

MARCH 22, 2022

The Department of Tax and Fee Administration, the State Board of Equalization, and the Office of Tax Appeals

PRESENTED TO:

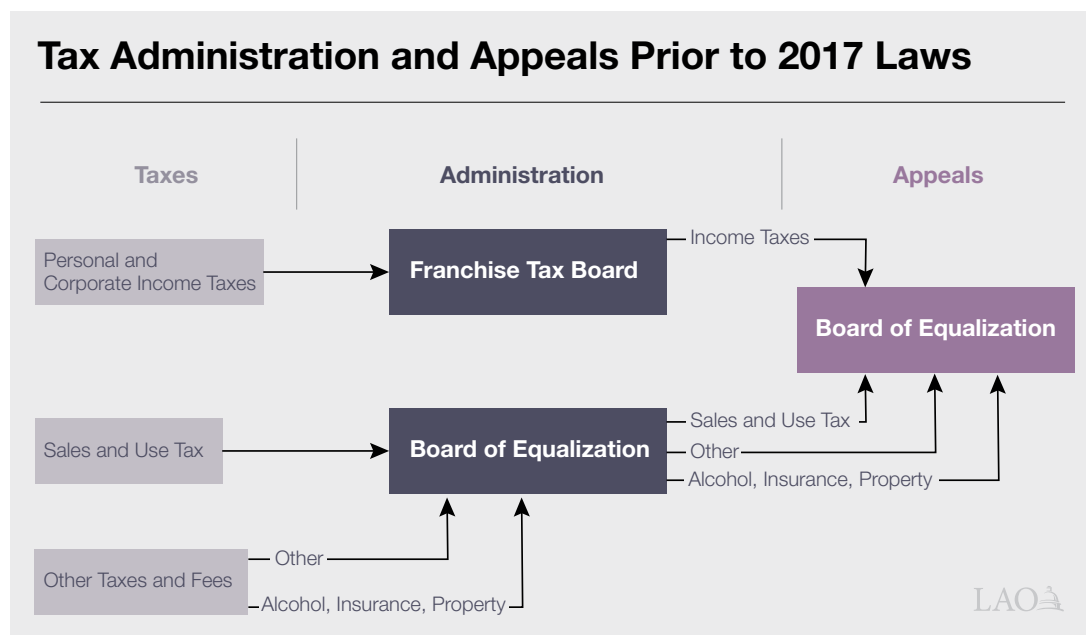
Assembly Budget Subcommittee #4
on State Administration
Hon. Wendy Carrillo, Chair



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 the 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.



2017 Laws Made Major Changes to Tax Administration and Appeals

Concerns About BOE. BOE's structure combines specific features of the legislative, executive, and judicial branches of government. Due to the conflicts inherent in this structure, our office and others long expressed concerns about BOE's ability to operate effectively. For example, our analysis of the *1949-50 Budget Bill* noted inconsistencies in tax administration among board members' districts.

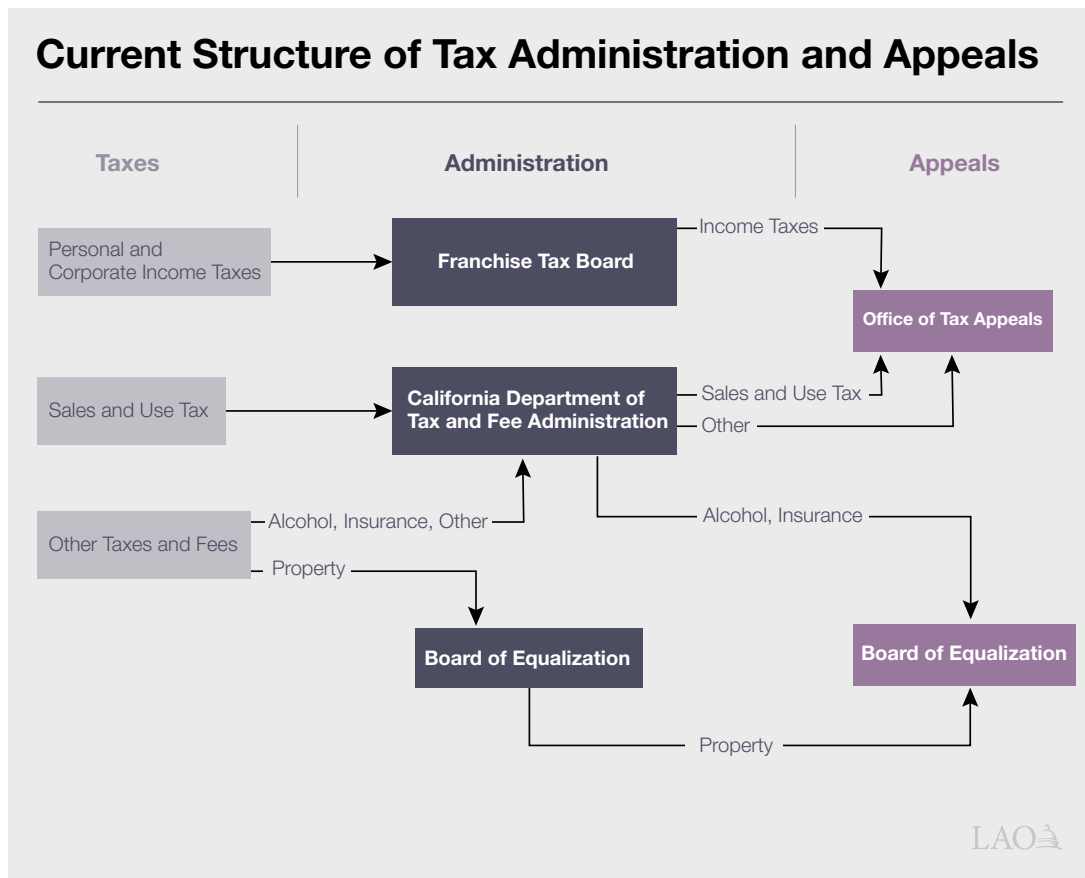
BOE Established in State Constitution, but Most Duties Were Statutory. The State Constitution sets up BOE's basic structure, including its elected officers. The Constitution also establishes BOE's authority over assessment and collection of the alcoholic beverage tax, assessment of the insurance tax, 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 AB 102. This law created two new departments—the California Department of Tax and Fee Administration (CDTFA) and the Office of Tax Appeals (OTA)—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 AB 131, 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.



Recent Highlights

CDTFA

- Started administering new statewide taxes on cannabis.
- Implemented new use tax collection requirements resulting from the U.S. Supreme Court's ruling in *South Dakota v. Wayfair* (2018) and AB 147 (2019).
- Continued and completed a major information technology project initiated under the prior organizational structure.

BOE

- Implemented Proposition 19 (2020), which changes some property tax rules pertaining to (1) inherited properties and (2) certain homeowners who move from one home to another.
- Vacancy rate increased from 14 percent in 2017-18 to 32 percent in 2019-20, then decreased to 17 percent in 2021-22.

OTA

- Heard tax appeals. Published written opinions online within 100 days of hearing each appeal.
- Has been hearing appeals remotely during the pandemic. Planning to resume in-person hearings in April.



Annual Expenditures

Expenditures for BOE and Successors

(In Millions)

	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
CDTFA						
General Fund	—	\$286.9	\$321.4	\$305.9	\$317.2 ^a	\$384.6 ^a
Total Funds	—	561.9	605.7	605.4	631.5	719.8
BOE						
General Fund	\$288.7	\$26.6	\$24.8	\$24.2	\$29.1	\$32.1
Total Funds	555.3	27.0	25.1	24.5	29.5	32.5
OTA						
General Fund ^b	—	\$5.9	\$16.3	\$17.0	\$18.1	\$24.3
Totals						
General Fund	\$288.7	\$319.4	\$362.5	\$347.1	\$364.4	\$441.0
Total Funds	555.3	594.8	647.1	646.9	679.1	776.6

^a Amounts adjusted for Small Business Hiring Credit.

^b All of OTA's funding comes from the General Fund.

Sources: 2022-23 Governor's budget; enacted budget detail for 2018-19 through 2021-22 Budget Acts.

BOE = State Board of Equalization; CDTFA = California Department of Tax and Fee Administration; and OTA = and Office of Tax Appeals.

