

# California Unemployment Insurance Appeals Board



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## Office of Appeals Tax Hearing Information

# PLEASE READ IMMEDIATELY

GOVERNING PROCEDURE: This pamphlet gives general information about hearing procedures. It is not the law. The governing procedure is in the rules of the California Unemployment Insurance Appeals Board, California Code of Regulations, Title 22, Sections 5000-5168. These rules are available on the Internet at <http://ccr.oal.ca.gov> by selecting the List of CCR Titles and from there selecting Title 22 Social Security, Division 1, Subdivision 2, Chapters 1, 2, and 3. A copy is also available from the Office of Appeals without charge.

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### WHY DID I RECEIVE THE NOTICE OF HEARING?

The Office of Appeals sent you the **Notice of Hearing** because:

- The Employment Development Department (EDD) made a decision about employment taxes;
- A party disagreed with EDD's decision and filed a tax petition. The parties are typically the petitioner who filed the tax petition and EDD; and
- You are a party to the tax petition.

### WHEN AND WHERE IS THE HEARING?

The date, time, and place of the hearing are in the box in the upper-right hand corner of the **Notice of Hearing**. Please read the box carefully. The box tells you to appear either **in person** or **by phone**.

- If the box tells you to appear **in person**, you must go to the place stated in the box. Get there at least 15 minutes before your hearing time. You will need that time to review the case file. If you would like to review the case file before your hearing date contact the Office of Appeals at the number listed on your **Notice of Hearing**.
- If the box tells you to appear **by phone**, follow the instructions in the box to call in for your hearing. Please make sure to review all papers sent to you before you call in.

### CAN THE HEARING DATE OR TIME BE CHANGED?

Not usually. You must have a good reason. Consider the options below before asking for a change. Call the Office of Appeals right away to make your request. See the number listed on your **Notice of Hearing**.

### WHAT IF I CANNOT GO TO THE HEARING?

If you or your witnesses cannot go to the hearing, try using one of the following:

- **Appear by phone.** If a serious problem keeps you from going to the hearing you may ask to appear by phone. Call the Office of Appeals right away. You must have a good reason, such as being more than 50 miles from the place of hearing.
- **Appear by written declaration.** Write your side of the story and include this sentence at the end: **"I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct."** Please date and sign it. The judge must receive it before the hearing.
- **Appear by written statement.** Write your side of the story. The judge must receive it before the hearing. A written declaration, described above, has more weight than a written statement.

### SHOULD I GO TO THE HEARING?

Yes, if you do not go or appear in writing or in some other way the judge will usually dismiss your petition, if you are the party who filed the tax petition.

### WHAT WILL HAPPEN AT THE HEARING?

At the hearing the judge will:

- Record the hearing.
- Explain the hearing process.
- Question parties and witnesses under oath.
- Receive papers and other exhibits.

At the hearing each party can:

- Present necessary witnesses and exhibits.
- Question parties and witnesses.
- Respond to evidence presented by others.
- Make closing comments.

### AM I REQUIRED TO BE REPRESENTED AT THE HEARING?

No, however you have the right to be represented by any person at your expense. The person need not be a lawyer. If you choose to represent yourself, the judge will explain the hearing process. The judge will question parties and witnesses and help you ask questions, if needed.

### WHAT IF I NEED AN INTERPRETER?

The **Notice of Hearing** will state if an interpreter has been provided. If not, contact the Office of Appeals right away. See the number listed on your **Notice of Hearing**. We will get and pay for an interpreter.

### WHAT IF I NEED SPECIAL ACCOMMODATIONS?

Contact the Office of Appeals right away for any special accommodations, such as assistive listening devices or wheelchair accessibility. See the number listed on your **Notice of Hearing**.

### WHAT IF I MOVED?

Contact the Office of Appeals right away. See the number listed on your **Notice of Hearing**.

### SHOULD I BRING WITNESSES TO THE HEARING?

Yes, bring any witnesses who support your petition. Eyewitnesses are best. The judge will decide which witnesses will be allowed to testify. Witnesses may have to wait outside the hearing room until they are asked to testify.

### WHAT IF A WITNESS DOES NOT WANT TO ATTEND THE HEARING?

Contact the Office of Appeals right away. See the number listed on your **Notice of Hearing**. If approved, the Office of Appeals will prepare either a:

- Notice to Attend – A request to attend the hearing that we will mail to your witness.
- Subpoena – An order to attend the hearing that you or another person will hand to the witness.

### SHOULD I BRING PAPERS TO THE HEARING?

Yes, bring any papers that support your petition. These should include any important information such as letters, tax records, or pay records. Bring three copies if you can. The judge will keep one copy of the papers as evidence in the case file.

### WHAT IF I DO NOT HAVE THE PAPERS?

If someone else has a paper you need, ask that person for a copy. If that person will not give you a copy, contact the Office of Appeals right away. See the number listed on your **Notice of Hearing**. If approved, the Office of Appeals will prepare either a:

- Notice to Produce – A request that we will mail to your witness to produce the papers for the hearing.
- Subpoena Duces Tecum – An order to produce the papers that you or another person will hand to the witness.

### WHAT IF I WANT TO CANCEL THE PETITION?

If you filed the petition, you may ask to cancel it. This is called a request to withdraw. You may withdraw by calling or writing to the Office of Appeals. See the number or address listed on your **Notice of Hearing**. If you did not file the petition, you may not ask to withdraw it.

### WHAT IF I MISSED THE HEARING?

Contact the Office of Appeals right away. See the number listed on your **Notice of Hearing**.

### WHEN WILL I GET THE JUDGE'S DECISION?

The Office of Appeals will mail the decision after the hearing date.