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California's Tax Agencies: How We Got Here

PRESENTED TO:

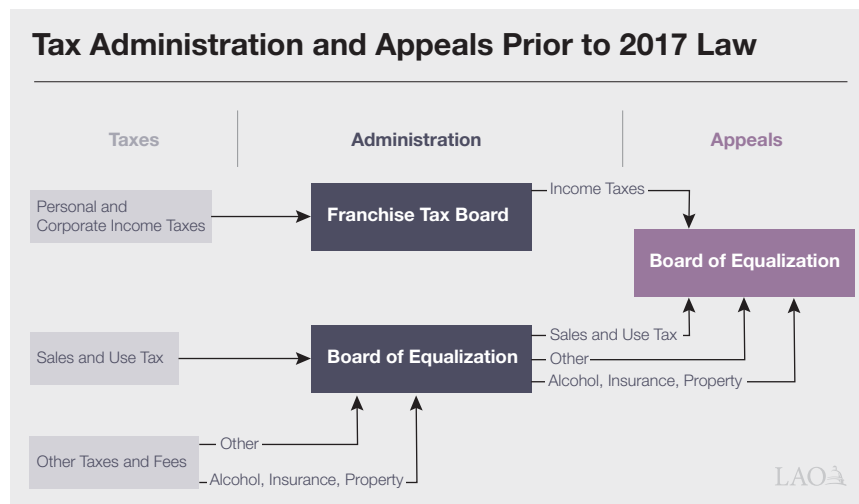
Assembly Committee on Revenue and Taxation
Hon. Jacqui Irwin, Chair



LEGISLATIVE ANALYST'S OFFICE

Tax Administration and Appeals Before 2017

State Board of Equalization (BOE) Administered Many Taxes and Fees. BOE is headed by a five-member board, with four members elected directly by district, and the fifth—the State Controller—elected on a statewide basis. Before 2017, BOE administered the sales and use tax and dozens of smaller tax and fee programs.



Franchise Tax Board (FTB) Administers Personal Income Tax and Corporation Tax. FTB administers personal income and corporate taxes and is headed by a three-member board: the State Controller, the Director of Finance, and the chair of BOE.

BOE Heard Tax Appeals. Before 2017, BOE heard appeals for state tax programs. The five-member board presided over appeals hearings and ruled on appeals by a majority vote. Taxpayers who disagreed with the board's decisions could appeal to the trial courts. Tax administration agencies, however, could not appeal the board's decisions.



Concerns About BOE's Historical Structure

Structure Created Conflicts. Under BOE's historical structure, board members were administrators, arbiters, and advocates. It is extremely difficult for a single state entity to perform all of these functions effectively.

Longstanding Recognition of the Problem. By 2017, some observers had been raising concerns about BOE's organizational structure for many decades. For example, our office's analysis of the *1949-50 Budget Bill* included these comments:

- “The efficiency of the revenue administration of the Board of Equalization is below maximum because of divergent interests and the lack of centralized authority. This arises from the districting of the board members, and the feeling of personal responsibility which each board member has for the administration of liquor and tax matters within his district.”
- “Because of the personal feeling of responsibility for their district, the individual board members frequently require certain deviations from the adopted policy of the board.”



Evaluations Found Serious Problems

Report by State Auditor (1999). In the 1990s, the Legislature approved 250 new audit positions for BOE. The State Auditor found that BOE had redirected half of these positions to other activities. Subsequent budget acts have expressly prohibited such redirections.

Review by State Controller (2015). The Controller found that problems with BOE's internal accounting and administrative controls had resulted in misallocation of sales tax revenues.

Evaluation by Department of Finance (2017). In a March 2017 report, the Department of Finance's Office of State Audits and Evaluations found that individual board members intervened in administrative activities, leading to "inconsistencies in operations, breakdowns in centralized processes, and in certain instances result[ing] in activities contrary to state law and budgetary and Legislative directives," including violations of the budget bill language noted above.

Report by State Personnel Board (2017). In a December 2017 report, the State Personnel Board's Compliance Review Unit found problems with BOE's personnel policies and hiring practices.



2017 Laws Made Major Changes to Tax Administration and Appeals

BOE Established in State Constitution, but Most Duties Were Statutory. The State Constitution sets up BOE’s basic structure, including its elected officers. The Constitution also establishes BOE’s authority over assessment and collection of the alcoholic beverage tax, assessment of the insurance tax, and several aspects of property taxes. BOE’s other pre-2017 duties were statutory.

Laws Transferred BOE’s Statutory Duties to New Departments. In June 2017, the Legislature passed and the Governor signed Chapter 16 of 2017 (AB 102, Committee on Budget). This law created two new departments—the California Department of Tax and Fee Administration (CDTFA) and the Office of Tax Appeals—and transferred all of BOE’s statutory duties to these new departments. BOE maintained its constitutional authority over taxes on alcoholic beverages, insurance, and property. In September 2017, the Governor signed Chapter 252 of 2017 (AB 131, Committee on Budget), which further clarified some of the changes made by AB 102.



Current Structure of Tax Administration and Appeals

Current Structure Reflects 2017 Laws and Subsequent Agreements.

Through interagency agreements, CDTFA carries out many administrative duties for taxes on alcoholic beverages and insurance on behalf of BOE. As shown in the figure below, the other aspects of tax administration and appeals reflect the statutory changes made in 2017.

