

Audit Manual

Chapter 7

Reaudits and Revised Field Billing Orders

Business Tax and Fee Department

*California Department of
Tax and Fee Administration*

This is an advisory publication providing direction to team members administering the sales and use tax, in addition to a variety of other taxes and fees. Although this material is revised periodically, the most current material may be contained in other resources including Operations Memoranda and Policy Memoranda. Please contact any California Department of Tax and Fee Administration office if there are concerns regarding any section of this publication.

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REAUDITS AND REVISED FIELD BILLING ORDERS (FBOS)

0700.00**GENERAL****0701.05**

Auditors prepare audits and field billing orders (FBOs) based on the best and most accurate information disclosed or available. There are instances in which changes to the original recommendations may be ordered by the proper authority because additional information is furnished to the Department. This information, at times, is supplied by the taxpayer in connection with a protest of the audit findings or it may already be contained in the audit working papers (AWP). For changes made prior to the issuance of the Notice of Determination (NOD), see AM Chapter 2 for guidance on documenting those changes on the audit report or FBO. Adjustments made after the NOD is issued are set forth in this chapter for reaudits or revised FBOs.

Reaudits and revised FBOs may be required as the result of an appeal and are completed after the original audit or FBO is posted and billed.

ADMINISTRATIVE PROCEDURES ON ADJUSTMENTS**0701.10**

Several options are available to a taxpayer to make known their position on items questioned by the auditor, for both audits and FBOs. The administrative procedures to protest an audit or FBO recommendation or to appeal an NOD are listed below in the order they will normally be pursued by the taxpayer:

1. Consultation with the auditor.
 - During the audit.
 - After completion of the audit.
2. Consultation with the auditor's immediate supervisor.
3. Discussion with a local CDTFAs representative in response to an Audit Results Letter (10-day).
4. File a petition for redetermination.
 - Furnish additional records, documents, or evidence to the Office Making Audit (OMA) or Headquarters team members.
 - Hold a conference before a CDTFAs (or Board of Equalization) Appeals Bureau attorney or auditor and the Audit Principal, Office Administrator, Supervising Tax Auditor or their designee from the OMA.
 - Hold a hearing before the Office of Tax Appeals (OTA) or Board of Equalization.
5. Pay the tax liability in full and file a claim for refund.
6. Proceed with litigation or legal action.

A taxpayer is not required to use all available options. A protest may be resolved or terminated at any level.

Recommended adjustments and changes due to options 4, 5, and 6 above will be submitted as a reaudit or revised FBO.

DISTINCTION BETWEEN AUDITS AND FIELD BILLING ORDERS (FBOS)

0702.00

An audit is an examination of a taxpayer's books and records to determine the correct taxes or fees due. An audit is generally made of twelve quarters or a three-year period. In general, an FBO is conducted for less than twelve quarters or a three-year period. FBOs are created in lieu of a regular audit for several reasons. See section 0213.01 for more details.

REVISED FBO DEFINED

0702.05

A revised FBO is an FBO that, like a reaudit, has been posted and billed and for which an NOD or a Notice of Refund (NOR) has been issued. **Revised FBOs are prepared in accordance with the same procedures set forth for reaudits.**

REAUDIT DEFINED

0702.10

A reaudit is an audit of a period that was previously posted and billed and for which an NOD or NOR was issued. Reaudits require the schedules in the AWP being changed to be copied and renamed with an "R1" designation after the schedule name. For example, "12A-1" becomes "12A-1-R1." If a schedule in the original audit remains unchanged in the reaudit, the schedule does not need to be duplicated for the reaudit.

The original AWP are to remain unchanged and "R1" schedules are added in front of the schedule numbers of the original AWP.

When more than one reaudit is made, supporting schedules will be identified with a suffix of "R1, R2, R3, etc.," ("R1" = first reaudit, "R2" = second reaudit, etc.) depending upon the number of reaudits being performed. All supporting schedules should be grouped and numbered in the same manner as the original audit. A reconciliation schedule will be prepared to reconcile the reaudit or revision adjustments with the measure established in the previous reaudit or original audit.

REAUDITS AND REVISED FBOS

0702.20

The law provides that a taxpayer against whom a determination was made may petition for a redetermination. A petition for redetermination, administrative (late) protest, claim for refund or similar action taken by a taxpayer may result in the preparation of a reaudit or a revised FBO.

Reaudits and revised FBOs which decrease the determination in excess of \$50,000 must be presented to the Deputy Director of the Business Tax and Fee Division for approval and the results must be made available as a public record. Increases and decreases to **non-final** determinations are controlled by Revenue and Taxation Code section 6563 and similar special tax and fee sections. Increases to **final** determinations require the issuance of a new determination for periods that are not expired due to the statute of limitations. Therefore, instructions in this chapter are to be followed closely so that reaudit reports or revised FBOs are prepared uniformly, in the manner best suited for review by those who must approve them.

Adjustments of more than \$15,000 for the Integrated Waste Management Fee are subject to public record posting pursuant to Revenue and Taxation Code section 45801.

PROCESSING OF REAUDITS AND REVISED FBOs

0702.30

The Petitions Section and the Appeals and Data Analysis Branch (ADAB) are responsible for the final review and processing of all reaudits and revised FBOs. This includes, but is not limited to petitions for redetermination, administrative protests, and claims for refund. The Petitions Section handles reaudits and revised FBOs for the sales and use tax program, while ADAB handles reaudits and revised FBOs for special taxes and fees programs.

Replies to a Petitions Section or ADAB request for additional information, or further investigation, should be made directly to the appropriate section, as soon as possible. This will ensure prompt and efficient handling of all petitions for redetermination, administrative protests, and claims for refund.

APPEALS CASE MANAGEMENT

0702.35

Each OMA may manage, assign, and monitor incoming or newly created appeals cases (Administrative Protest, Petition for Redetermination, and applicable dual cases) in the manner they prefer.

SOURCE OF REAUDITS AND REVISED FBOS

0703.00

PROTEST OF ORIGINAL AUDIT AND FBO FINDINGS

0703.05

For the most part, reaudits and revised FBOs typically result from the taxpayer’s protest of the original audit or FBO findings. When this protest is registered by telephone or personal contact, the taxpayer must be advised that it is necessary for them to explain the specific basis of their protest **in writing** to CDTFA, without delay.

Written protests that may result in a reaudit or revised FBO fall into the following general categories:

1. **Petition for Redetermination.** These are petitions that are received after issuance of an NOD and prior to the date it becomes final (30 days from the mailing date of the notice). Note that a petition received prior to the issuance of the NOD will not be accepted as a valid petition for redetermination. In this case, the taxpayer should be advised to file their petition after the NOD is issued and received by the taxpayer (or representative). In the case of split audit periods or billings (for example, FBOs for a period expiring under statute), the taxpayer should be informed that it is necessary to file separate petitions for redetermination for **each** NOD issued. This also includes dual determination NODs.
2. **Claim for Refund.** These are generally received after the determination becomes final and payments have been made toward the liability.
3. **Administrative Protest.** A written protest received after the determination has become final and accepted but is not paid.

When petitions for redetermination, administrative protests, or claims for refund are received in the OMA from taxpayers, the original documents must be scanned and attached in the system, including the envelope in which they were received. They are then forwarded electronically to the appropriate (Petitions Section, ADRS or ADAB) section without delay, (either by email or a bookmark in the system) together with any supplementary information or OMA recommendations. The OMA will date-stamp the original copy and mail it to the Petitions Section or ADAB. Because an Appeals case will not yet have been created at this point, auditors should attach these items to the Audit springboard, CRM, Attachments. If a petition for redetermination is received via email, the email is to be attached to the system and forwarded to the appropriate section (Petitions Section, ADRS or ADAB) without delay.

HEADQUARTERS RESPONSIBILITY

0703.10

Control of petitions for redetermination and administrative protests, establishment of petition files, and initiation of action to withhold collection, involving the sales and use tax program rests with the Petitions Section. ADAB handles these matters for special taxes and fees.

The Audit Determination and Refund Section (ADRS) handles claims for refund for sales and use tax program. ADAB handles claims for refund for special taxes and fees programs.

When petitions for redetermination, administrative protests, or claims for refund are received in any of the sections in Headquarters (Petitions Section, ADRS or ADAB), either directly from the taxpayer or from the OMA, or through Online Services, the appropriate section will send an acknowledgment to the taxpayer and the taxpayer’s representative, if applicable. The OMA will also be notified, using either a bookmark in the system or an email to the Audit Principal of the OMA. If further information is needed from the OMA, the request will be made using Tasks in the applicable appeals case in the system.

HEADQUARTERS RESPONSIBILITY

(CONT.) 0703.10

A request for reaudit may originate in any of the sections in Headquarters (Petitions Section, ADRS or ADAB) by reason of correspondence with the taxpayer, a review of the case by the Petitions Section or ADAB, a review by an external agency, a Decision issued by the Appeals Bureau, the Board of Equalization, or an Opinion/Hearing Decision issued by the Office of Tax Appeals or the Board of Equalization.

In such cases, the Petitions Section or ADAB will notify the appropriate OMA of the need to initiate a reaudit or revised FBO. The Petitions section or ADAB, as applicable, is responsible for final review and posting of all reaudits and revised FBOs in the system.

OMA RESPONSIBILITY

0703.15

Information indicating the need for adjustment is sometimes received by the OMA. When the OMA discovers information indicating an audit or FBO assessment and related billing may need to be adjusted, and the OMA decides a reaudit or revised FBO is necessary, the OMA may proceed with the reaudit without authorization from the Petitions Section, ADRS or ADAB.

For reaudits and revised FBOs, a *Report of Discussion of Audit Findings* (CDTFA-836-A) must be created. To create the CDTFA-836-A, an Audit Disagreement case must first be created.

If the OMA determines an adjustment to only delete penalties assessed on the original audit or FBO, such as negligence, is warranted, a reaudit or revised FBO is not necessary. Instead, the OMA should notify the Petitions Section, ADRS or ADAB, via memo, to delete the penalty. Adjustments recommended by a Decision or an Opinion/Hearing Decision to only delete any penalty will be processed by Petitions Section, ADRS or ADAB and will not be referred to the OMA.

Any original petition letter received in the OMA should be forwarded to the Petitions Section or ADAB, with a memo explaining that a reaudit or revised FBO is in process. When the reaudit is initiated by the OMA before the determination becomes final (30 days from the date of the determination being issued), the OMA must secure a petition for redetermination and immediately forward it to the Petitions Section or ADAB and attach it to the Audit springboard, CRM tab, Attachments sub-tab in the system. Securing the petition for redetermination prevents collection actions from occurring while the taxpayer goes through the appeals process and prevents the finality penalty from being assessed.

When a reaudit or revised FBO originates in the field and the matter is referred to the OMA on the petition acknowledgment letter, the Audit Principal will authorize the reaudit by assigning it to the respective audit supervisor.

Prior to the reaudit or revised FBO being staged forward in the system to “Petitions/ADAB Review” for posting and billing, the Audit Principal will complete a Staff Recommendation case paper within the Appeals case in the system. The Audit Principal will attach the CDTFA-836-A within the Appeals case in the system and will submit and approve the case, which will automatically complete the Staff Recommendation case in the system.

SETTLEMENT CASES

0703.18

When the OMA determines (as indicated in the system) that an audit is being reviewed by the Settlement Section, the OMA will proceed with the reaudit or revised FBO until it receives notification that a tentative settlement agreement has been reached. This is to ensure the reaudit or revised FBO can be processed immediately if a settlement agreement is not reached.

While the Settlement case in the system cannot be viewed by team members outside of the Settlement Section, the status (stage) of the Settlement case can be viewed on the Customer or Account springboard, Task tab, and Cases sub-tab.

The stage of the case in the system provides information regarding whether an agreement is secured. A settlement case in the “Accepted” or “Negotiation and Approval” stage is either in the beginning stages or still being worked by the settlement team. If the case is already staged to “Settlement Approval” in the system, the OMA may discontinue processing the reaudit or revised FBO.

If the Settlement Section reaches a tentative settlement agreement in a case, they will update the status of the Settlement Case in the system to “Settlement Agreement” and a task will be created and assigned to the owner of the related appeals case indicating a tentative agreement has been negotiated and no further action or processing on the audit or FBO should be made by the OMA.

Additionally, the Settlement Section will notify the appropriate headquarters section responsible for the related appeals case (Petitions Section, ADRS, and/or ADAB) that a tentative agreement was reached. The originating appeals unit is responsible for notifying the OMA of this status update if the case is currently under OMA control.

A settlement agreement may occur even after a reaudit or revised FBO is complete, as the settlement may be dependent on the results of the completed reaudit or revised FBO. There are also instances when a settlement agreement may not be needed if contested areas are resolved in the reaudit or revised FBO.

**CREDITS IN REAUDITS AND REVISED FBO
WHEN A DETERMINATION IS FINAL**

0703.20

If an NOD becomes final, a refund of any overpayment(s) disclosed as the result of a reaudit or revised FBO, may be barred (some periods or all periods) because the Statute of Limitations has passed. Accordingly, in an audit or FBO where such an NOD was or is partially paid before completion of a reaudit or revised FBO, which recommends a downward revision in the measure of tax, auditors should secure a claim for refund as soon as possible to cover any resulting overpayment. An appropriate entry is required in the Audit springboard, CRM tab, Notes sub-tab in the system. The OMA must also create a “Claim for Refund” case in the system (Account springboard, Case tab, Add) and cross-reference the Case to the audit and/or petition case(s) (Cross Reference tab, Add). Team members can refer to the “Reference Guide for Field Team Members on Handling Refunds and Credits” for more information.

**CREDITS IN REAUDITS AND REVISED FBOS
WHEN A DETERMINATION IS NOT FINAL**

0703.25

When an NOD is not yet final (for example, a timely petitioned liability) and a reaudit or revised FBO indicates there is a credit measure, either for any individual item or in any period not originally covered by a claim for refund, the OMA should immediately secure a claim for refund from the taxpayer and make an appropriate entry documenting the potential credit and claim in the Audit springboard, CRM Notes in the system. The OMA should create a claim for refund case in the system and cross-reference the case to the audit and petition cases, if any exist. Team members can refer to the “Reference Guide for Field Team Members on Handling Refunds and Credits” for more information.

**SPECIAL CONSIDERATIONS FOR REAUDIT
AND REVISED FBO ASSIGNMENT**

0704.00

Auditors should make every effort to complete reaudits and revised FBO assignments promptly. All auditors receiving reaudits and revised FBO assignments (normally the auditor who made the original audit) should give such assignments priority over routine work. Cases should be prioritized based on the age of the periods involved.

EXTENT OF WORK ON REAUDIT OR REVISED FBO

0704.10

The extent of reaudit and revision work will vary according to the circumstances. For example, a thorough examination must be made where a different method is being used to calculate total sales. In other instances, it may only be necessary to conduct a brief examination, such as inspecting a contract to determine the place where title passed. In any situation where the auditor is in doubt, the auditor should consult with their supervisor.

Auditors should review the Decision (or Supplemental Decision(s)) or CDTFA-836-A for areas authorized for adjustment. In some instances, the OMA may need to obtain a Supplemental Decision or a Supplemental CDTFA-836-A for changes not previously authorized.

REAUDIT OR REVISED FBO FOR SAME PERIOD AS ORIGINAL AUDIT

0704.15

A reaudit or revised FBO **must** cover exactly the same period as the original audit or FBO report. A **separate report will be prepared** when an audit of another period is made in conjunction with a reaudit or revised FBO.

ORIGINAL AUDIT OR FBO WORKING PAPERS TO BE UNCHANGED

0704.20

It should be emphasized that all papers prepared in the original audit **must be** retained **unchanged**. Any reaudit or revised FBO working papers should include the original audit or FBO working papers and any changed (R#) tabs should be in front of the 12 Summary original schedule and the changed reaudit or FBO working papers must be attached to the Audit Springboard, CRM tab, Attachments sub-tab in the system. Under CRM, Attachments, in the system, team members will leave the original AWP file unchanged and attach a separate AWP file for each reaudit with the file name including the “R#” designation.

CONTACT HISTORY (CRM NOTES)

0704.25

Generally, the Petitions Section or ADAB team members will add comments in the system under the Appeals case, Items tab, Notes sub-tab, prior to initiating a reaudit or revised FBO. Immediately upon receiving a petition or claim for refund case in the OMA, which requires a reaudit or revised FBO, the Audit Principal or compliance supervisor, as appropriate, must enter comments in the Audit springboard, CRM Notes, to document the receipt of the petition or claim for refund in the system. OMA team members handling a reaudit or revised FBO must document all contact with the taxpayer or their representative on the Audit springboard, CRM Notes. The Audit Principal, or their designee, must stage the original audit or FBO to the “Reaudit” stage in the system. Once the audit or FBO is staged to “Reaudit,” auditors must update the Audit springboard’s CRM Notes to provide the reason for the reaudit or revised FBO. To provide a chronology of activity, auditors should, on at least a weekly basis, update the CRM Notes in the system for significant events during the course of processing the reaudit or revised FBO. Supervisors must continue to monitor progress on these assignments to ensure proper handling and to ensure the auditor recognizes the priority of the assignment. In addition, OMA Administrators must follow up with their Audit Principals on a monthly basis to review the progress of reaudits and revised FBOs. See section 0201.14 for more details on CRM Notes.

REAUDIT REPORTS AND REVISED AUDIT REPORTS

CONTACT HISTORY (CRM NOTES)

(CONT.) 0704.25

OMAs will continue to follow established procedures and response times for submitting assignments and status reports to the Petitions Section, ADRS, or ADAB.

If the Petitions Section or ADAB receives a petition for redetermination and requests that the OMA investigate the taxpayer's contentions, the OMA is generally allowed 60 days to complete the assignment (90 days for the Out-of-State Office(s)). OMA management should review the Audit springboard, CRM Notes in the system, to ensure the auditor is timely processing the reaudit or revised FBO.

If ADRS or ADAB sends an assignment to an OMA for investigation, the OMA is generally allowed six months to complete the assignment or provide a status report to ADRS or ADAB. OMA management should review the Audit springboard in the system to ensure the auditor is timely processing the reaudit or revised FBO.

COMPLETION OF A REAUDIT OR REVISED FBO

0704.30

When the reaudit or revised FBO is completed by the OMA, comments, such as whether the taxpayer agrees or disagrees with the reaudit or revised FBO results, should also be added to the appeals case in the system. In certain situations, such comments may also be entered in the audit and/or appeals case.

It is important to recognize that simply stating that the taxpayer agrees or disagrees with the reaudit or revised FBO is ambiguous. A taxpayer who agrees with the reaudit or revised FBO may agree that the remaining deficiency is the correct amount and have no further dispute. However, a taxpayer may instead agree only that the reaudit or revised FBO was performed in accordance with the Decision, but dispute the remaining deficiency because it does not agree with other aspects of the Decision. Similarly, a taxpayer who disagrees with the reaudit or revised FBO may contend that the reaudit or revised FBO was not performed as recommended by the Appeals Bureau, or the taxpayer may disagree with the Decision of the Appeals Bureau, or both. That is, a taxpayer who "disagrees" with the reaudit or revised FBO might actually agree that the reaudit or revised FBO was performed correctly, or might agree with the Decision of the Appeals Bureau. With all these possibilities, it is **imperative** that auditors specifically ask the taxpayer:

- Whether the taxpayer agrees that the reaudit or revised FBO has made the adjustments as ordered by the Appeals Bureau; and
- Whether the taxpayer agrees with the Appeals Bureau's Decision.

The answers to these specific questions must be included in the reaudit or revised FBO report, along with a description of the reason for any disagreement, as applicable. See section 706.25.

REAUDIT OR REVISED FBO HOURS

0705.55

In the system, in the Audit springboard, the Time tab must show the **total hours spent on the original audit or FBO, including the hours spent in making the reaudit or revised FBO**. Reaudit or revised FBO hours will be recorded in the same location as the hours for the original audit or FBO because audits and reaudits, as well as FBOs and revised FBOs, will have the same audit case number.

**FURNISHING COPIES OF REAUDITS AND REVISED
FBOS TO TAXPAYERS**

0705.60

Reaudit or revised FBO working papers and a preliminary Audit Results Letter are to be furnished to the taxpayer after a reaudit or revised FBO is completed by the auditor. In addition, a copy of the “Reconciliation and Explanation of Reaudit Adjustments” schedule is also to be provided to the taxpayer as part of the AWP.

The taxpayer shall be provided copies of all reaudit or revised FBO schedules and team members shall document this action in the system in CRM Notes, along with attaching the related letter, e-mail, or fax in the CRM tab, Attachment sub-tab. If AWP are hand delivered, auditors should state the date they were delivered to the taxpayer, or their representative, in the Audit springboard, CRM Notes in the system.

The taxpayer should be advised that the recommendation is subject to review.

A final Audit Results Letter will be sent to the taxpayer after staging the reaudit or revised FBO to “Posted and Billed” in the system.

**FURNISHING COPIES OF AUDIT WORKING PAPERS AND LETTER TO
TAXPAYER’S REPRESENTATIVE**

0705.65

A copy of the reaudit or revised FBO working papers and a final Audit Results letter will be furnished by the reviewer to the taxpayer’s representative (attorney, accountant, etc.) upon completion of reaudit work and before the reaudit or revised FBO is staged to “Petitions/ADAB Review” in the system.

AUDITOR'S COMMENTS ON REAUDITS AND REVISED FBOS 0706.00

TYPES OF COMMENTS

0706.05

In the Summary Working Papers, on the Verification tab under the Other tab, the original audit and FBO (and original and subsequent reaudit and revised FBO) comments will remain **unchanged** in the system. The comments will print on the Audit Results Letter provided to the taxpayer after the reaudit or revised FBO is completed. However, reaudits and revised FBOs require additional verification comments:

Reason for Reaudit (select from the drop-down in Verification tab, Other sub-tab, in the system)

The following sub-headings, **manually entered by auditors**, are required under the drop-down option "Reason for Reaudit" in the following order:

R# (R1, R2, R3, etc.) Reason for Reaudit

- Reference to Authority Authorizing Reaudit
- Reaudit Findings and Related Comments
- Taxpayer's Position (on non-concurred or non-committal audits and FBOs only, as appropriate)
- Auditor's Position (on non-concurred or non-committal audits and FBOs only, as appropriate)
- Waiver of Appeals Conference (as appropriate)

For examples of the above comments, please see AM section 0206.95.

All these comments will be in the system under the "Reason for Reaudit" drop-down option on the Summary Lead Schedule (in the system) with sub-headings for the five items listed above. For subsequent reaudits, the same five items must be completed, but under a second (or third or fourth, etc.) drop-down for "Reason for Reaudit" so there are separate comments for each subsequent Reaudit.

Taxpayer's Position and Auditor's Position are only required if the option chosen in the Audit Disagreement case is anything other than "Concurred." If the taxpayer agrees, then under "Reaudit Findings and Related Comments" in the system auditors will include comments about the audit discussion and agreement rather than Taxpayer's Position and Auditor's Position.

REASON FOR REAUDIT OR REVISED FBO

0706.10

This comment identifies the reason for the reaudit or revised FBO. The taxpayer may request a redetermination of a previously issued NOD before a reaudit or revised FBO can be ordered. Examples of this comment include:

- Taxpayer filed a timely petition for redetermination of (date of NOD) liability as recommended by the audit results (date) letter.
- Taxpayer filed a claim for refund of (date of NOD) liability as recommended by the audit results (date) letter.
- Taxpayer filed a petition, after the finality date, that was accepted as an administrative protest objecting to the (date of NOD) liability as recommended by the audit results letter dated (date).

**REFERENCE TO AUTHORITY AUTHORIZING REAUDIT
(OR REVISED FBO)**

0706.15

This sub-heading comment identifies the authorization for the adjustment(s) to be made. This sub-heading comment must indicate which OMA or HQ section/branch or external agency (for example, OTA, BOE) ordered adjustment(s) to the original audit. Examples include:

- Taxpayer discussed the determination with (name of Appeals representative and title) who ordered changes per a Decision (or Supplemental Decision) dated (date).
- Taxpayer discussed the determination with (name of OMA representative and title) who ordered changes per a CDTFA-836-A, *Report of Discussion of Audit Findings* dated (date).
- Reaudit pursuant to an Opinion/Hearing Decision, dated (date), issued by the OTA or Board of Equalization (as applicable for tax program).

REAUDIT FINDINGS AND RELATED COMMENTS

0706.20

The auditor’s additional verification and findings for the reaudit or revised FBO should be briefly stated under this sub-heading in the system. This summarizes the changes made and then refers to 414A-2 R(#) for more detail. Auditors must make a statement similar to the following under this sub-heading:

“For the reaudit, the auditor conducted two additional days of site tests and updated the credit card sales ratio. As a result, the audited measure was reduced by approximately \$15,000. Reaudit adjustments are explained on schedule 414A–2 R(#).”

See sections 0702.10 and 0707.15 regarding how to name reaudit or revised FBO working papers.

If changes are made in the reaudit or revised FBO that are not instructed in the original Decision (or Supplemental Decision) or Report of Discussion of Audit Findings, they must be fully explained in this comment. A Supplemental Decision or a Supplemental Report of Discussion of Audit Findings must be obtained from the appropriate authority, documenting the additional adjustments allowed.

If the taxpayer agrees, auditors will also include comments about the audit discussion and agreement. (For disagreed audits, comments are part of the Taxpayer’s Position comment.)

See below for a sample of additional comments for an agreed audit:

“Auditor discussed reaudit findings with owner, Robert Jones, on 10/05/21. Mr. Jones stated he agrees with the reaudit findings.

TAXPAYER’S POSITION

0706.25

Auditors must make a sub-heading comment in the system under Taxpayer’s Position if the option chosen in the Audit Disagreement case is anything other than “Concurred” for the reaudit or revised FBO recommendation. See AM 0704.30 to ensure the areas of disagreement are properly and accurately explained.

This sub-heading comment identifies the discussion held between the parties involved and the item(s) and reason(s) why the taxpayer does not agree with the reaudit or revised FBO. The taxpayer’s contentions are generally the issues discussed before the Appeals or OMA representative.

For example, if the taxpayer disagrees with item #3-<12A> after the reaudit adjustment, auditors must add the taxpayer’s position in the Taxpayer’s Position sub-heading of the Reason for Reaudit comments as follows:

REAUDIT REPORTS AND REVISED AUDIT REPORTS

TAXPAYER'S POSITION

(CONT.)0706.25

“Taxpayer’s Position:

Auditor discussed reaudit findings with owner, Robert Jones, on 10/05/21 who stated he disagrees with the reaudit findings for the following areas:

Item #3-<12A>

Taxpayer obtained additional XYZ responses from customers and is of the opinion that the amount of disallowed claimed sales for resale should be reduced for those that did not reply. The taxpayer believes the resale certificates were taken in good faith from the customers that did not reply.”

A reaudit or revised FBO may be ordered as a result of a Decision (or Supplemental Decision). If the Decision (or Supplemental Decision) identifies the taxpayer’s contentions, it is **not** necessary to restate them. However, the Taxpayer’s Position comment is still required. If this situation exists, the taxpayer’s position(s) on the reaudit or revised FBO comment should read:

“Taxpayer’s Position: See copy of Decision (or Supplemental Decision) found in the appeals case and audit case for the taxpayer’s position.”

AUDITOR'S POSITION

0706.30

Auditors **must** make a comment under “Auditor’s Position” if the option chosen in the Audit Disagreement case is anything other than “Concurred”, for the reaudit or revised FBO recommendation. If the taxpayer disagrees to item #3-<12A> even after the reaudit or revised FBO adjustment, auditors will add their position in the Auditor’s Position section of the verification comments as follows:

“Auditor’s Position: Item #3-<12A>

For reaudit, Mr. Smith sent XYZ questionnaires. Adjustments were made per XYZ responses. No adjustments were given to non-replies. The non-replies were for customers who do not appear to be in the line of business that sells items purchased from the taxpayer.”

DISCUSSION OF REAUDIT OR REVISED FBO FINDINGS AND REFERENCE TO WAIVER OF APPEALS CONFERENCE

0706.32

Upon completion, the reaudit or revised FBO should be reviewed with the taxpayer in the same manner as would be followed upon completion of an original audit or FBO. If the taxpayer is still in disagreement with any portion of the reaudit or revised FBO results, but does not want to pursue an appeals conference, auditors must include a statement indicating that fact in the “Waiver of Appeals Conference” section under the “Reason for Reaudit” comment in the system. See section 0706.05.

When the taxpayer agrees with the reaudit or revised FBO findings and had previously requested an appeals conference as part of a timely petition for redetermination, administrative protest, or claim for refund, auditors **must comment** on whether an appeals conference is still requested. Auditors will comment as follows under the “Waiver of Appeals Conference” comment:

“Mr. Smith agrees with the reaudit adjustments and no longer wishes to pursue the appeals conference previously requested.”

When the taxpayer **does not agree** with the reaudit or revised FBO recommendations and **did not request** an appeals conference in the original submission or by subsequent correspondence, auditors **must** comment on whether a conference is desired concerning the items of disagreement and then proceed as follows:

AUDIT MANUAL

DISCUSSION OF REAUDIT OR REVISED FBO FINDINGS AND REFERENCE TO WAIVER OF APPEALS CONFERENCE (CONT.) 0706.32

- a) If the taxpayer disagrees with the reaudit or revised FBO findings and **does** want an appeals conference, a written request should be secured from the taxpayer and attached to the Audit springboard and the Appeals case before the reaudit or revised FBO is staged forward to “Petitions/ADAB Review.” The document should be saved as “Conference Request.” Auditors must enter the taxpayer’s specific reasons for disputing the reaudit or revised FBO findings in the Verification Comments under the “Taxpayer’s Position” heading and in the Staff Recommendation case paper.
- b) If the taxpayer disagrees with the reaudit or revised FBO findings but **does not** want an appeals conference, auditors must state this in the comment section under the “Reason for Reaudit” in the system. In addition, the reason why the taxpayer does not concur should be noted in the Audit Disagreement case, Verification Comments under the “Taxpayer’s Position” heading, and in the Staff Recommendation case paper. Auditors must provide the Audit Results Letter to the taxpayer or their representative informing them of the proposed reaudit or revised FBO recommendation before the reaudit or revised FBO is staged forward to “Petitions/ADAB Review.” The comment below should be added under this sub-heading:

“The taxpayer disagrees with the reaudit adjustments and has not previously requested a formal hearing. The taxpayer wishes to waive the right to a formal hearing.”

- c) If the taxpayer is **noncommittal** or fails to submit a written request for a conference at the time of the reaudit or revised FBO, they may still be able to request a conference if the request is submitted before the Petitions Section or ADAB finalizes the appeals case and issues the closing notice (Notice of Redetermination, Statement of Liability, Notice of Refund). If this situation arises, auditors should note this in the Verification Comments under the “Taxpayer’s Position” heading and in the Staff Recommendation case paper. A formal letter informing the taxpayer of the proposed reaudit or revised FBO recommendation should be provided to the taxpayer or their representative before the reaudit or revised FBO is staged forward to “Petitions/ADAB Review.”

SPECIFIC (MISCELLANEOUS) COMMENTS 0706.35

Where the auditor’s findings cannot be fully explained by means of the standard comments described in the previous sections, additional comments should be included in the Verification Comments in the system’s Audit springboard, as required. Auditors will include an additional comment(s) under a separate sub-heading beneath the “Reason for Reaudit” heading in the Verification Comments.

Auditors must ensure that all questions and issues raised by the taxpayer or other CDTFA sections are fully covered in the comments area.

DISCUSSION OF REAUDIT OR REVISED FBO FINDINGS BASED UPON AN ADMINISTRATIVE PROTEST 0706.45

A ten percent penalty attaches to all determinations not paid before their finality date unless a timely petition for redetermination is filed by the taxpayer or an extension is granted under section 6459 of the Revenue and Taxation Code and related special tax and fee laws. In a reaudit or revised FBO of an account where an unpaid determination has become final, auditors will advise the taxpayer that in addition to the amount shown to be due by the reaudit or revised FBO, a finality penalty in an amount equal to ten percent of the unpaid tax recommended in the reaudit or revised FBO will be added by the Petitions Section or ADAB.

RECONCILIATION WITH ORIGINAL AUDIT

0707.00

RECONCILIATION AND EXPLANATION OF REAUDIT OR REVISED FBO ADJUSTMENTS

0707.05

To reconcile the reaudit or revised FBO findings with the measure of tax determined as the result of the original audit or prior reaudit, a “Reconciliation and Explanation of Reaudit Adjustments” (shown below) or “Reconciliation and Explanation of Revised FBO” schedule **must be prepared** for every reaudit and revised FBO and included in the AWP. It will be used by auditors as a means of summarizing, reconciling, and explaining the reaudit or revised FBO adjustments.

This schedule will also be used by the Petitions Section and ADAB to reconcile the adjusted amounts. The auditor’s detailed comments explaining the basis for both the reaudit or revised FBO adjustments, and those areas protested for which no adjustments are recommended, will be shown on the reconciliation schedule.

This is required for the measure subject to the base state tax rate, but auditors may include one schedule for each of the measures subject to the district, local, or other areas in the reaudit or revised FBO, when applicable.

SUPPORTING SCHEDULES

0707.15

When the reaudit or revised FBO is complex and many adjustments are necessary, other supporting schedules will be required. These should be grouped and numbered in the same manner as the AWP in the original audit, but with a suffix “R(#)” shown after all schedule numbers. Thus, the first reaudit or revised FBO would use suffix “R1,” the second reaudit or revised FBO would use suffix “R2,” etc. It is to be noted, however, that while the supporting schedules for a reaudit or revised FBO should develop the reaudit or revised FBO adjustments, these adjustments are applied to the original audit differences on the reconciliation schedule [414A-2-R1]. See the sample on the following page.

Additionally, if any portion of the reaudit or revised FBO liability is based upon a change in the parameters of the original statistical sample, auditors will prepare a statistical sample evaluation, both within the AWP and also on the CDTFA–472, *Audit Sampling Plan*.

Reconciliation and Explanation of Reaudit Adjustments

EXAMPLE

Megabytes and Gigabytes Inc. Reconciliation and Explanation of Reaudit Adjustments
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Schedule	414A-2-R1
Account	102-1111111
Auditor	J. Smith
Date	5/5/2021

A	B	C	D	E	F	G
		<12>	<12B-R1>	<12C-R1>	(D+E)	(C+F)

Explanation of Reaudit Adjustments

Ref	Period	Measure per Original Audit	Adjustment to Purchases of Supplies	Adjustment to Disallowed Sales for Resale	Total Adjustments	Measure of Tax per First Reaudit
11	1Q19	1,267	-100	0	-100	1,167
12	2Q19	6,789	-511	0	-511	6,278
13	3Q19	9,823	-658	0	-658	9,165
14	4Q19	21,590	-1,112	-9,500	-10,612	10,978
15	1Q20	2,359	-1,120	0	-1,120	1,239
16	2Q20	16,987	-5,096	0	-5,096	11,891
17	3Q20	17,800	-498	-15,225	-15,723	2,077
18	4Q20	29,876	-1,234	0	-1,234	28,642
19	1Q21	10,523	-521	0	-521	10,002
20	2Q21	18,903	-1,180	0	-1,180	17,723
21	3Q21	16,506	-592	0	-592	15,914
22	4Q21	31,769	-282	0	-282	31,487
Total		<u>184,192</u>	<u>-12,904</u>	<u>-24,725</u>	<u>-37,629</u>	<u>146,563</u>

Purchases of Supplies

The taxpayer provided additional purchase invoices substantiating that use tax had been paid to registered out-of-state vendors, which reduced the computed percentage of error and projected measure. Additionally, taxpayer provided their general ledger, sales and use tax working papers, and copies of sales and use tax returns to substantiate that tax was paid directly to the State for some of the remaining items questioned.

Sales for Resale

Two additional XYZ responses were received which indicated that the purchasers had self-assessed the tax on their own returns. This was verified with accounting staff of each firm who returned the XYZ letters.

REAUDIT REPORTS AND REVISED AUDIT REPORTS

WHERE NO ADJUSTMENT IS MADE TO THE ORIGINAL AUDIT OR FBO FINDINGS

0707.20

If there is no basis for adjustment of the original audit or FBO findings, as determined by the OMA, a reaudit or revised FBO should not be initiated. The Staff Recommendation case paper (CDTFA-836-A) in the related petition, administrative protest, or claim for refund case should be completed in the system, noting that no adjustment is warranted and setting forth, in detail, the reason(s) for the recommendation. The OMA should contact (for example, a formal letter, phone call, or sending a copy of the CDTFA-836-A), the taxpayer informing them of the proposed recommendation, that no adjustment be made and their right to an appeals conference. All contacts must be recorded in the system in the Appeals case, Items tab, Notes sub-tab. The Appeals case is then returned to the Petitions Section or ADAB, as applicable, for further processing through the appeals process.

REAUDIT OR REVISED FBO FINDINGS REDUCE ORIGINAL AUDIT RESULTS TO ZERO

0707.25

When the original audit results are reduced to zero in the reaudit or revised FBO, the OMA must adjust the working papers in the system to reflect zero and add applicable comments under the Reaudit Findings and Related Comments sub-heading. Auditors will send the Audit Results Letter informing the taxpayer of the proposed changes made before the related reaudit or revised FBO case is staged forward to “Petitions/ADAB Review” in the system. The OMA will also complete the Staff Recommendation case paper (CDTFA 836-A) in the appeals case in the system. The Petitions Section and ADAB are responsible for the final review and posting and billing the reaudit or revised FBO.

ADJUSTED AUDITS AND FBOS

0707.30

After an exit conference or 10-day discussion, but prior to the audit or FBO being posted and billed, audits may need to be adjusted. Please see section 0210.13 for details.