



PUBLIC COMMENT

From: Ben Lee
Agenda Item: N. Public Comment on
Matters Not on the Agenda
Meeting Date: 12/14/21



December 6, 2021

The Honorable Antonio Vazquez
Chairman, State Board of Equalization
450 N Street, MIC: 72
Sacramento, CA 95814

Sent via Email

**Written Comments in Response to Suggested Revisions to Letter to Assessors
2021/002 (Assessment Appeals Board Remote Hearings During the COVID-19
Pandemic)**

Dear Chairman Vazquez,

The California Taxpayers Association (CalTax) thanks you for the opportunity to provide comments on suggested revisions to LTA 2021/002 regarding remote hearings for assessment appeals boards during the COVID-19 pandemic.

Although we are aware that the Board of Equalization is still working on this issue, CalTax has some concerns that it would like to share with the Board.

CalTax appreciates all of the hard work the agency and staff have put into this issue and the extensive effort from stakeholders to provide detailed input and feedback. Although there are benefits that remote hearings have provided during these remarkable times, CalTax echoes concerns made by others regarding any permanent requirement of forced remote hearings.

Remote hearings are suitable for some appeals, but a one-size-fits-all approach in which all taxpayers could be required to have their appeal in a fully remote setting is problematic.

Certain disputes involve complex and intricate issues that benefit from an in-person setting.

For example, complex appeals may involve countless pieces of evidence, making it more difficult for the taxpayers to present their case in a remote setting. During an in-person appeal, taxpayers can refer to specific exhibits with the assurance that board members and others have the materials readily available. In a remote hearing, however, there is no assurance that the evidence referred to will be in front of the participants, making it more arduous for taxpayers to present their case zealously. To safeguard taxpayers' due process rights and ensure that all parties are able to present their case in a meaningful hearing, taxpayers must continue to have the opportunity to determine the format of their appeal hearing.

Additionally, a virtual setting may make it more difficult for the appeals boards and parties to evaluate the veracity of witnesses. Witnesses appearing in a virtual setting could refer to notes without being detected, or could be coached by others out of the video camera's view. An in-person setting allows appeals board members and the parties to adequately judge the veracity of a witness and ensure that there is no improper conduct occurring.

Furthermore, in certain counties, some parties have been allowed to appear at the hearings in person while the other party participated remotely. This situation could provide an advantage to

the party appearing in person and put taxpayers at a disadvantage. Taxpayers should retain the option to choose the format of their appeal hearing to avoid these types of potential issues.

Other administrative adjudicatory bodies in California have and continue to provide taxpayers with control over the format of their hearings. The agency tasked with handling administrative tax appeals, the California Office of Tax Appeals (OTA), has provided taxpayers the option of holding their hearings remotely or delaying them until an in-person option is available. While this may not be a perfect comparison, it illustrates that a similar election in the property tax appeals arena is warranted and practicable.

To preserve taxpayers' due process rights and guarantee the opportunity for all parties to present their case in a meaningful hearing, the Board should continue to allow taxpayers the discretion to select the hearing format for their appeals.

Lastly, LTA 2021/002 should be revised to ensure consistency in the rules regarding document submission deadlines and the penalty for failure to meet those deadlines. While we understand the need for a bit of lead time to avoid unduly burdening county clerks, the LTA should make clear and include language that the penalty for failure to meet the document submission deadline is a continuance of the hearing. For in-person hearings, the offended party is allowed to request a continuance if the other party seeks to introduce new evidence or documents the day of the hearing. A similar rule should be instituted for virtual hearings that would allow for a continuance if either party seeks to introduce evidence after the document submission deadline.

Thank you again for the opportunity to provide feedback on proposed revisions to LTA 2021/002. If you have any questions about these comments, please contact us.

Respectfully,



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cc: Honorable Malia Cohen, Member
Honorable Ted Gaines, Member
Honorable Michael Schaefer, Vice Chair
Honorable Betty T. Yee, State Controller, c/o Deputy Controller Yvette Stowers
Henry Nanjo, Chief Counsel
Brenda Fleming, Executive Director
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Patricia Lumsden, Chief, County Assessed Properties Division