



State of California Office of Tax Appeals

Guide to Your Oral Hearing

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.

INTRODUCTION

This publication provides important information regarding your oral hearing before the California Office of Tax Appeals (OTA). OTA is an independent body created by the Taxpayer Transparency and Fairness Act of 2017. OTA's mission is to provide a fair, objective and timely process for tax appeals from all California taxpayers. A panel comprised of Administrative Law Judges (ALJs), or a single ALJ if you are participating in the Small Case Program, decides appeals of taxes and fees administered by the Franchise Tax Board (FTB) and California Department of Tax and Fee Administration (CDTFA). The ALJs who will hear your tax appeal have substantial experience in California tax law, in both public and private sector settings.

ORAL HEARING PROCESS

You have the option to elect an oral hearing in your tax appeal and present your case before a panel of tax professionals. Once your appeal has progressed to the point at which it can be scheduled for an oral hearing before the ALJs, OTA will send you a Notice of Oral Hearing and a response form. You can submit your responses through the Office of Tax Appeals Portal (OTAP), which can be accessed at [OTAP](https://otap.ca.gov) and at appeal.ota.ca.gov. Alternatively, you may use the Response to Notice of Oral Hearing form to confirm your request for an oral hearing. Your assigned hearing coordinator will be listed on your oral hearing notice. For general questions, contact us through OTAP or at our address and phone number listed below.

OTA's general contact information is:

Office of Tax Appeals
P.O. Box 989880
West Sacramento, CA 95798-9880
Phone: (916) 492-2635
Fax: (916) 492-2089

NOTICE OF ORAL HEARING

If you indicated to OTA that you wish to have an oral hearing, you will be sent a 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, or electronically through video conferencing. OTA's Foundations 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 an OTA staff member, and a due date to return the Response to Notice of Oral Hearing.

RESPONSE TO NOTICE OF ORAL HEARING

Along with the Notice of Oral Hearing will be a response form. The Response to Notice of Oral Hearing asks you to inform OTA which of the following options you wish to pursue:

- Attend the scheduled oral hearing. Please indicate whether you and/or your representative will appear at the hearing and make an oral presentation.
- Request postponement. If you have a 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 and your representative, if any, decline to have an oral hearing, your case will be decided based on the written information previously submitted by the parties.
- 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 agency will be final.

There is also the option on this form to request an interpreter at no charge to you. You may also request other accommodations if needed. Note that if you do not return a completed Response to Notice of Oral Hearing form, your case will be submitted to the ALJs (or ALJ in the SCP) 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

You will also be sent an Authorization for Electronic Transmission of Data form. This form permits OTA to electronically transmit, via email, information about your case to you and your authorized representative.

OTHER DOCUMENTS

Upon request, OTA 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/54/2021/03/OTA-2021-Regs-TOC-and-bookmarked-rev.-3.11.21.pdf>
- The Taxpayer Transparency and Fairness Act of 2017 https://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 taxing agency's attorneys reporting to the Taxpayers' Rights Advocate of each tax agency, are available to advise individual taxpayers with appeals of amounts in dispute of below certain thresholds. Law students research and draft appeal briefs, as well as handle other matters on behalf of eligible taxpayers. For additional information about

this program, please contact CDTFA's Taxpayers' Rights Advocate Office at 1-916-309-5496 or FTB's Taxpayers' Rights Advocate Office at 1-916-845-6227.

Pre-Hearing Conference

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

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 agency whether you agree to the relevant facts in your case and the issues to be presented. If you are participating in the SCP, you will participate in a similar SCP meeting prior to the hearing.

What to Expect at the Oral Hearing

- Arrive at least 15 minutes before your hearing time to allow time to sign in.
- When your appeal is called, approach and sit at the taxpayer table in front of the ALJs. If your hearing is held electronically, you will be connected when your appeal is ready to be heard.
- The lead 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 lead ALJ. The tax agencies (generally FTB or CDTFA) will have an opportunity to ask your witnesses questions. The ALJs may also ask questions.
- When you complete your presentation, the taxing agency will present its case, presenting documentary evidence and/or calling witnesses, if applicable. You will have an opportunity to ask the tax agency's witnesses questions, but not the agency representatives who do not give sworn

testimony. The ALJs may question the agency's witnesses or representatives.

- When the tax agency 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 close the record, deliberate on your appeal, and issue a written opinion following the hearing.

AFTER THE ORAL HEARING

Following your oral hearing, the ALJs will review the evidence and come to a decision. The opinion will be in writing and mailed to you and the taxing agency 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 opinion to submit a petition for rehearing. If OTA does not receive a petition for rehearing within 30 days, the decision will become final and will be 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. Refer to OTA's publication "Appeal Procedures" for additional information regarding your options if you do not agree with OTA's decision in your appeal.