

Guide to Your Oral Hearing

Before the Office of Tax Appeals



An oral hearing before an administrative tax panel is your opportunity to present your case. This guide makes the process simple and easy to understand, whether or not you are represented.

Guide to Your Oral Hearing

Before the Office of Tax Appeals

Who We Are

The California Office of Tax Appeals (OTA) is an independent body created by the Taxpayer Transparency and Fairness Act of 2017 (Assembly Bill No. 102). OTA's mission is to provide a fair, objective and timely process for appeals from all taxpayers. A panel comprised of Administrative Law Judges (ALJs) adjudicates appeals of taxes and fees administered by the Franchise Tax Board (FTB) and California Department of Tax and Fee Administration (CDTFA), formerly part of the Board of Equalization (BOE) has information and forms specific to your type of case.

The Administrative Law Judges who hear your tax appeal are seasoned attorneys with experience in both federal and state tax agencies, specialized tax practice in the private sector, and related areas of law.

Once your case has moved into the phase where it can be scheduled for an oral hearing before the ALJs, OTA's Foundation unit is your main contact for questions related to your hearing.

The Foundation unit's contact information is:

Office of Tax Appeals, Foundation Unit
P.O. Box 989880
West Sacramento, CA 95798-9880
Phone: (916) 492-2635 or Susana
Seyller (916) 926-3912
Fax: (916) 492-2089

Forms Included in This Packet

Notice of Oral Hearing

This notice informs you when and where the oral hearing for your appeal will take place. Oral hearings are held in Sacramento, Fresno, or Los Angeles, and OTA's Foundation staff schedules hearings based on the location closest to you unless you select otherwise. The *Notice of Oral Hearing* also provides the case identification number, a contact name and phone number for a staff member in the Foundation unit, and a due date to return the *Response to Notice of Oral Hearing*.

Response to Notice of Oral Hearing

This form is enclosed with a Notice of Oral Hearing, and asks you to inform OTA which of the following options you wish to pursue:

- **Attend the hearing.** Please indicate whether you and/or your representative will appear at the hearing and make an oral presentation.
- **Request postponement.** If you show good reason to request that the hearing be postponed (e.g., scheduling conflict, need additional time to provide new evidence or change your position), OTA may grant your request.
- **Waive your right to appear.** If you choose not to attend the oral hearing, your case will be decided based on the written information previously submitted by the parties and evidence, if any, provided by FTB or CDTFA at the hearing.
- **Withdraw your request for an oral hearing and request a dismissal.** No hearing will be held, and OTA will not consider the merits of your appeal, and the determination of the taxing authority will be final.

There is also the option on this form to request an interpreter in the language of your choice, at no charge to you.

Note: If you do not return a completed Response to Notice of Oral Hearing form, your case will be submitted to the ALJs without an oral hearing, and the ALJs will make their ruling based on the evidence previously submitted by the parties.

Authorization for Electronic Transmission of Data

This form permits OTA to electronically transmit, via email, information about your case to you and your authorized representative.

Other Documents

Upon request, we will provide you with a hard copy of the following documents, which can also be found online using the following links:

- OTA permanent regulations (<https://ota.ca.gov/wp-content/uploads/sites/54/2019/01/OTAs-Rules-for-Tax-Appeals.pdf>)
- The Taxpayer Transparency and Fairness Act of 2017 (http://www.leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB102)
- Chapters 4 through 5 of the California Administrative Procedure Act (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=GOV&division=3.&title=2.&part=&chapter=&article=)

The Oral Hearing

Representation

You may represent yourself or elect to have a representative of your choice. Any person 18 years of age or older may represent you before OTA.

Alternatively, you may request free legal assistance through the Tax Appeals Assistance Program (TAAP), managed by the Taxpayers' Rights Advocate Office. Qualified law students, who are supervised by the agency's tax attorneys reporting to the Taxpayers' Rights Advocate, advise individual taxpayers with appeals involving amounts less than \$30,000 in dispute. The law students research and draft appeal briefs, as well as handle other matters on behalf of the taxpayer. For additional information about this program, please contact the CDTFA's Taxpayers Rights Advocate Office at 1-916-319-9199 or FTB's Taxpayers' Rights Advocate Office at 1-916-845-6227.

What to Expect at the Pre-Hearing Conference

Pre-hearing conferences will be scheduled approximately three weeks before your oral hearing. Generally, the pre-hearing conference will be conducted over the phone. The participants will include the lead ALJ assigned to your case and a representative from the taxing authority. If you have a representative, they will also be on the call.

Typically, the pre-hearing conference will cover matters such as, evidence to be presented,

witnesses to be called, and projected order and timeframe for the hearing. The lead ALJ may also ask you and the taxing authority to agree to the relevant facts in your case and the issues to be presented.

What to Expect at the Hearing

- Arrive at least 15 minutes before your hearing time to allow time to sign in and complete any necessary paperwork.
- When your case is called, approach and sit at the taxpayer table in front of the ALJs.
- The Presiding ALJ will commence the hearing by explaining the hearing process, and then asking parties to take turns stating their respective positions on the case.
- You will be asked to present your case by submitting documentary evidence and/or call witnesses, if applicable. All witnesses will be sworn in by the Presiding ALJ. The taxing authority (generally FTB or CDTFB) will have an opportunity to ask you or your witnesses questions. The ALJs may also ask questions.
- When you complete your presentation, the taxing authority will present its case, presenting documentary evidence and/or calling witnesses, if applicable. You will have an opportunity to ask the taxing authority's witnesses questions. The ALJs may also question the witnesses.
- When the taxing authority completes its presentation, the parties may take turns making closing statements, summarizing their respective positions and stating the reasons that the ALJs should find in their favor.
- The ALJs will take your case under submission (to be ruled on later) and issue a written decision following the hearing.

What to Expect After the Hearing

Following your oral hearing, the ALJs will review the evidence and come to a decision. The decision will be in writing and mailed to you and the taxing authority typically within 100 days following the oral hearing.

If you disagree with the decision, you have 30 days from the date OTA mailed the written decision to submit a petition for rehearing. If OTA does not receive a petition for rehearing within 30 days, the decision will become final and posted to the OTA website.

If you disagree with the decision and it is final, you may timely file a claim for refund in Superior Court after you have paid the liability.