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November 18, 2021

**VIA EMAIL**

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

**Re: LTA 2021/002 – Assessment Appeals Board Remote Hearings**

Dear Chairman Vazquez,

Thank you for the opportunity to provide comments on the Board of Equalization's (BOE) consideration of procedural and due process issues in Assessment Appeals Boards (AAB) remote hearings. On behalf of the Council On State Taxation (COST), I urge you to 1) preserve taxpayer due process rights by ensuring taxpayers have an option for in-person hearings as a fundamental right; and 2) reject arbitrary document submission dates and align document submission rules with in-person hearing practices.

**About COST**

COST is a nonprofit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of over 500 major corporations engaged in interstate and international business. COST's objective is to preserve and promote the equitable and nondiscriminatory state and local taxation of multijurisdictional business entities. Many COST members have operations in California that would be impacted by AAB procedures.

**Option for In-Person Hearing is a Matter of Due Process**

COST recognizes that remote hearings can be conducted appropriately and efficiently in many cases. Taxpayers should, however, retain the option of an in-person hearing. The BOE must "ensure that all applicants are afforded due process and given the opportunity for a timely and meaningful hearing.<sup>1</sup> Remote hearings do not always provide an opportunity for adequate due process, particularly in more complex cases. For example, meaningful interpersonal communication, presentation of exhibits, and examination of witnesses may all be hindered in a remote hearing format. In addition,

<sup>1</sup> California Board of Equalization Property Tax Rule 302(a)(1).

technical difficulties, including connectivity, sound, and video issues, can impact the procedural integrity of the hearing.

For all these reasons, taxpayers should have the option to select a remote or in-person hearing to preserve due process in AAB hearings.

### **In-Person and Remote Document Submission Rules Should Be Consistent**

To further support due process in AAB hearings, we also encourage document submission rules that align with in-person hearings. Specifically, during in-person hearings, parties may present evidence at the hearing.<sup>2</sup> Further, California Revenue and Taxation Code provides for a reasonable continuance or postponement if additional time is needed to review evidence. Imposing document submission rules that require the submission of evidence prior to an arbitrary deadline does not comport with well-established provisions of the California Revenue and Taxation code, creates unnecessary discrepancies between remote and in-person hearing procedures, and will likely create disparities in practices from county-to-county.

Thank you for your time and consideration, and, if you have any questions or if you would like to discuss these comments further, please do not hesitate to contact me.

Respectfully,

A handwritten signature in blue ink that reads "Erica Kenney". The signature is written in a cursive, flowing style.

Erica S. Kenney

cc: COST Board of Directors  
Douglas L. Lindholm, COST President & Executive Director

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<sup>2</sup> California R&TC Section 408(f)(3), 441(h) and 1606(d).