



STATE BOARD OF EQUALIZATION

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State Controller

DEAN R. KINNEE  
Executive Director

October 26, 2018

No. 2018/050

TO COUNTY ASSESSORS,  
CLERKS OF THE BOARDS  
AND OTHER INTERESTED PARTIES:

**Notice of Proposed Regulatory Action**

**The State Board of Equalization Proposes to Adopt  
Amendments to California Code of Regulations, Title 18,**

**Section 302, *The Board's Function and Jurisdiction*, Section 305, *Application*, Section 305.1,  
*Exchange of Information*, Section 305.2, *Prehearing Conference*, and Section 323,  
*Postponements and Continuances***

NOTICE IS HEREBY GIVEN that the State Board of Equalization (Board), pursuant to the authority vested in it by Government Code section 15606, proposes to adopt amendments to California Code of Regulations, title 18, sections (Property Tax Rule or Rules) 302, *The Board's Function and Jurisdiction*; 305, *Application*; 305.1, *Exchange of Information*; 305.2, *Prehearing Conference*; and 323, *Postponements and Continuances* (the Proposed Amendments). These rules implement, interpret, and make specific Division 1, Part 3, Chapter 1 of the Revenue and Taxation Code (RTC) by prescribing practices and procedures governing county boards of equalization and assessment appeals boards (together, appeals boards) when hearing and deciding local property tax disputes. The Proposed Amendments make the following changes to those practices and procedures:

Rule 302 – adds new subdivision (a)(1) to explicitly state the requirement of an appeals board to ensure that applicants are afforded due process and given the opportunity for a timely and meaningful hearing.

Rule 305 – amended to specify that an agent's authorization is valid only for the years indicated in the agent's authorization, and may not cover more than four consecutive calendar years in the future; amended to state that if an application is filed online, an agent authorization should be filed in paper form as soon as possible if it cannot also be filed online; amended to state that no application shall be rejected because an agent

authorization is not signed in the same calendar year as the application is filed, but that retroactive authorizations are not allowed.

Rule 305.1 – amended the title and headings and remove rule statutory references to clarify that this rule pertains to exchanges of information, which are governed by Revenue and Taxation Code section 1606, and not requests for information governed by sections 408, 451, and 441.

Rule 305.2 – amended to state that an application may not be denied at a prehearing conference or prehearing proceeding.

Rule 323 – amended to require reasonable cause or both parties agreement to postpone or continue hearings for longer than 90 days, and requires the reason for the longer delay to be stated on the record.

## **PUBLIC HEARING**

The Board will conduct a meeting at 450 N Street, Sacramento, California, on December 12, 2018. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board's website at [www.boe.ca.gov](http://www.boe.ca.gov) at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 9:30 a.m. or as soon thereafter as the matter may be heard at the Board's December 12, 2018 hearing. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the Proposed Amendments to California Code of Regulations, title 18, sections 302, 305, 305.1, 305.2 and 323.

## **AUTHORITY**

Government Code section 15606, subdivision (c)

## **REFERENCE**

Rule 302: RTC sections 531.1, 1603, 1604, and 1605.5.

Rule 305: RTC sections 51, 166, 170, 408.1, 469, 619, 1603, 1603.5, 1604, 1605, 1636, 5097, and 5097.02

Rule 305.1: RTC section 1606

Rule 305.2: California Constitution, article XIII, section 16, RTC section 1601 et. seq.

Rule 323: RTC sections 1605.6 and 1606

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

### Current Law

In California, the county assessor is charged with assessing all property subject to general property taxation. (Rev. & Tax. Code, §§ 128 & 401; see also *Blackwell Homes v. County of Santa Clara* (1991) 226 Cal.App.3d 1009, 1013.) After an assessment is made, a taxpayer may challenge the assessment by filing an application for a reduction in an assessment (application) with the county board of equalization. (Rev. & Tax. Code, § 1603; see also *Sunrise Retirement Villa v. Dear* (1997) 58 Cal.App.4th 948, 958.)

Section 16 of article XIII of the California Constitution mandates that appeals boards “equalize,” the value of all property on a local assessment roll by adjusting individual assessments. The Legislature has enacted RTC sections 1601 through 1645.5, and, under the authority of Government Code section 15606, subdivision (c), the Board has adopted Regulations 301 through 326 to govern the administration of appeals boards.

The process governing appeals boards must not infringe on an applicant’s constitutional due process rights. A fundamental premise underlying appeals board hearings is that the constitutional right to an equalization hearing comprehends a decision in the light of the evidence before any determination becomes final. (*Universal Consol. Oil Co. v. Byram (Univ. Consol. Oil)* (1944) 25 Cal.2d 353, 360.) All parties must be fully apprised of the evidence to be considered, and must be given opportunity to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal. (*Interstate Commerce Commission v. Louisville & N.R. Co.* (1913) 227 U.S. 88, 93.) Therefore, “[c]ompliance with the constitutional requirement for an equalization hearing is not met unless the substance [and] the form of the hearing is granted to the complaining taxpayer.” (*Univ. Consol. Oil, supra*, at p. 361; see also *AAM*, p. 80.) However, due process, “unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances [citations omitted]” (*Mathews v. Eldridge* (1976) 424 US 319, 334), and states are afforded great flexibility in satisfying the requirements of due process in the field of taxation (*Batt v. City and County of San Francisco* (2007) 155 Cal.App.4th 65).

### Effect, Objective, and Benefits of the Proposed Amendments

The Proposed Amendments would clarify the following regarding local assessment appeals hearings:

1. That the functions of the appeals board include the duty to ensure all applicants are afforded due process and given the opportunity for a timely and meaningful hearing. (Proposed Amendment to Rule 302, subdivision (a)(1).)
2. That an agent’s authorization is valid only for the years indicated in the agent’s authorization, and may not cover more than four consecutive calendar years in the future. (Proposed Amendment to Rule 305, subdivision (a)(1)(B).)

3. That if an application is filed online, an agent authorization should be filed in paper form as soon as possible if it cannot also be filed online. (Proposed Amendment to Rule 302, subdivision (a)(2).)
4. That no application shall be rejected because an agent authorization is not signed in the same calendar year as the application is filed, but that retroactive authorizations are not allowed. (Proposed Amendment to Rule 302, subdivision (a)(6).)
5. That Rule 305.1 pertains only to exchanges of information, which are governed by Revenue and Taxation Code section 1606, and not requests for information governed by sections 408, 451, and 441.
6. That an application may not be denied at a prehearing conference or prehearing proceeding. (Proposed Amendment to Rule 305.2, subdivision (b).)
7. That reasonable cause or both parties agreement is required to postpone or continue hearings for longer than 90 days, and requires the reason for the longer delay to be stated on the record. (Proposed Amendment to Rule 323, subdivision (c).)

These clarifications are reasonably necessary for the efficient and fair operation of local assessment appeals hearings.

Between 2017 and 2018, discussions regarding assessment appeals hearings rules ensued between the California Alliance of Taxpayer Advocates\* (CATA), the California Assessors' Association (CAA), the California Association of Clerks and Election Officials (CACEO) and the Board which included the commencement of an interested parties process. On July 10, 2018, via email, CATA petitioned the Board to adopt a number of amendments to the property tax rules. The rule petition was discussed at the July 24, 2018 Board meeting. At that meeting the Board directed the Executive Director to instruct the Chief Counsel to draft a legal analysis on the proposed rule changes.

On August 8, 2018, CATA submitted a letter to the Board's Executive Director with virtually identical Proposed Amendments as in its July 10, 2018 correspondence. On August 21, 2018, the Board discussed this matter further at its hearing. Prior to and after the July 24, 2018, and August 21, 2018 Board hearings, proponents and opponents to the petition submitted comments specifying reasons for support or opposition.<sup>†</sup>

On September 7, 2018, the Board received an additional letter from CATA modifying their proposals after discussions with the CAA and the CACEO. Board staff subsequently prepared a

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\* CATA describes itself as a "non-profit trade association made up of tax consultants representing taxpayers before County Assessors, The Franchise Tax Board and The State Board of Equalization. CATA's purpose is to protect the rights of state and local taxpayers by advancing the professional practice of state and local tax consulting through education, advocacy and high ethical standards." (<<https://www.cataxadvocates.org/about>> [as of August 9, 2018].)

<sup>†</sup> All comments are posted at: <<http://www.boe.ca.gov/meetings/public-comments2018.htm>> [as of September 28, 2018].

Chief Counsel Memorandum<sup>‡</sup> and submitted it to the Board Members for consideration at the Board's September 25, 2018, meeting. At the conclusion of its September 25, 2018, meeting the Board approved the Proposed Amendments and the Board Members voted to propose the adoption of the Proposed Amendments, authorizing the publication of the Notice of Regulatory Action. The Board determined that the Proposed Amendments are reasonably necessary to have the effect and accomplish the objectives discussed above.

The Board anticipates that the Proposed Amendments will increase openness and transparency in government and benefit the public, local boards of equalization and assessment appeals boards, county assessors, and the owners of property potentially subject to assessment appeals hearings.

The Board has performed an evaluation of whether the Proposed Amendments are inconsistent or incompatible with existing state regulations. The Board has determined that the Proposed Amendments are not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that prescribe the provisions that would be adopted by the Proposed Amendments. In addition, there are no comparable federal regulations or statutes to the Proposed Amendments.

#### **NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS**

The Board has determined that the adoption the Proposed Amendments will not impose a mandate on local agencies or school districts, including a mandate that requires state reimbursement under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

#### **ONE-TIME COST TO THE BOARD, BUT NO OTHER COST OR SAVINGS TO ANY STATE AGENCY, LOCAL AGENCY, OR SCHOOL DISTRICT**

The Board has determined that the adoption of the Proposed Amendments will result in an absorbable \$500 one-time cost for the Board to update its website after the amendments are completed. The Board has determined that the adoption of the Proposed Amendments will result in no other direct or indirect cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, no other non-discretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State of California.

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<sup>‡</sup> Available at: <<http://www.boe.ca.gov/meetings/pdf/2018/092518-G1-Rules302-et-al-memo.pdf>> [as of September 28, 2018].

**NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

The Board has made an initial determination that the adoption of the Proposed Amendments will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The adoption of the Proposed Amendments may affect small business.

**NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES**

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**RESULTS OF THE ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)**

The Board assessed the economic impact of the Proposed Amendments on California businesses and individuals and determined that the Proposed Amendments are not major regulations, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000. Therefore, the Board has prepared the economic impact assessment (EIA) required by Government Code section 11346.3, subdivision (b)(1), for the Proposed Amendments and included it in the initial statement of reasons. In the EIA, the Board has determined that the adoption of the Proposed Amendments will neither create nor eliminate jobs in the State of California nor create new businesses or eliminate existing businesses within the state nor expand businesses currently doing business in the State of California. Furthermore, as stated above under the INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW, Effect, Objective, and Benefits of the Proposed Amendments, the Board has determined that the adoption of the Proposed Amendments will benefit the health and welfare of California residents, worker safety, or the state's environment by safeguarding efficient and fair operation of local assessment appeals hearings.

**NO SIGNIFICANT EFFECT ON HOUSING COSTS**

Adoption of the Proposed Amendments will not have a significant effect on housing costs.

**DETERMINATION REGARDING ALTERNATIVES**

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

## **CONTACT PERSONS**

Questions regarding the substance of the Proposed Amendments should be directed to Henry Nanjo, Chief Counsel, by telephone at (916) 323-1094, by e-mail at [henry.nanjo@boe.ca.gov](mailto:henry.nanjo@boe.ca.gov), or by mail at State Board of Equalization, Attn: Henry Nanjo, MIC:121, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Rose Smith, Regulations Coordinator, by telephone at (916) 323-9656, by fax at (916) 324-3984, by e-mail at [Rose.Smith@boe.ca.gov](mailto:Rose.Smith@boe.ca.gov), or by mail at State Board of Equalization, Attn: Rose Smith, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080. Ms. Smith is the designated backup contact person to Mr. Nanjo.

## **WRITTEN COMMENT PERIOD**

The written comment period ends at 9:30 a.m. on December 12, 2018, or as soon thereafter as the Board begins the public hearing regarding the Proposed Amendments during the December 12, 2018, Board meeting. Written comments received by Ms. Rose Smith at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the Proposed Amendments. The Board will only consider written comments received by that time.

## **AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION**

The Board has prepared an underline and strikeout version of the Proposed Amendments illustrating the express terms of the Proposed Amendments and an initial statement of reasons for the adoption of the Proposed Amendments, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the Proposed Amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the Proposed Amendments and the initial statement of reasons are also available on the Board's website at [www.boe.ca.gov](http://www.boe.ca.gov).

## **SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8**

The Board may adopt the Proposed Amendments with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the resulting regulation, with the change clearly indicated, available to the public for at least 15 days prior to

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adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Ms. Smith. The Board will consider written comments on the resulting regulation that are received prior to adoption.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the Proposed Amendments, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's website at [www.boe.ca.gov](http://www.boe.ca.gov).

Sincerely,



Joann Richmond-Smith, Chief  
Board Proceedings Division

JR:rf

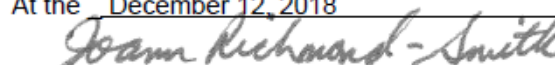
#### STATE BOARD OF EQUALIZATION

BOARD APPROVED



At the December 12, 2018

Board Meeting



Joann Richmond-Smith, Chief  
Board Proceedings Division



**Initial Statement of Reasons for  
Proposed Amendments to  
California Code of Regulations, Title 18,  
Section 302, *The Board’s Function and Jurisdiction*, Section 305,  
*Application*, Section 305.1, *Exchange of Information*, Section 305.2,  
*Prehearing Conference*, and Section 323, *Postponements and  
Continuances***

**SPECIFIC PURPOSE, PROBLEM INTENDED TO BE ADDRESSED,  
NECESSITY, AND ANTICIPATED BENEFITS**

Current Law

In California, the county assessor is charged with assessing all property subject to general property taxation. (Rev. & Tax. Code, §§ 128 & 401; see also *Blackwell Homes v. County of Santa Clara* (1991) 226 Cal.App.3d 1009, 1013.) After an assessment is made, a taxpayer may challenge the assessment by filing an application for a reduction in an assessment (application) with the county board of equalization. (Rev. & Tax. Code, § 1603; see also *Sunrise Retirement Villa v. Dear* (1997) 58 Cal.App.4th 948, 958.)

Section 16 of article XIII of the California Constitution mandates that appeals boards “equalize,” the value of all property on a local assessment roll by adjusting individual assessments. The Legislature has enacted RTC sections 1601 through 1645.5, and, under the authority of Government Code section 15606, subdivision (c), the Board has adopted California Code of Regulations, title 18, sections (Property Tax Rule or Rules) 301 through 326 to govern the administration of appeals boards.

The process governing appeals boards must not infringe on an applicant’s constitutional due process rights. A fundamental premise underlying appeals board hearings is that the constitutional right to an equalization hearing comprehends a decision in the light of the evidence before any determination becomes final. (*Universal Consol. Oil Co. v. Byram (Univ. Consol. Oil)* (1944) 25 Cal.2d 353, 360.) All parties must be fully apprised of the evidence to be considered, and must be given opportunity to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal. (*Interstate Commerce Commission v. Louisville & N.R. Co.* (1913) 227 U.S. 88, 93.) Therefore, “[c]ompliance with the constitutional requirement for an equalization hearing is not met unless the substance [and] the form of the hearing is granted to the complaining taxpayer.” (*Univ. Consol. Oil, supra*, at p. 361; see also *AAM*, p. 80.) However, due process, “unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances [citations omitted]” (*Mathews v. Eldridge* (1976) 424 US 319, 334), and states are afforded great flexibility in satisfying the requirements of due process in the field of taxation (*Batt v. City and County of San Francisco* (2007) 155 Cal.App.4th 65).

## Proposed Amendments

The Proposed Amendments would clarify the following regarding local assessment appeals hearings:

1. That the functions of the appeals board include the duty to ensure all applicants are afforded due process and given the opportunity for a timely and meaningful hearing. (Proposed Amendment to Rule 302, subdivision (a)(1).)
2. That an agent's authorization is valid only for the years indicated in the agent's authorization, and may not cover more than four consecutive calendar years in the future. (Proposed Amendment to Rule 305, subdivision (a)(1)(B).)
3. That if an application is filed online, an agent authorization should be filed in paper form as soon as possible if it cannot also be filed online. (Proposed Amendment to Rule 305, subdivision (a)(2).)
4. That no application shall be rejected because an agent authorization is not signed in the same calendar year as the application is filed, but that retroactive authorizations are not allowed. (Proposed Amendment to Rule 305, subdivision (a)(6).)
5. That Rule 305.1 pertains only to exchanges of information, which are governed by Revenue and Taxation Code section 1606, and not requests for information governed by sections 408, 451, and 441.
6. That an application may not be denied at a prehearing conference or other prehearing proceeding. (Proposed Amendment to Rule 305.2, subdivision (b).)
7. That reasonable cause or both parties agreement is required to postpone or continue hearings for longer than 90 days, and requires the reason for the longer delay to be stated on the record. (Proposed Amendment to Rule 323, subdivision (c).)

These clarifications are reasonably necessary for the efficient and fair operation of local assessment appeals hearings, as follows:

1. Proposed Amendment to Rule 302, subdivision (a)(1) – to set forth in regulation the existing requirement that local appeals boards afford applicants an timely and meaningful hearing.
2. Proposed Amendment to Rule 305 – to set forth four years as a reasonable time period for which an agent authorization is valid. This period allows agents the reasonable accommodation of not having to procure authorizations each year but still requires agents to update authorizations. The option of allowing electronic submitting is delayed until January 1, 2022, in order to give counties time to develop their technical capabilities as well as perform capital budgeting for any fiscal expenditures that may be necessary. The proposed amendments are also necessary to reinforce that, if not filed online, the agent authorization should be filed as soon as possible so that local boards can begin the intake and scheduling process of applications as soon as possible. It is also reasonably necessary to clarify that no application shall be rejected because an agent authorization is not signed in the same calendar year as the application is filed, but that retroactive

- authorizations are not allowed, so there is no confusion on the part of clerks of the boards and agents regarding the requirements for agent authorizations.
3. Proposed Amendments to Rule 305.1 are reasonably necessary to avoid confusion as to the scope of the rule.
  4. Proposed Amendment to Rule 305.2, subdivision (b) – to ensure that applicants are afforded the greatest opportunity to have a hearing on the merits of their case.
  5. Proposed Amendment to Rule 323, subdivision (c) – to ensure that hearings are not delayed unnecessarily.

Between 2017 and 2018, discussions regarding assessment appeals hearings rules ensued between the California Alliance of Taxpayer Advocates<sup>1</sup> (CATA), the California Assessors' Association (CAA), the California Association of Clerks and Election Officials (CACEO) and the Board which included the commencement of an interested parties process. On July 10, 2018, via email, CATA petitioned the Board to adopt a number of amendments to the property tax rules. The rule petition was discussed at the July 24, 2018 Board meeting. At that meeting the Board directed the Executive Director to instruct the Chief Counsel to draft a legal analysis on the proposed rule changes.

On August 8, 2018, CATA submitted a letter to the Board's Executive Director with virtually identical Proposed Amendments as in its July 10, 2018 correspondence. On August 21, 2018, the Board discussed this matter further at its hearing. Prior to and after the July 24, 2018, and August 21, 2018 Board hearings, proponents and opponents to the petition submitted comments specifying reasons for support or opposition.<sup>2</sup>

On September 7, 2018, the Board received an additional letter from CATA modifying their proposals after discussions with the CAA and the CACEO. Board staff subsequently prepared a Chief Counsel Memorandum<sup>3</sup> and submitted it to the Board Members for consideration at the Board's September 25, 2018, meeting. At the conclusion of its September 25, 2018, meeting the Board approved the Proposed Amendments and the Board Members voted to propose the adoption of the Proposed Amendments, authorizing the publication of the Notice of Regulatory Action. The Board determined that the Proposed Amendments are reasonably necessary to have the effect and accomplish the objectives discussed above.

The Board anticipates that the Proposed Amendments will increase openness and transparency in government and benefit the public, local boards of equalization and assessment appeals boards, county assessors, and the owners of property potentially subject to assessment appeals hearings.

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<sup>1</sup> CATA describes itself as a “non-profit trade association made up of tax consultants representing taxpayers before County Assessors, The Franchise Tax Board and The State Board of Equalization. CATA's purpose is to protect the rights of state and local taxpayers by advancing the professional practice of state and local tax consulting through education, advocacy and high ethical standards.”

(<<https://www.cataxadvocates.org/about>> [as of August 9, 2018].)

<sup>2</sup> All comments are posted at: <<http://www.boe.ca.gov/meetings/public-comments2018.htm>> [as of September 28, 2018].

<sup>3</sup> Available at: <<http://www.boe.ca.gov/meetings/pdf/2018/092518-G1-Rules302-et-al-memo.pdf>> [as of September 28, 2018].

The Board has performed an evaluation of whether the Proposed Amendments are inconsistent or incompatible with existing state regulations. The Board has determined that the Proposed Amendments are not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that prescribe the provisions that would be adopted by the Proposed Amendments. In addition, there are no comparable federal regulations or statutes to the Proposed Amendments.

The adoption of the Proposed Amendments is not mandated by federal law or regulations. There is no previously adopted or amended federal regulation that is identical to the Proposed Amendments.

### **DOCUMENTS RELIED UPON**

The Board relied upon the September 21, 2018, Chief Counsel Memorandum, correspondence submitted for and comments made during the Board's discussion of the issues at its August 21, 2018 and September 25, 2018, meeting in deciding to propose the amendments described above.

### **ALTERNATIVES CONSIDERED**

The Board considered whether to begin the formal rulemaking process to adopt the Proposed Amendments, to issue some form of informal guidance or, alternatively, whether to take no action at this time. The Board decided to begin the formal rulemaking process to adopt the Proposed Amendments at this time because the Board determined that the Proposed Amendments are reasonably necessary for the reasons set forth above.

The Board did not reject any reasonable alternative to the Proposed Amendments that would lessen any adverse impact the proposed action may have on small business or that would be less burdensome and equally effective in achieving the purpose of the proposed action. No reasonable alternative has been identified and brought to the Board's attention that would lessen any adverse impact the proposed action may have on small business, be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

### **INFORMATION REQUIRED BY GOVERNMENT CODE SECTION 11346.2, SUBDIVISION (b)(5), ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b), AND DETERMINATIONS AND ESTIMATE REQUIRED BY GOVERNMENT CODE SECTION 11346.5, SUBDIVISION (a)(5), (6), AND (8)**

As explained in more detail above, the Proposed Amendments implement, interpret, and makes specific Division 1, Part 3, Chapter 1 of the Revenue and Taxation Code (RTC) by prescribing practices and procedures governing county boards of equalization and assessment appeals boards when hearing and deciding local property tax disputes. The Proposed Amendments will not mandate that individuals or businesses or state or local

government do anything that is not already required, and there is nothing in the Proposed Amendments that would significantly change how individuals and businesses would generally behave in the absence of the proposed regulatory action, or that would have a significant effect on the state's economy or that would impact the state's revenue. Therefore, Board staff determined that the Proposed Amendments will not impact property tax revenue. The Proposed Amendments will not impose new compliance costs on businesses and individuals and will not provide a monetary benefit to businesses and individuals. And, Board staff estimated that the Proposed Amendments will result in an absorbable \$500 one-time cost for the Board to update its website after the amendments are completed assuming that average hourly compensation costs are \$49.23 per hour<sup>4</sup> and that it will take approximately eight hours ( $49.23 \times 8 = \$492.30$ , rounded to \$500), but will not have any other fiscal impact on local or state government.

Therefore, the Board has determined that the adoption of the Proposed Amendments will not impose a mandate on local agencies or school districts, including a mandate that requires state reimbursement under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, and the Board estimates that the adoption of the Proposed Amendments will result in an absorbable \$500 one-time cost to the Board, but no other direct or indirect cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, no other non-discretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State of California.

In addition, the Board has made an initial determination that the Proposed Amendments will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, and the Board has determined that the Proposed Amendments are not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000, because the Board has estimated that the Proposed Amendments will not have an economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars (\$50,000,000) during any 12-month period.

Further, based upon these facts and all of the information in the rulemaking file, the Board also determined that the adoption of the Proposed Amendments will neither create nor eliminate jobs in the State of California nor create new businesses or eliminate existing businesses within the state nor expand businesses currently doing business within the State of California.

Furthermore, the Proposed Amendments do not regulate the health and welfare of California residents, worker safety, or the state's environment. Therefore, the Board has

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<sup>4</sup> Source: Hourly compensation costs are from the U.S. Bureau of Labor Statistics. Hourly compensation costs are for State and Local Workers, *Employer Costs for Employee Compensation – June 2018*, <http://www.bls.gov/>

also determined that the adoption of the Proposed Amendments will not affect the benefits of the rules before amendment to the health and welfare of California residents, worker safety, or the state's environment.

The forgoing information also provides the factual basis for the Board's initial determination that the adoption of the Proposed Amendments will not have a significant adverse economic impact on business.

The Proposed Amendments may affect small business within the meaning of California Code of Regulations, title 1, section 4 because a small business may own property that is subject to a local assessment appeals hearing.

**Text of Proposed Amendments to  
California Code of Regulations, Title 18, Section  
302, *The Board's Function and Jurisdiction***

**302. The Board's Function and Jurisdiction.**

**(a)** The functions of the board are:

(1) To ensure that all applicants are afforded due process and given the opportunity for a timely and meaningful hearing.

~~(2)~~ To lower, sustain, or increase upon application, or to increase after giving notice when no application has been filed, individual assessments in order to equalize assessments on the local tax assessment roll,

~~(3)~~ To determine the full value and, where appealed, the base year value of the property that is the subject of the hearing,

~~(4)~~ To hear and decide penalty assessments, and to review, equalize and adjust escaped assessments on that roll except escaped assessments made pursuant to Revenue and Taxation Code section 531.1,

~~(5)~~ To determine the classification of the property that is the subject of the hearing, including classifications within the general classifications of real property, improvements, and personal property. Such classifications may result in the property so classified being exempt from property taxation.

~~(6)~~ To determine the allocation of value to property that is the subject of the hearing, and

~~(7)~~ To exercise the powers specified in section 1605.5 of the Revenue and Taxation Code.

**(b)** Except as provided in subdivision (a)(4), the board has no jurisdiction to grant or deny exemptions or to consider allegations that claims for exemption from property taxes have been improperly denied.

**(c)** The board acts in a quasi-judicial capacity and renders its decision only on the basis of proper evidence presented at the hearing.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 531.1, 1603, 1604 and 1605.5, Revenue and Taxation Code.

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California Code of Regulations, Title 18, Section  
305, Application**

**305. APPLICATION.**

No change in an assessment sought by a person affected shall be made unless the following application procedure is followed.

**(a) ELIGIBLE PERSONS.**

(1) An application is filed by a person affected or the person's agent, or a relative mentioned in regulation 317 of this division. If the application is made by an agent, other than an authorized attorney licensed to practice in this state who has been retained and authorized by the applicant to file the application, written authorization to so act must be filed with the application. For purposes of signing an application on behalf of an applicant, an agent shall be deemed to have been duly authorized if the applicant's written agent authorization is on the application or attached to each application at the time it is filed with the board. The attached authorization shall include the following:

(A) The date the authorization statement is executed;

(B) A statement to the effect that the agent is authorized to sign and file applications in the specific calendar year in which the application is filed or years indicated in the agent's authorization; an agent's authorization may not cover more than four consecutive calendar years in the future, beginning with the year in which the authorization was signed;

(C) The specific parcel(s) or assessment(s) covered by the authorization, or a statement that the agent is authorized to represent the applicant on all parcels and assessments located in the specific county;

(D) The name, address, and telephone number of the specific agent who is authorized to represent the applicant;

(E) The applicant's signature and title; and

(F) A statement that the agent will provide the applicant with a copy of the application.

(2) For online filing where a county's electronic application system does not permit filing or uploading an agent's authorization form with an image of a signature, or other electronic method acceptable to the county board as adopted in its local rules, the paper form shall be submitted to the board as soon as possible in order to perfect the application. Beginning January 1, 2022, any county offering online filing of an application should provide a mechanism for an agency authorization form to be submitted electronically with the application.

~~(32) If a photocopy of the original authorization is attached to the application, the agent shall be prepared to submit an original signed authorization if requested by the board. The application form shall show that the agent's authorization was attached to the application. An agent must have authorization to file an application at the time the application is filed; retroactive authorizations are not permitted.~~



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(43) If the applicant is a corporation, limited partnership, or a limited liability company, the agent authorization must be signed by an officer or authorized employee of the business entity.

(54) No application shall be rejected as a duplicate application by the clerk unless it qualifies as a duplicate application within the meaning specified in section 1603.5 of the Revenue and Taxation Code.

(65) An agent must have authorization to file an application at the time the application is filed; retroactive authorizations are not permitted. No application shall be rejected because the agency authorization is signed by a taxpayer in a different calendar year than the application was filed.

**(b) SIGNATURE AND VERIFICATION.** The application shall be in writing and signed by the applicant or the applicant's agent with declaration under penalty of perjury that the statements made in the application are true and that the person signing the application is one of the following:

(1) The person affected, a relative mentioned in regulation 317 of this division, an officer of a corporation, or an employee of a corporation who has been designated in writing by the board of directors or corporate officer to represent the corporation on property tax matters;

(2) An agent authorized by the applicant as indicated in the agent's authorization portion of the application; or

(3) An attorney licensed to practice law in this state who has been retained by the applicant and who has been authorized by the applicant, prior to the time the application is filed, to file the application.

**(c) FORMS AND CONTENTS.** The county shall provide, free of charge, forms on which applications are to be made.

(1) The application form shall be prescribed by the State Board of Equalization and shall require that the applicant provide the following information:

**(A)** The name and address of the applicant.

**(B)** The name and address of the applicant's agent, if any. If the applicant is represented by an agent, both the applicant's actual mailing address and the agent's mailing address shall be provided on the application.

**(C)** The applicant's written authorization for an agent, if any, to act on the applicant's behalf.

**(D)** A description of the property that is the subject of the application sufficient to identify it on the assessment roll.

**(E)** The applicant's opinion of the value of the property on the valuation date of the assessment year in issue.

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(F) The roll value on which the assessment of the property was based.

(G) The facts relied upon to support the claim that the board should order a change in the assessed value, base year value, or classification of the subject property. The amount of the tax or the amount of an assessed value increase shall not constitute facts sufficient to warrant a change in assessed values.

(2) The form shall also include:

(A) A notice that a list of property transfers within the county, that have occurred within the preceding two-year period, is open to inspection at the assessor's office to the applicant upon payment of a fee not to exceed ten dollars (\$10). This requirement shall not apply to counties with a population under 50,000 as determined by the 1970 decennial census.

(B) A notice that written findings of fact will be prepared by the board upon request if the applicable fee is paid. An appropriate place for the applicant to make the request shall be provided.

(3) An application may include one or more reasons for filing the application. Unless permitted by local rules, an application shall not include both property on the secured roll and property on the unsecured roll.

(4) An application that does not include the information required by subsection (c)(1) of this regulation is invalid and shall not be accepted by the board. Prompt notice that an application is invalid shall be given by the clerk to the applicant and, where applicable, the applicant's agent. An applicant or the applicant's agent who has received notice shall be given a reasonable opportunity to correct any errors and/or omissions. Disputes concerning the validity of an application shall be resolved by the board.

(5) An application that includes the correct information required by subdivision (1) is valid and no additional information shall be required of the applicant on the application form.

(6) If the county has appointed hearing officers as provided for in Revenue and Taxation Code section 1636, the application form shall advise the applicant of the circumstances under which the applicant may request that the application be heard by such an officer.

(7) If an application appeals property subject to an escape assessment resulting from an audit conducted by the county assessor, then all property, both real and personal, of the assessee at the same profession, trade, or business location shall be subject to review, equalization, and adjustment by the appeals board, except when the property has previously been equalized for the year in question.

**(d) TIME OF FILING.**

(1) An application appealing a regular assessment shall be filed with the clerk during the regular filing period. A regular assessment is one placed on the assessment roll for the most recent lien

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date, prior to the closing of that assessment roll. The regular filing period for all real and personal property located in a county is:

(A) July 2 through September 15 when the county assessor elects to mail assessment notices, as defined in section 619 of the Revenue and Taxation Code, by August 1 to all owners of real property on the secured roll; or

(B) July 2 through November 30 when the county assessor does not elect to mail assessment notices by August 1 to all owners of real property on the secured roll.

Additionally, an application appealing a base year value for the most recent lien date, where that value is not the value currently on the assessment roll, shall be filed with the clerk during the regular filing period beginning July 2 but no later than September 15 or November 30, as applicable.

(2) An application appealing an escape assessment or a supplemental assessment must be filed with the clerk no later than 60 days after the date of mailing printed on the notice of assessment or the postmark date, whichever is later, or no later than 60 days after the date of mailing printed on the tax bill or the postmark date, whichever is later, in the county of Los Angeles and in those counties where the board of supervisors has adopted a resolution to that effect, pursuant to section 1605 of the Revenue and Taxation Code.

(3) An application appealing a proposed reassessment made for property damaged by misfortune or calamity pursuant to section 170 of the Revenue and Taxation Code must be filed with the clerk no later than six months after the date of mailing of the notice of proposed reassessment by the assessor. The decision of the board regarding the damaged value of property shall be final, however, the decision regarding the reassessment made pursuant to section 170 shall create no presumption regarding the value of the property subsequent to the date of the damage.

(4) An application may be filed within 60 days of receipt of a notice of assessment or within 60 days of the mailing of a tax bill, whichever is earlier, when the taxpayer does not receive the notice of assessment described in section 619 of the Revenue and Taxation Code at least 15 calendar days prior to the close of the regular filing period. The application must be filed with an affidavit from the applicant declaring under penalty of perjury that the notice was not timely received.

(5) An application will be deemed to have been timely filed:

(A) If it is sent by U.S. mail, properly addressed with postage prepaid and is postmarked on the last day of the filing period or earlier within such period; or

(B) If proof satisfactory to the board establishes that the mailing occurred on the last day of the filing period or within such period. Any statement or affidavit made by an applicant asserting such a timely filing must be made within one year of the last day of the filing period.

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(6) An application filed by mail that bears both a private business postage meter postmark date and a U.S. Postal Service postmark date will be deemed to have been filed on the date that is the same as the U.S. Postal Service postmark date, even if the private business postage meter date is the earlier of the two postmark dates. If the last day of the filing period falls on Saturday, Sunday, or a legal holiday, an application that is mailed and postmarked on the next business day shall be deemed timely filed. If the county's offices are closed for business prior to 5 p.m. or for the entire day on which the deadline for filing falls, that day shall be considered a legal holiday.

(7) Except as provided in sections 1603 and 1605 of the Revenue and Taxation Code, the board has no jurisdiction to hear an application unless filed within the time periods specified above.

**(e) AMENDMENTS AND CORRECTIONS.**

(1) An applicant or an applicant's agent may amend an application until 5:00 p.m. on the last day upon which it might have been timely filed.

(2) After the filing period has expired:

**(A)** An invalid application may be corrected in accordance with subsection (c)(4) of this regulation.

**(B)** The applicant or the applicant's agent may amend an application provided that the effect of the amendment is not to request relief additional to or different in nature from that originally requested.

**(C)** (i) Upon request of the applicant or the applicant's agent, the board, in its discretion, may allow the applicant or the applicant's agent to make amendments to the application in addition to those specified in subdivisions (A) and (B) to state additional facts claimed to require a reduction of the assessment that is the subject of the application.

(ii) The applicant or the applicant's agent shall state the reasons for the request, which shall be made in writing and filed with the clerk of the board prior to any scheduled hearing, or may be made orally at the hearing. If made in writing, the clerk shall provide a copy to the assessor upon receipt of the request.

(iii) As a condition to granting a request to amend an application, the board may require the applicant to sign a written agreement extending the two-year period provided in section 1604 of the Revenue and Taxation Code.

(iv) If a request to amend is granted, and upon the request of the assessor, the hearing on the matter shall be continued by the board for no less than 45 days, unless the parties mutually agree to a different period of time.

(3) An applicant or an applicant's agent shall be permitted to present testimony and other evidence at the hearing to support a full value that may be different from the opinion of value

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stated on the application. The presentation of such testimony or other evidence shall not be considered a request to amend or an amendment to the application.

**(f) CLAIM FOR REFUND.** If a valid application is designated as a claim for refund pursuant to section 5097 of the Revenue and Taxation Code, the applicant shall be deemed to have challenged each finding of the board and to have satisfied the requirements of section 5097.02 of the Revenue and Taxation Code.

**(g) RETENTION OF RECORDS.** The clerk may destroy records consisting of assessment appeal applications when five years have elapsed since the final action on the application. The records may be destroyed three years after the final action on the application if the records have been microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents. As used in this subsection, "final action" means the date of the final decision by the board.

**(h) CONSOLIDATION OF APPLICATIONS.** The board, on its own motion or on a timely request of the applicant or applicants or the assessor, may consolidate applications when the applications present the same or substantially related issues of valuation, law, or fact. If applications are consolidated, the board shall notify all parties of the consolidation.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 51, 166, 170, 408.1, 469, 619, 1603, 1603.5, 1604, 1605, 1636, 5097, and 5097.02, Revenue and Taxation Code. Section 25105.5, Government Code.

**Text of Proposed Amendments to  
California Code of Regulations, Title 18, Section  
305.1, *Exchange of Information***

**305.1. EXCHANGE OF INFORMATION.**

**(a) REQUEST FOR EXCHANGE OF INFORMATION.** When the assessed value of the property involved, before deduction of any exemption accorded the property, is \$100,000 or less, the applicant may file a written request for an exchange of information with the assessor; and when the assessed value before deduction of any exemption exceeds \$100,000, either the applicant or the assessor may request such an exchange pursuant to section 1606 of the Revenue and Taxation Code. The request may be filed with the clerk at the time an application for hearing is filed or may be submitted to the other party and the clerk at any time prior to 30 days before the commencement of the hearing. For purposes of determining the date upon which the exchange was deemed initiated, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope or package containing the information shall control. The clerk shall, at the earliest opportunity, forward any request filed with the application or a copy thereof to the other party. The request shall contain the basis of the requesting party's opinion of value for each valuation date at issue and the following data:

(1) **COMPARABLE SALES DATA.** If the opinion of value is to be supported with evidence of comparable sales, the properties sold shall be described by the assessor's parcel number, street address or legal description sufficient to identify them. With regard to each property sold there shall be presented the approximate date of sale, the price paid, the terms of sale (if known), and the zoning of the property.

(2) **INCOME DATA.** If the opinion of value is to be supported with evidence based on an income study, there shall be presented: the gross income, the allowable expenses, the capitalization method (direct capitalization or discounted cash flow analysis), and rate or rates employed.

(3) **COST DATA.** If the opinion of value is to be supported with evidence of replacement cost, there shall be presented:

(A) With regard to improvements to real property: the date of construction, type of construction, and replacement cost of construction.

(B) With regard to machinery and equipment: the date of installation, replacement cost, and any history of extraordinary use.

(C) With regard to both improvements and machinery and equipment: facts relating to depreciation, including any functional or economic obsolescence, and remaining economic life.

The information exchanged shall provide reasonable notice to the other party concerning the subject matter of the evidence or testimony to be presented at the hearing. There is no requirement that the details of the evidence or testimony to be introduced must be exchanged.

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California Code of Regulations, Title 18, Section  
305.1, *Exchange of Information***

**(b) TRANSMITTAL OF EXCHANGE DATA TO OTHER PARTY.** If the party requesting an exchange of data under the preceding subsection has submitted the data required therein within the specified time, the other party shall submit a response to the initiating party and to the clerk at least 15 days prior to the hearing. The response shall be supported with the same type of data required of the requesting party. When the assessor is the respondent, he or she shall submit the response to the address shown on the application or on the request for exchange of information, whichever is filed later. The initiating party and the other party shall provide adequate methods of submission to ensure to the best of their ability that the exchange of information process is completed at least 10 days prior to the hearing.

**(c) PROHIBITED EVIDENCE; NEW MATERIAL; CONTINUANCE.** Whenever information has been exchanged pursuant to this regulation, the parties may introduce evidence only on matters pertaining to the information so exchanged unless the other party consents to introduction of other evidence. However, at the hearing, each party may introduce new material relating to the information received from the other party. If a party introduces such new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.

**(d) NONRESPONSE TO REQUEST FOR EXCHANGE OF INFORMATION.** If one party initiates a request for information and the other party does not comply within the time specified in subsection (b), the board may grant a postponement for a reasonable period of time. The postponement shall extend the time for responding to the request. If the board finds willful noncompliance on the part of the noncomplying party, the hearing will be convened as originally scheduled and the noncomplying party may comment on evidence presented by the other party but shall not be permitted to introduce other evidence unless the other party consents to such introduction.

Note: Authority cited: Section 15606(c), Government Code. Reference: Sections ~~408, 441, 1606, and 1609.4~~, Revenue and Taxation Code.

**Text of Proposed Amendments to  
California Code of Regulations, Title 18, Section  
305.2, *Prehearing Conference***

**Rule 305.2. Prehearing Conference.**

(a) A county board of supervisors may establish prehearing conferences. If prehearing conferences are established, the county board of supervisors shall adopt rules of procedure for prehearing conferences. A prehearing conference may be set by the clerk at the request of the applicant or the applicant's agent, the assessor, or at the direction of the appeals board. The purpose of a prehearing conference is to resolve issues such as, but not limited to, clarifying and defining the issues, determining the status of exchange of information requests and requests for information, stipulating to matters on which agreement has been reached, combining applications into a single hearing, bifurcating the hearing issues, and scheduling a date for a hearing officer or the board to consider evidence on the merits of the application.

(b) At a prehearing conference or other prehearing proceeding, the board shall not deny an application solely on the ground that the applicant has not responded to a request for information made under section 441(d) of the Revenue and Taxation Code.

(c) The clerk of the board shall set the matter for a prehearing conference and notify the applicant or the applicant's agent and the assessor of the time and date of the conference. Notice of the time, date, and place of the conference shall be given not less than 30 days prior to the conference, unless the assessor and the applicant stipulate orally or in writing to a shorter notice period.

Note: Authority Cited: Section 15606(c), Government Code. Reference: Article XIII, Section 16, California Constitution; and Section 1601 et seq., Revenue and Taxation Code.



**Text of Proposed Amendments to  
California Code of Regulations, Title 18, Section  
323, *Postponements and Continuances***

**323. Postponements and Continuances.**

(a) The applicant and/or the assessor shall be allowed one postponement as a matter of right, the request for which must be made not later than 21 days before the hearing is scheduled to commence. If the applicant requests a postponement as a matter of right within 120 days of the expiration of the two-year limitation period provided in section 1604 of the Revenue and Taxation Code, the postponement shall be contingent upon the applicant's written agreement to extend and toll indefinitely the two-year period subject to termination of the agreement by 120 days written notice by the applicant. The assessor is not entitled to a postponement as a matter of right if the request is made within 120 days of the expiration of the two-year period, but the board, in its discretion, may grant such a request. Any subsequent requests for a postponement by the applicant or the assessor must be made in writing, and good cause must be shown for the proposed postponement. A stipulation by an applicant and the assessor shall be deemed to constitute good cause, but shall result in extending and tolling indefinitely the two-year limitation period subject to termination of the agreement by 120 days written notice by the applicant. Any information exchange dates remain in effect based on the originally scheduled hearing date notwithstanding the hearing postponement, except as provided in regulation 305.1(d) of this subchapter.

(b) A board of supervisors may delegate decisions concerning postponement to the clerk in accordance with locally adopted rules. Requests for postponement shall be considered as far in advance of the hearing date as is practicable.

(c) At the hearing, the board or a hearing officer may continue a hearing to a later date. The board or hearing officer must make every reasonable effort to maintain continuous hearings. If either party requests a continuance, and the board or hearing officer grants it, the continuance should not exceed 90 days, unless the parties at the hearing stipulate to a longer continuance. However, a longer continuance may be granted by the board or hearing officer where reasonable cause for the continuance is established to the satisfaction of the board or hearing officer by the requesting party or where the reasonable needs of the county board of equalization or assessment appeals board or hearing officer dictate the necessity for a longer continuance. The reasons justifying the continuance shall be stated on the record. Notwithstanding the prior provisions of this subdivision (c), the board or hearing officer shall not, without reasonable cause, grant the assessor a continuance after the applicant has presented his or her case; however, the assessor shall be granted a continuance under section 441(h) of the Revenue and Taxation Code if the applicant has introduced information at the hearing which had previously been requested of the applicant by the assessor. Likewise, the board or hearing officer shall not, without reasonable cause, grant the applicant a continuance after the assessor has presented his or her case; however, the applicant shall be granted a continuance under section 408(f)(3) of the Revenue and Taxation Code if the assessor has introduced information at the hearing which had previously been requested of the assessor by the applicant.

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California Code of Regulations, Title 18, Section  
323, *Postponements and Continuances***

**(d)** If the applicant requests a continuance within 90 days of the expiration of the two-year period specified in section 1604 of the Revenue and Taxation Code, the board may require a written extension signed by the applicant extending and tolling the two-year period indefinitely subject to termination of the agreement by 120 days written notice by the applicant. The clerk shall inform the applicant or the applicant's agent and the assessor in writing of the time and place of the continued hearing not less than 10 days prior to the new hearing date, unless the parties agree in writing or on the record to waive written notice.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 1605.6 and 1606, Revenue and Taxation Code.

## Regulation History

**Type of Regulation:** Property Tax

**Rule:** 302, 305, 305.1, 305.2 and 323

**Title:** 302, The Board's Function and Jurisdiction  
305, Application  
305.1, Exchange of Information  
305.2, Prehearing Conference  
323, Postponement and Continuances

**Preparation:** Henry Nanjo

**Legal Contact:** Henry Nanjo

**Summary:** The State Board of Equalization proposes to adopt amendments to Property Tax Rules 302, 305, 305.1, 305.2, and 323 to clarify practices and procedures governing local appeals boards.

### History of Proposed Regulation:

December 12, 2018 Public hearing  
October 26, 2018 OAL publication date; 45-day public comment period begins; IP mailing  
October 16, 2018 Notice to OAL  
September 25, 2018 Chief Counsel Matters, Board Authorized Publication (Vote 5-0)

**Petitioner:** California Alliance of Taxpayer Advocates (CATA)

**Support:** California Assessors' Association, California Association of Clerks and Elected Officials

**Oppose:** NA