

**CLAIMS FOR REFUND, REGULATION SECTION 19322
SECOND INTERESTED PARTIES MEETING DISCUSSION PAPER**

- I. **Background:** On December 3, 2010, the Franchise Tax Board (FTB) conducted an interested parties meeting to solicit input on potential amendments to the text of California Code of Regulations, title 18, section 19322. The facilitator explained that the purpose of the meeting was to provide the public with an opportunity to discuss and provide comments on the proposed amendments to clarify the prescribed methods of filing, specify the grounds to be set forth in a claim, and clarify the hearing process. A summary of the meeting and any timely input received was posted on line.

For the second scheduled interested parties meeting (IPM) the FTB has made available the following handouts: the [IPM announcement](#), the [current law and regulation](#), a draft of the [proposed amendments](#) (with mark-ups, underscores to represent additions to language and strike-throughs to represent deletions), and an [explanation of discussion draft](#) for the proposed amendments.

- II. **Discussion Topics:** The discussion topics for the second scheduled IPM are organized in the order that each subsection appears in the proposed amended regulation.

- a) Manner of Filing.

The purpose of this proposed amended language at subsection (a) is to direct taxpayers to use the appropriate form to file claims when possible. Notably, since the first IPM, FTB has made available new forms for individuals and entities to use to request a refund of penalties based on reasonable cause, and to request abatement of interest. Use of the proper form will prompt the taxpayer to include the minimum detail in order to allow FTB to identify the document as a claim and to understand the amount and basis of the claim.

- b) Timeliness of Claim.

The purpose of this proposed amended language at subsection (b) is to clarify the law for the taxpayer regarding timely submission of claims by referencing the applicable tax code sections. It adopts language previously included in the subdivision labeled Grounds Set Forth in Claim. Notably, the section references have been updated to include section 19316 as applicable authority.

c) Grounds Set Forth in Claim.

The purpose of this proposed amended language at subsection (c) is to provide additional guidance on the substance or quality of information taxpayers should submit to support their claim for refund or credit.

d) Offset.

The purpose of this proposed amended language at subsection (d) is to further clarify that taxpayers cannot reduce a liability for one year by applying an undetermined refund or credit of another tax year.

e) Fiduciaries.

The purpose of this proposed amended language at subsection (e) is to further clarify that a fiduciary or representative must provide evidence of its authority to act on behalf of a taxpayer. Specific examples have been removed from the language in order to accommodate a variety of situations where individuals are empowered to act on behalf of an individual or entity. FTB intends to evaluate each situation on a case by case basis upon receipt of claims filed by fiduciaries or representatives.

f) Hearings.

The purpose of this proposed amended language at subsection (f) is to further clarify that taxpayers may request a hearing on a claim for refund, and that FTB in its discretion may grant the hearing if FTB believes it is necessary and will aid in the resolution of the claim.

g.) Specific examples.

The purpose of this proposed additional language at subsection (g) is in response to public contact at the first IPM meeting to include specific examples of valid claims as to manner of filing and grounds for claim.