigarette and Tobacco Products Tax
- Electronic Waste Recycling Fee
- Diesel Fuel Tax
- Emergency Telephone Surcharge
- Energy Resources Surcharge
- Fire Prevention Fee
- Hazardous Substances Tax
- Integrated Waste Management Fee
- Marine Invasive Species Fee
- Motor Vehicle & Jet Fuel Taxes
- Natural Gas Surcharge
- Occupational Lead Fee
- Oil Spill Response Fees
- Tax on Insurers
- Underground Storage Tank Fee
- Use Fuel Tax
- Water Rights Fee

**For the above tax/fee programs, mail your completed form to:**  
 State Board of Equalization  
 Appeals and Data Analysis Branch, MIC:33  
 PO BOX 942879  
 Sacramento, CA 94279-0033  
**Or email to:** [adab@boe.ca.gov](mailto:adab@boe.ca.gov)

The undersigned hereby makes claim for refund or credit of \$ \_\_\_\_\_, or such other amounts as may be established, in tax, interest and penalty in connection with:

- Return(s) filed for the period \_\_\_\_\_ through \_\_\_\_\_.
- Determination(s)/Billing(s) dated \_\_\_\_\_ and paid \_\_\_\_\_.
- Other *(describe fully)*:

Basis for refund *(required)*:

Supporting Documentation:  is attached  will be provided upon request

SIGNATURE		DATE SIGNED	
PRINT NAME		CONTACT PERSON <i>(if other than signatory)</i>	
TITLE OR POSITION	TELEPHONE NUMBER (     )	TITLE OR POSITION OF CONTACT PERSON	TELEPHONE NUMBER (     )
EMAIL		EMAIL	

\*See BOE-324-GEN, *Privacy Notice*, regarding disclosure of the applicable social security number.

## INSTRUCTIONS FOR COMPLETING CLAIM FOR REFUND

When submitting a claim for refund or credit, you must provide the time period covered by the claim, the specific grounds upon which the claim is based and provide documentation that supports the claim. The documentation should be sufficient in detail and provide proof of the overpayment. Please include your documentation with your claim for refund or credit or, if the documentation is extensive, please have it readily available upon request.

### What You Need To Know

- Your claim must be filed within the statute of limitations for the tax/fee program\*.
- Compliance with the statute of limitations is based on the filing date of your claim.
- Your filing date is the date of mailing (postmark), the electronic transmittal date (when applicable), or the date that you personally deliver your claim to your nearest Board of Equalization (BOE) office. This date may differ from the date signed.
- You may only list one account number per claim form. If you are claiming a refund for multiple tax or fee programs, a separate form is needed for each account.
- If your claim is for a refund of a partial payment or installment payment, a separate claim must be submitted after each future payment for which you wish to file a claim for refund.

### How You Can Submit Your Claim

- Mail (or email, if applicable) to the appropriate address listed on the front page.
- Hand deliver to any BOE office (for a list of BOE offices, please visit our website at [www.boe.ca.gov](http://www.boe.ca.gov)).

### For More Information

- Call our Customer Service Center at 1-800-400-7115 to be directed to the specific office responsible for your tax or fee account.
- See [publication 117](#), *Filing a Claim for Refund*.
- See [publication 17](#), *Appeals Procedures: Sales and Use Taxes and Special Taxes*.

## How To Complete The Claim Form

- **Taxpayer or Feepayer Name and Account Number:** Enter the name(s) and account number as registered with the BOE. Enter the name(s) shown on the documents that support the claim for refund if the claimant is not registered with the BOE. Do not enter the business name (dba) unless it is also the name that is registered with the BOE.
- **Social Security Number/Federal Employer Identification Number:** Disclosure of the applicable social security number(s) is required (see BOE-324-GEN, *Privacy Notice*) even if the claimant is not registered with the BOE as there are instances where a refund or portion thereof may be disclosed to the Internal Revenue Service. Enter the social security numbers of both husband and wife if the claimant is a married couple. Enter the social security number(s) of the general partner(s) and the partner's name(s) if the claimant is a partnership. Enter the federal employer identification number for all other business entities.
- **Refund Amount:** Enter the amount of your claim, or if you aren't sure of the actual refund amount, you can enter \$1 or leave that space blank.
- **Overpayment Type:** Check the appropriate box to indicate if your claim is for a return filing payment, determination/billing payment, or any other type of overpayment and enter the applicable dates. If you select "other" fully explain the circumstances of your claim.
- **Basis for Refund:** Provide the basis or grounds for the claim or describe the circumstances that caused the overpayment. Claims for refund cannot be considered unless this field is completed.
- **Business Name:** Enter the name of the business. For example, if the claimant's name is John Doe and the business's name (dba) is XYZ Auto Repair, XYZ Auto Repair should be entered.
- **Signature and Title or Position:** The preparer of the claim form must sign his or her name. The preparer must also include his or her title or position (for example, bookkeeper, attorney, accountant, taxpayer, etc.).
- **Date Signed:** Enter the date the claim form is signed.
- **Contact Person (if other than signatory):** This line may be used to designate a person (other than the signatory) to contact, should the BOE have questions or require additional information. Such persons may be employees, consultants, accountants, attorneys, etc., as designated by the taxpayer or feepayer.
- **Telephone Number:** Please include your telephone number (and contact person's telephone number, if applicable).

\*The time period for filing a claim for refund will vary depending on a number of factors, particularly the type of overpayment and the tax or fee program for which you are filing a claim for refund. Please check the appropriate laws and regulations for the specific tax or fee program for which you are filing a claim. You may also refer to publication 117 or 17 referenced above.

**CLAIM FOR REFUND OR CREDIT  
FOR TAX PAID TO DMV**

*(Instructions on back)*

NAME OF OWNER	OWNER'S SOCIAL SECURITY NUMBER* OR FEDERAL EMPLOYER NUMBER
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ADDRESS *(street, city, state, zip code)*

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I hereby make a claim for refund or credit of \$\_\_\_\_\_ *(may be left blank)*, or such other amounts as may be established, in tax, interest and penalty in connection with:

Property type:  Vehicle  Undocumented vessel

VIN/HIN

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MAKE AND YEAR

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DATE OF PURCHASE	DATE TAX PAID	PURCHASE PRICE
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The overpayment at Department of Motor Vehicles (DMV) described above was caused by:

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Supporting Documentation:

- is attached
- will be provided upon request

In general, refund requests for use tax overpaid to DMV must be filed within three years from the due date of registration with the DMV, or six months from the date of overpayment—whichever period expires later.

**CERTIFICATION**

*I certify (or declare), under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.*

SIGNATURE	DATE SIGNED
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PRINT NAME	CONTACT PERSON <i>(if other than signatory)</i>
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TITLE OR POSITION	TELEPHONE NUMBER (      )	TITLE OR POSITION OF CONTACT PERSON	TELEPHONE NUMBER (      )
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\* See BOE-324-GEN, *Privacy Notice*, regarding disclosure of the applicable social security number.

## INSTRUCTIONS FOR COMPLETING CLAIM FOR REFUND

When submitting a claim for refund, you must explain why the tax was overpaid (for example, the wrong tax rate was used, the wrong purchase price was used, qualifying family transfer, etc.). In addition, you must provide documentation that supports the refund or credit request. The documentation should be sufficient in detail, provide proof of the overpayment, and include a bill of sale, purchase contract, or other documentation sufficient to confirm the purchase price and date of purchase. Please include your documentation with your claim for refund or credit or, if the documentation is extensive, please have it readily available upon request.

You can state the amount of the claimed overpayment, including interest and penalty on the claim form. If you are not sure of the actual amount at the time of submitting the claim, either enter \$1 in the space provided or leave that space empty. Your supporting documentation will normally provide the necessary information to calculate the refund or credit due.

Please send your claim for refund or credit to the following address:

Consumer Use Tax Section MIC:37  
California State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0037

**Name of Owner:** The name(s) reflected as the registered owner(s) with the DMV.

**Owner's Social Security Number/Federal Employer Identification Number:** Disclosure of the applicable social security number(s) is required (see BOE-324-GEN, *Privacy Notice*) even if the claimant is not registered with the BOE as there are instances where a refund or portion thereof may be disclosed to the Internal Revenue Service. Enter the social security numbers of both husband and wife if the claimant is a married couple. Enter the social security number(s) of the general partner(s) and the partner's name(s) if the claimant is a partnership. Enter the federal employer identification number if the claimant is a corporation (including a partnership consisting of corporations).

**Address:** The location address provided by the registered owner at the time of registration.

**Property Information:** Please select whether the claim for refund is regarding a vehicle or an undocumented vessel registered with the DMV and provide the Vehicle Identification Number (VIN)/Hull Identification Number (HIN) for the property along with the Make and Year.

**Date of Purchase:** The date the vehicle/undocumented vessel was purchased.

**\*\*Date Tax Paid:** The date the vehicle/undocumented vessel was registered with DMV.

**Purchase Price:** The purchase price of the vehicle/undocumented vessel.

**Signature and Title or Position:** The registered owner, or his or her preparer for the claim form, must sign his or her name in this space. The preparer may be the bookkeeper, accountant, attorney, etc.

**Date Signed:** The date the claim form is signed.

**Contact Person (if other than signatory):** This line may be used to designate a person (other than the signatory) to contact, should the BOE have questions or require additional information. Such persons may be employees, consultants, accountants, attorneys, etc., as designated by the registered owner.

**Telephone Number:** Please include your telephone number.

**\*\*In general, refund requests for use tax overpaid to DMV must be filed within three years from the due date of registration with the DMV, or six months from the date of overpayment—whichever period expires later. For more information concerning the refund and appeals process, see publication 17, *Appeals Procedures: Sales and Use Taxes and Special Taxes* and publication 117, *Filing a Claim for Refund*.**

**SETTLEMENT REVIEW REQUEST FOR  
SALES AND USE TAX AND SPECIAL TAXES AND FEE CASES****SETTLEMENT REVIEW REQUEST**

BUSINESS NAME	ACCOUNT NUMBER(S)
TAXPAYER/FEEPAYER	CASE NUMBER(S)

Generally, while you are pursuing an appeal before the California State Board of Equalization (BOE), you may request consideration of your case under the Settlement Program. Examples of appeals are a petition for redetermination, an administrative protest, or a claim for refund.

As long as your case remains under appeal, you may submit a Settlement Request. You should submit your request at least 15 days prior to your oral hearing before the Board Members. The Settlement Program considers all Settlement Requests and subsequent communications confidential, and does not share this information with other BOE departments, sections, or units.

I request that the tax or fee amount in question for the above account(s) established on \_\_\_\_\_  
(DATE OF NOTICE, BILLING OR REFUND CLAIM)

for the period(s) \_\_\_\_\_ through \_\_\_\_\_  
(MONTH/DAY/YEAR) (MONTH/DAY/YEAR)

- receive settlement consideration for the reason(s) previously set forth in my appeal  
 and/or for the reasons detailed below (optional):

I understand settlement is discretionary, that offers are subject to review, and only those considered reasonable by the BOE's Settlement Section staff will be forwarded to BOE management for approval.

SIGNATURE	DATE	TELEPHONE NUMBER
PRINTED NAME	TITLE/CAPACITY	EMAIL ADDRESS

**NOTE:**

The Settlement Program does not currently apply to disputes involving the jet fuel tax, motor vehicle fuel tax, fire prevention fee, or to insurance tax disputes. Also, with the exception of disputes pertaining to the Childhood Lead Poisoning Prevention Fee and the Occupational Lead Poisoning Prevention Fee, disputes involving Hazardous Substances Tax Law are administered by the Department of Toxic Substances Control.

You may email your proposal to [settlement@boe.ca.gov](mailto:settlement@boe.ca.gov), fax it to 1-916-323-3387, or mail it to:  
Assistant Chief Counsel, Settlement & Taxpayer Services Division MIC:87, California State Board of Equalization,  
PO Box 942879, Sacramento, CA 94279-0087.

## Basic Steps

### *Sales and Use Taxes and Special Taxes Appeals*

#### FILING A PETITION FOR REDETERMINATION OF AMOUNTS OWED

Step	See page
Taxpayer files petition for redetermination of taxes or fees	3
Department Reviews Petition	3
Jeopardy determination: taxpayer files petition or applies for administrative hearing	11
Appeals conference held	4
Board hearing held	6
Board makes decision and issues Notice of Redetermination	7
If taxpayer disagrees, taxpayer may file claim for refund after paying amount of tax or fee due	8

#### FILING A CLAIM FOR REFUND OF AMOUNTS PAID

Step	See page
Taxpayer files claim for refund of taxes or fees paid	8
Department reviews claim	9
Appeals conference held (held at BOE's discretion)	10
Board hearing held (held at BOE's discretion)	10
Board issues Notice of Refund or letter denying claim	10
If taxpayer disagrees with denial, taxpayer may file court action for refund	10

#### APPEALING A FINDING OF SUCCESSOR'S LIABILITY

Step	See page
Business' purchaser ("successor") files petition for redetermination	11
BOE makes decision; issues Statement of Account if liability upheld	11
If successor disagrees, it may file claim for refund after paying amount of tax or fee due	11

#### PROPOSING A SETTLEMENT OF A TAX OR FEE LIABILITY

Step	See page
Taxpayer submits written settlement proposal	12
BOE staff reviews proposal	12
If proposal denied, taxpayer may appeal to Assistant Chief Counsel, Settlement and Taxpayer Services Division (denied cases continue through the normal appeals process)	13
If initial/negotiated proposal accepted, taxpayer signs Settlement Agreement	13
Agreement forwarded to BOE management for approval	13
BOE approves or denies settlement	13