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**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF SAN DIEGO**

DANIELLE JAYMES, JOSHUAH GERKEN,  
SECOND AMENDMENT FOUNDATION,  
FIREARMS POLICY COALITION,  
CALIFORNIA RIFLE & PISTOL  
ASSOCIATION, and NATIONAL RIFLE  
ASSOCIATION OF AMERICA, INC.,

Plaintiffs,

v.

NICOLAS MADUROS, in his official capacity  
as Director of the California Department of Tax  
and Fee Administration,

Defendant.

ELECTRONICALLY FILED  
Superior Court of California,  
County of San Diego  
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Clerk of the Superior Court  
By A. Villasenor, Deputy Clerk

Case No.: 37-2024-00031147-CU-MC-CTL

**AMENDED VERIFIED COMPLAINT  
FOR DECLARATORY, INJUNCTIVE, OR  
OTHER RELIEF**

1 Plaintiffs Danielle Jaymes, Joshuah Gerken, Poway Weapons & Gear, Inc., North County  
2 Shooting Center, Inc., Second Amendment Foundation, Firearms Policy Coalition, California Rifle  
3 & Pistol Association, and National Rifle Association of America complain of Defendant Nicolas  
4 Maduros, in his official capacity as Director of the California Department of Tax and Fee  
5 Administration, and allege:

## 6 INTRODUCTION

7 1. Plaintiffs sue to challenge the constitutionality of Assembly Bill 28, which imposes  
8 an 11% excise tax on gross receipts from the retail sale of firearms, “firearm precursor parts,”<sup>1</sup> and  
9 ammunition. *See* Assem. Bill 28, 2023-2024 Reg. Sess. (Cal. 2023) (“AB 28”); CAL. REV. CODE §  
10 36001 *et seq.*; CAL. PENAL CODE §§ 26700, 26705, 30395, 34400. While this excise tax is technically  
11 levied on the sellers of these goods, in practice, it is passed through to individuals purchasing  
12 firearms, “firearm precursor parts,” and ammunition in California.

13 2. California’s 11% excise tax is unconstitutional under the Supreme Court’s decision  
14 in *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022), because it implicates conduct  
15 protected by the Second Amendment’s plain text and is not part of this Nation’s history of gun  
16 regulation. Defendant will be unable to present widespread, relevantly-similar analogues from the  
17 Founding era to support the tax. *Id.* at 28–29.

18 3. Additionally, the United States Supreme Court has repeatedly held that constitutional  
19 rights cannot be singled out for special taxation. *See, e.g., Murdock v. Pennsylvania*, 319 U.S. 105,  
20 114 (1943); *Harper v. Va. Bd. of Elections*, 383 U.S. 663, 668 (1966); *Minneapolis Star & Trib. Co.*  
21 *v. Minn. Comm’r of Rev.*, 460 U.S. 575, 591 (1983). The excise tax plainly singles out Second  
22 Amendment rights for disfavored treatment. Because the Second Amendment is “not ‘a second-class  
23 right, subject to an entirely different body of rules than the other Bill of Rights guarantees[.]’” *Bruen*,  
24 597 U.S. at 70 (quoting *McDonald v. City of Chicago*, 561 U.S. 742, 780 (2010)), these precedents  
25 apply with equal force to California’s excise tax.

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26 <sup>1</sup> A “firearm precursor part” is defined by California law, as “any forging, casting, printing,  
27 extrusion, machined body or similar article that has reached a stage in manufacture where it may  
28 readily be completed, assembled or converted to be used as the frame or receiver of a functional  
firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a  
functional firearm once completed, assembled or converted.” CAL. PENAL CODE § 16531(a).

1           4.       As the Supreme Court famously cautioned, “[a] right to tax, without limit or control,  
2 is essentially a power to destroy.” *McCulloch v. Maryland*, 17 U.S. 316, 391 (1819). Here, California  
3 effectively seeks the power to destroy the exercise of a constitutional right by singling it out for  
4 special taxation. If this tax is permitted, there is nothing stopping California from imposing a 50%  
5 or even 100% tax on a constitutional right it disfavors—whether it be the right to keep and bear  
6 arms, the right to free exercise of religion, or any other right. Moreover, calling upon the courts to  
7 decide how much tax is too much would be a completely arbitrary exercise. The only rule that  
8 accords with precedent and common sense is that constitutional rights cannot be singled out for  
9 special taxation.

10           5.       Individual Plaintiffs are ordinary, peaceable, law-abiding citizens. Each has  
11 purchased firearms and/or ammunition for lawful purposes—such as self-defense and training—and  
12 was forced to pay the 11% excise tax. Additionally, Individual Plaintiffs plan to continue purchasing  
13 ammunition in the coming months that will be subject to the tax. One Plaintiff, Ms. Jaymes, had also  
14 planned to purchase a new firearm that will be available soon, but she has put off doing so due to  
15 the increased cost imposed by the tax. If California’s excise tax were enjoined, Plaintiff Jaymes  
16 would promptly purchase the firearm she has been saving up to buy.

17           6.       Dealer Plaintiffs—Poway Weapons & Gear, Inc. and North County Shooting Center,  
18 Inc.—are licensed firearm dealers in California who sell firearms and ammunition to their customers  
19 and are subject to the 11% excise tax. CAL. REV. CODE § 36011, *et seq.* Dealer Plaintiffs have sold  
20 and will continue selling firearms and ammunition in California. They have been and will continue  
21 to be subject to the 11% excise tax absent relief from this court. Dealer Plaintiffs must appropriately  
22 keep account of the 11% excise tax and must timely pay the tax quarterly.

23           7.       The Organizational Plaintiffs—Second Amendment Foundation, Firearms Policy  
24 Coalition, California Rifle & Pistol Association, and National Rifle Association of America—sue  
25 on behalf of their members, such as Individual Plaintiffs, who have purchased firearms and  
26 ammunition in California that are subject to the 11% excise tax, and who will continue to purchase  
27 firearms and ammunition in California subject to the 11% tax. Organizational Plaintiffs also have  
28 members, including Individual Plaintiffs, who will refrain from or reduce the frequency of their

1 purchases to mitigate the effect of the tax.

2 **JURISDICTION AND VENUE**

3 8. This Court has jurisdiction over this action and authority to issue declaratory relief.  
4 See CAL. CODE CIV. PROC. § 1060. This Court likewise has jurisdiction over Plaintiffs’ federal  
5 constitutional claim brought under 42 U.S.C. § 1983. *Ochoa v. Super. Ct. of Santa Clara Cnty.*, 39  
6 Cal.3d 159, 173 n.10 (1985).

7 9. Venue is appropriate in this Court because this action involves a Department of the  
8 State and the Attorney General maintains an office in San Diego. CAL. CODE CIV. PROC. § 401.

9 **THE PARTIES**

10 10. Plaintiff Danielle Jaymes is an ordinary, peaceable, law-abiding citizen and a resident  
11 of San Diego County. She is licensed to carry in California and possesses an active California Carry  
12 Concealed Weapons (“CCW”) license.

13 11. Ms. Jaymes frequently purchases ammunition from Poway Weapons & Gear  
14 (“PWG”), the largest indoor shooting range in San Diego County. Ms. Jaymes uses that ammunition  
15 to train at the range and to load the handgun she carries for self-defense. Ms. Jaymes also purchases  
16 firearms from PWG, including handguns, to use at the range and to carry for self-defense purposes.

17 12. On July 1, 2024, Ms. Jaymes purchased a handgun and ammunition from PWG for  
18 both self-defense and training purposes. Her receipt listed California’s 11% excise tax as a line item  
19 at the bottom, and the typical cost of the firearms and ammunition she purchases had increased by  
20 11%. See Jaymes Receipt, attached as Ex. 1.

21 13. Ms. Jaymes typically purchases ammunition from PWG and plans to purchase  
22 ammunition once a month going forward, despite the tax. Ms. Jaymes was also planning to purchase  
23 a new handgun, namely a Sig Sauer P365 Macro, from PWG when it becomes available in the  
24 coming weeks. But after realizing that the Sig Sauer purchase would cost 11% more, Ms. Jaymes  
25 has decided to defer purchasing it due to the increased cost from the tax. Ms. Jaymes would purchase  
26 this handgun within the coming weeks if it did not cost 11% more.

27 14. Plaintiff Joshuah Gerken is an ordinary, peaceable, law-abiding citizen and a resident  
28 of Orange County. He is licensed to carry in California and possesses an active CCW license. Mr.

1 Gerken also has an instructor’s license issued by the National Rifle Association, and he sometimes  
2 provides firearms instruction at local ranges.

3 15. Mr. Gerken frequently purchases firearms and ammunition for training and self-  
4 defense purposes. Specifically, he has purchased several guns in the last two years and purchases  
5 ammunition about once a month.

6 16. On July 1, 2024, Mr. Gerken purchased ammunition from the Big 5 Sporting Goods  
7 store in Buena Park, California for both self-defense and training purposes. His receipt listed  
8 California’s 11% excise tax as a line item at the bottom, and the typical cost of the ammunition he  
9 purchases had increased by 11%. *See* Gerken Receipt, attached as Ex. 2.

10 17. Mr. Gerken plans to continue regularly purchasing ammunition in the near future but  
11 will do so less frequently due to the 11% tax.

12 18. Plaintiff Poway Weapons & Gear, Inc. (“Poway Weapons & Gear”) is a licensed  
13 dealer of firearms and ammunition, which it sells at its shooting range and retail location at 13550  
14 Danielson St., Poway, CA, 92064.

15 19. On July 1, 2024, Poway Weapons & Gear began collecting from its customers  
16 California’s 11% excise tax on qualifying sales of firearms, firearm precursor parts, and ammunition.  
17 Poway Weapons & Gear adds the 11% excise tax as a line item on its customers’ receipts.

18 20. On October 1, 2024, Poway Weapons & Gear submitted payment of the 11% excise  
19 tax for its sales during the third quarter of 2024 (July 1, 2024 through September 30, 2024) to the  
20 California Department of Tax and Fee Administration. Ex. 4. The amount of the payment was  
21 \$34,666.00. *Id.* On October 22, 2024, Poway Weapons & Gear sought a refund of that payment. Ex.  
22 5. On November 6, 2024, that refund was denied. In an explanation issued on November 19, 2024,  
23 the California Department of Tax and Fee Administration confirmed that it “lacks the authority” to  
24 refund a tax payment based on an argument that a statute is unconstitutional “unless an appellate  
25 court has made a determination that such statute is unconstitutional.” Ex. 6.

26 21. Plaintiff North County Shooting Center, Inc. (“North County Shooting Center”) is a  
27 licensed dealer of firearms and ammunition, which it sells at its shooting range and retail location at  
28 1440 Descanso Ave., San Marcos, CA, 92069.

1           22.     On July 1, 2024, North County Shooting Center began collecting from its customers  
2 California’s 11% excise tax on qualifying sales of firearms, firearm precursor parts, and ammunition.  
3 North County Shooting Center adds the 11% excise tax as a line item on its customers’ receipts.

4           23.     On October 30, 2024, North County Shooting Center submitted payment of the 11%  
5 excise tax for its sales during the third quarter of 2024 (July 1, 2024 through September 30, 2024)  
6 to the California Department of Tax and Fee Administration. Ex. 7. The amount of the payment was  
7 \$24,796.00. *Id.* On December 3, 2024, North County Shooting Center sought a refund of that  
8 payment. Ex. 8.

9           24.     Plaintiff Second Amendment Foundation, Inc. (“SAF”) is a non-profit membership  
10 organization. It is incorporated under the laws of the state of Washington and was founded in 1974.  
11 SAF has over 720,000 members and supporters nationwide, including thousands of members in  
12 California. SAF is dedicated to promoting a better understanding about our constitutional heritage  
13 to privately own and possess firearms through educational and legal programs designed to better  
14 inform the public about gun control issues. SAF has been a pioneer and an innovator in the defense  
15 of the right to keep and bear arms.

16           25.     SAF brings this action on behalf of its members residing in California who intend  
17 and desire to exercise their Second Amendment rights to purchase firearms and ammunition for  
18 training and self-defense purposes. SAF’s members in California regularly buy firearms and  
19 ammunition in the state. As illustrated by the Individual Plaintiffs, SAF’s members in California are  
20 subject to the tax every time they purchase firearms and ammunition in California, and they plan to  
21 continue to purchase these goods despite the tax.

22           26.     Plaintiff Firearms Policy Coalition, Inc. (“FPC”) is a Delaware nonprofit membership  
23 organization with a primary place of business in Clark County, Nevada. FPC works to create a world  
24 of maximal human liberty and freedom through legal action, grassroots and direct activism, growing  
25 an engaged community of natural rights proponents, and by providing resources to those aligned  
26 with our mission. In FPC’s work, including by and through this case, FPC seeks to protect, defend,  
27 and advance the People’s rights, especially but not limited to the natural right to keep and bear arms.  
28 FPC serves its members and the public through litigation and legal efforts, legislative and regulatory

1 advocacy, research, education, outreach, and other programs. FPC has thousands of members and  
2 supporters in California.

3 27. FPC brings this action on behalf of its members residing in California who intend  
4 and desire to exercise their Second Amendment rights to purchase firearms and ammunition for  
5 training and self-defense purposes. Under California's regulatory regime, FPC's members who  
6 reside in California must buy firearms and ammunition in the state through State-licensed retailers.  
7 As illustrated by the Individual Plaintiffs, FPC's members in California are subject to the tax every  
8 time they purchase firearms and ammunition in California, and they plan to continue to purchase  
9 these goods despite the tax in order to exercise their constitutionally protected right to keep and bear  
10 arms for all lawful purposes.

11 28. Plaintiff California Rifle & Pistol Association, Inc. ("CRPA") is a nonprofit  
12 membership and donor-sponsored organization qualified as tax-exempt under 26 U.S.C. § 501(c)(4)  
13 with headquarters in Fullerton, California. Founded in 1875, CRPA seeks to defend the civil rights  
14 of all law-abiding individuals, including the enumerated right to bear firearms for lawful purposes  
15 like self-defense. CRPA regularly participates as a party or amicus in litigation challenging unlawful  
16 restrictions on the right to keep and bear arms. It also provides guidance to California gun owners  
17 regarding their legal rights and responsibilities. CRPA members include law enforcement officers,  
18 prosecutors, professionals, firearm experts, and the general public.

19 29. CRPA brings this action on behalf of its members residing in California who intend  
20 and desire to exercise their Second Amendment rights to purchase firearms and ammunition for  
21 training and self-defense purposes without being subjected to additional taxation in a state where  
22 firearms are already more costly than they are in other states. CRPA's members in California  
23 regularly buy firearms and ammunition in the state. As illustrated by the Individual Plaintiffs,  
24 CRPA's members in California are subject to the tax every time they purchase firearms and  
25 ammunition in California, and they plan to continue to purchase these goods despite the tax.

26 30. Plaintiff National Rifle Association of America, Inc. ("NRA") is a nonprofit  
27 corporation organized under the laws of the State of New York with its principal place of business  
28 in Fairfax, Virginia. The NRA is America's oldest civil rights organization and a foremost defender

1 of Second Amendment rights. It was founded in 1871 by Union generals who, based on their Civil  
2 War experiences, sought to promote firearms marksmanship and expertise amongst the citizenry.  
3 The NRA has millions of members across the nation, including in California.

4 31. The NRA brings this action on behalf of its members residing in California who  
5 intend and desire to exercise their Second Amendment rights to purchase firearms and ammunition  
6 for training and self-defense purposes. The NRA's members in California regularly buy firearms  
7 and ammunition in the state. As demonstrated by the Individual Plaintiffs, the NRA's members in  
8 California are subject to the tax every time they purchase firearms and ammunition in California,  
9 and they plan to continue to purchase these goods despite the tax.

10 32. Defendant Nicolas Maduros is the Director of the California Department of Tax and  
11 Fee Administration. The Department is charged with administering and collecting the 11% excise  
12 tax. CAL. REV. CODE § 36031(a).

### 13 GENERAL ALLEGATIONS

14 33. California enacted AB 28 on September 26, 2023. Its excise tax provision took effect  
15 on July 1, 2024. CAL. REV. CODE § 36011.

16 34. AB 28 adds Section 36011 to the California Revenue and Taxation Code, which  
17 imposes an 11% excise tax on the “gross receipts from the retail sale . . . of any firearm, firearm  
18 precursor part, or ammunition” sold by “licensed firearms dealers, firearms manufacturers, and  
19 ammunition vendors.” *Id.*

20 35. Proceeds from the excise tax “shall be deposited in the Gun Violence Prevention and  
21 School Safety Fund,” *id.* § 36041, which exists to fund various California political initiatives, *id.* §  
22 36005.

23 36. As the Senate Public Safety Committee recognized during consideration of AB 28,  
24 this excise tax will likely “get passed to the consumer via a higher retail price for the good in  
25 question” because “nothing in the bill precludes dealers and manufacturers from raising their prices  
26 to offset the tax and functionally passing the tax on to the consumers.” SEN. COMM. ON PUB. SAFETY,  
27 HR’G REP. ON AB 28, 2023-2024 Reg. Sess., at 9 (July 11, 2023), <https://bit.ly/3VLGBou>.

28 37. As Plaintiffs Jaymes and Gerken observed on July 1, 2024, the sellers of firearms and



1 ammunition that they purchase from have added a line to customer receipts reflecting that the 11%  
2 tax is passed on to the purchaser of firearms and ammunition.

3 38. Through their purchases on July 1, 2024, Plaintiffs Jaymes and Gerken paid the 11%  
4 excise tax. They will be forced to continue paying the tax when purchasing firearms or ammunition  
5 in the future.

6 39. Firearm manufacturers and dealers must remit the 11% excise tax collected from  
7 individual sales and submit quarterly returns. CAL. REV. CODE §§ 36011, 36032, 36033. The Dealer  
8 Plaintiffs are collecting the 11% excise tax through a line item added to customer receipts. The  
9 Dealer Plaintiffs have the option to file for a refund from the Department if they disagree with the  
10 amount of tax paid. *See* Tax Refund Form, attached as Ex. 3 (listing Firearms Tax as option and  
11 requiring the refund seeker to append the “[r]eturns filed and paid” for a certain period). The refund  
12 process here is futile, however, because Plaintiffs are not aware of any source of authority for the  
13 California Department of Tax and Fee Administration to declare a tax unconstitutional and refund  
14 payment on that basis. The Dealer Plaintiffs do not claim that they have been misclassified as subject  
15 to the tax but that the tax itself is unconstitutional.

16 40. Moreover, there is no administrative process available to individuals in California,  
17 such as Individual Plaintiffs, who must now pay an 11% tax on their firearms and ammunition  
18 purchases. Individual Plaintiffs and members of the Organizational Plaintiffs have no other recourse  
19 to vindicate their Second Amendment rights other than suing in this Court. In other words, Plaintiffs  
20 have no adequate remedy at law.

21 41. “[W]here no administrative remedy is provided for the particular issues raised,  
22 recourse to the administrative agency is not required before initiation of court action.” *Andal v. City*  
23 *of Stockton*, 40 Cal. Rptr. 3d 34, 37 (Cal. Ct. App. 2006); *see also Park ‘N Fly of San Francisco,*  
24 *Inc. v. City of South San Francisco*, 234 Cal. Rptr. 23, 28 (Cal. Ct. App. 1987). This is especially  
25 true, where, as here, Plaintiffs bring a “comprehensive constitutional challenge” to the validity of  
26 the excise tax and no factual questions exist that could be resolved by an administrative agency.  
27 *Andal*, 40 Cal. Rptr. 3d at 38; *see also Park ‘N Fly*, 234 Cal. Rptr. 3d at 28 (“The exhaustion doctrine  
28 does not, however, preclude consideration of appellant’s constitutional objections to the ordinance,

1 which provides the taxpayer with no mechanism either for challenging its essential validity or raising  
2 constitutional questions.”).

3 42. Even if there was an administrative process available to Plaintiffs, Plaintiffs do not  
4 need to exhaust administrative remedies before suing. California courts have recognized that  
5 taxpayers need not exhaust administrative remedies before challenging a tax in court when they  
6 allege that the assessment is a “nullity as a matter of law” and “no factual questions exist” that may  
7 be resolved by the Department in the taxpayer’s favor, such that further litigation on Plaintiffs’  
8 constitutional claims would be unnecessary. *Stenocard Corp. v. City & Cnty. of San Francisco*, 471  
9 P.2d 966, 987 (Cal. 1970) (en banc); *Steinhart v. Cnty. of Los Angeles*, 223 P.3d 57, 65–66 (Cal.  
10 2010).

11 43. The nullity exception applies here because the purpose of exhaustion is to allow the  
12 Department to pass on any factual questions within its expertise, thereby eliminating the need for  
13 judicial review of constitutional or statutory questions. *Cf. Stenocard Corp.*, 471 P.2d at 969  
14 (“disputes regarding [property] valuation are within the special competence” of the Department);  
15 *see also Steinhart*, 223 P.3d at 66. But here, there are no factual questions regarding Plaintiffs’  
16 payment of the tax. Only this Court can adjudicate Plaintiffs’ federal constitutional challenge to the  
17 firearms and ammunition excise tax.

18 **CLAIMS FOR RELIEF**

19 **COUNT 1**

20 **Cal. Civ. Proc. Code § 1060**

21 **Declaratory Judgment, Violation of U.S. Const. amend. II (Right to Keep and Bear Arms)**

22 **(Brought by All Plaintiffs)**

23 44. Plaintiffs incorporate here by reference paragraphs 1 through 43, *supra*, as if fully set  
24 forth herein.

25 45. The Second Amendment provides: “A well regulated Militia, being necessary to the  
26 security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” U.S.  
27 CONST. amend. II.

28 46. In *Bruen*, the Supreme Court recognized that the Second Amendment ““guarantee[s]

1 the individual right to possess and carry weapons in case of confrontation.” 597 U.S. at 32 (quoting  
2 *District of Columbia v. Heller*, 554 U.S. 570, 592 (2008)). Because such confrontation can occur  
3 outside the home, the Second Amendment protects “a right to ‘bear’ arms in public for self-defense.”  
4 *Id.* at 33.

5 47. To secure “the core right to possess a firearm for self-defense[.]” the Second  
6 Amendment’s protections extend to “necessary,” “ancillary rights,” including the right to acquire  
7 and sell firearms and ammunition for lawful purposes. *Teixeira v. Cnty. of Alameda*, 873 F.3d 670,  
8 677–78, 682 (9th Cir. 2017) (en banc) (“Commerce in firearms is a necessary prerequisite to keeping  
9 and possessing arms for self-defense[.]”); *Jackson v. City & Cnty. of San Francisco*, 746 F.3d 953,  
10 967 (9th Cir. 2014) (“[W]ithout bullets, the right to bear arms would be meaningless.”); *Jones v.*  
11 *Bonta*, 34 F.4th 704, 716 (9th Cir. 2022).<sup>2</sup> In other words, “[c]onstitutional rights . . . implicitly  
12 protect those closely related acts necessary to their exercise.” *Duncan v. Becerra*, 265 F. Supp. 3d  
13 1106, 1117 (S.D. Cal. 2017), *aff’d*, 742 F. App’x 218 (9th Cir. 2018) (cleaned up). After all, the  
14 “Second Amendment right to keep and bear arms for self-defense ‘wouldn’t mean much’ without  
15 the ability to acquire arms.” *Teixeira*, 873 F.3d at 677 (quoting *Ezell v. City of Chicago*, 651 F.3d  
16 684, 704 (7th Cir. 2011)); *see also Luis v. United States*, 578 U.S. 5, 26–27 (2016) (Thomas, J.,  
17 concurring in judgment) (just as “the First Amendment right to speak would be largely ineffective  
18 if it did not include the right to engage in financial transactions that are the incidents of its exercise,”  
19 the Second Amendment “right to keep and bear arms . . . would be toothless” “without protection  
20 for [the] closely related rights” of acquiring firearms and ammunition (cleaned up)).

21 48. California’s 11% excise tax on firearms and ammunition infringes Plaintiffs’ rights  
22 under the Second Amendment because it implicates conduct protected by the Second Amendment’s  
23 plain text—acquiring firearms and ammunition—and is not part of this Nation’s history of gun or  
24 arms regulation. *Bruen*, 597 U.S. at 1, 34. Defendant will be unable to present widespread,  
25 relevantly-similar analogues from the Founding era to support the tax. *Id.* at 28–29.

26 49. Additionally, the excise tax impermissibly singles out the exercise of a constitutional  
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28 <sup>2</sup> The decision in *Jones* was subsequently vacated and remanded to the trial court for further proceedings in light of the *Bruen* decision. *See* 47 F.4th 1124 (9th Cir. 2022).

1 right for special taxation. The United States Supreme Court has repeatedly held that the exercise of  
2 constitutional rights cannot be targeted through taxation. *See, e.g., Murdock v. Pennsylvania*, 319  
3 U.S. 105, 114 (1943) (striking down tax on religious activities under the First Amendment’s Free  
4 Exercise Clause); *Harper*, 383 U.S. at 668 (striking down \$1.50 poll tax under the Fourteenth  
5 Amendment’s Equal Protection Clause); *Minneapolis Star & Trib. Co.*, 460 U.S. at 591 (striking  
6 down use tax on the paper and ink products used by a newspaper under the First Amendment’s Free  
7 Press Clause). The excise tax—imposed on top of California’s 7.25% generally-applicable sales  
8 tax<sup>3</sup>—plainly singles out Second Amendment rights for disfavored treatment. Because the Second  
9 Amendment is “not ‘a second-class right, subject to an entirely different body of rules than the other  
10 Bill of Rights guarantees[,]’” *Bruen*, 597 U.S. at 70 (quoting *McDonald*, 561 U.S. at 780), these  
11 precedents apply with equal force to California’s excise tax.

12 50. An actual and judicially cognizable controversy exists between Plaintiffs and  
13 Defendant regarding whether Defendant’s administration of the 11% excise tax violates the Second  
14 Amendment to the United States Constitution.

15 **COUNT 2**

16 **42 U.S.C. § 1983**

17 **Violation of U.S. Const. amend. II (Right to Keep and Bear Arms)**

18 **(Brought by All Plaintiffs)**

19 51. Plaintiffs incorporate here by reference paragraphs 1 through 50, *supra*, as if fully set  
20 forth herein.

21 52. For the reasons set out in paragraphs 45–49, which are incorporated here by  
22 reference, California’s 11% excise tax on firearms and ammunition infringes Plaintiffs’ rights under  
23 the Second Amendment because it implicates conduct protected by the Second Amendment’s plain  
24 text—acquiring firearms and ammunition—and is not part of this Nation’s history of gun regulation  
25 and because it impermissibly singles out constitutional rights for special taxation.

26 53. An actual and judicially cognizable controversy exists between Plaintiffs and

27 \_\_\_\_\_  
28 <sup>3</sup> Plaintiffs do not challenge California’s sales tax as applied to firearms and ammunition  
because it applies equally to all goods sold in the state and does not single out Second Amendment  
protected conduct for special taxation like the excise tax.

1 Defendant regarding whether Defendant’s administration of the 11% excise tax violates the Second  
2 Amendment to the United States Constitution.

3 **COUNT 3**

4 **Action for Refund of Tax**

5 **(Brought by Poway Weapons & Gear Inc. and North County Shooting Center Inc.)**

6 54. Plaintiffs incorporate here by reference paragraphs 1 through 53, *supra*, as if fully set  
7 forth herein.

8 55. For the reasons set out in paragraphs 45–49, which are incorporated here by  
9 reference, California’s 11% excise tax on firearms and ammunition violates the Second Amendment  
10 because it implicates conduct protected by the Second Amendment’s plain text—acquiring firearms  
11 and ammunition—and is not part of this Nation’s history of gun regulation and because it  
12 impermissibly singles out constitutional rights for special taxation.

13 56. Plaintiffs Poway Weapons & Gear Inc. and North County Shooting Center, Inc., have  
14 paid the 11% excise tax on their sales of firearms and ammunition for the third quarter of 2024, as  
15 required, and they have sought a refund of the same, as well as any additional taxes paid in the future,  
16 because the tax violates the Second Amendment, as incorporated against the states by the Fourteenth  
17 Amendment of the U.S. Constitution.

18 **PRAYER FOR RELIEF**

19 Wherefore, Plaintiffs pray for judgment as follows:

20 1. For a declaratory judgment stating that California’s 11% excise tax on firearms and  
21 ammunition, CAL. REV. CODE § 36011 *et seq.*, violates the right to keep and bear arms secured by  
22 the Second Amendment to the United States Constitution.

23 2. For a permanent injunction enjoining enforcement of § 36011 and associated  
24 provisions established by AB 28, including collection of the 11% excise tax from licensed firearms  
25 dealers, firearms manufacturers, and ammunition vendors and any revocations of dealer,  
26 manufacturer, or vendors’ certificates of registration from failure to remit the tax.

27 3. For a refund of all taxes paid pursuant to California’s 11% excise tax on firearms and  
28 ammunition by Poway Weapons & Gear Inc. and North County Shooting Center, Inc., whether paid

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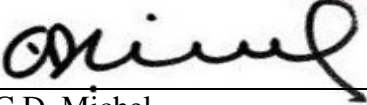
before or after the filing of this complaint.

4. For costs of suit, including reasonable attorney’s fees available pursuant to applicable law.

5. For other appropriate relief the Court deems necessary.

Dated: December 6, 2024

**MICHEL & ASSOCIATES, P.C.**

By   
C.D. Michel  
Attorneys for Plaintiffs

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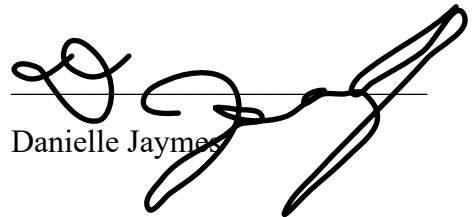
**VERIFICATION**

I, Danielle Jaymes, declare as follows:

I declare that I have read the foregoing Verified Complaint for Declaratory and Injunctive Relief in the matter of *Jaymes v. Maduros* and know the contents thereof. I am a party to this action. The factual matters concerning my experience stated in the foregoing document are true of my own knowledge. The remaining matters are stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: July 2, 2024

  
Danielle Jaymes

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**VERIFICATION**

I, Joshua Gerken, declare as follows:

I declare that I have read the foregoing Verified Complaint for Declaratory and Injunctive Relief in the matter of *Jaymes v. Maduros* and know the contents thereof. I am a party to this action. The factual matters concerning my experience stated in the foregoing document are true of my own knowledge. The remaining matters are stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: July 2, 2024



Joshuah Gerken



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**VERIFICATION**


I, Alan Gottlieb, declare as follows:

I am Executive Vice President of the Second Amendment Foundation, a Plaintiff in the above-named action, and I am authorized to make this verification on their behalf.

I declare that I have read the foregoing Verified Complaint for Declaratory and Injunctive Relief in the matter of *Jaymes v. Maduros* and know the contents thereof. I declare that the factual matters set forth in paragraphs 17–18 are true and accurate based on my organization’s experience. The remaining matters are stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: July 2, 2024



Alan Gottlieb

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**VERIFICATION**

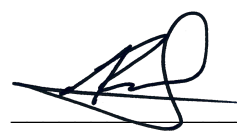
I, Brandon Combs, declare as follows:

I am President of the Firearms Policy Coalition, a Plaintiff in the above-named action, and I am authorized to make this verification on their behalf.

I declare that I have read the foregoing Verified Complaint for Declaratory and Injunctive Relief in the matter of *Jaymes v. Maduros* and know the contents thereof. I declare that the factual matters set forth in paragraphs 19–20 are true and accurate based on my organization’s experience. The remaining matters are stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: July 2, 2024

  
\_\_\_\_\_

Brandon Combs

**VERIFICATION**

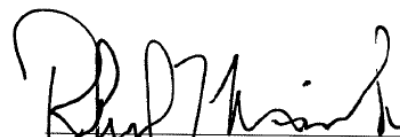
I, Richard Minnich, declare as follows:

I am the Treasurer of the California Rifle & Pistol Association, a Plaintiff in the above-named action, and I am authorized to make this verification on their behalf.

I declare that I have read the foregoing Verified Complaint for Declaratory and Injunctive Relief in the matter of *Jaymes v. Maduros* and know the contents thereof. I declare that the factual matters set forth in paragraphs 21–22 are true and accurate based on my organization’s experience. The remaining matters are stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: July 2, 2024



Richard Minnich

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**VERIFICATION**


I, Joseph Greenlee, declare as follows:

I am the Director of the Office of Litigation Counsel at the National Rifle Association Institute for Legislative Action, which is the lobbying arm for the National Rifle Association of America, Inc., a Plaintiff in the above-named action. I am authorized to make this verification on their behalf.

I declare that I have read the foregoing Verified Complaint for Declaratory and Injunctive Relief in the matter of *Jaymes v. Maduros* and know the contents thereof. I declare that the factual matters set forth in paragraphs 23–24 are true and accurate based on my organization’s experience. The remaining matters are stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: July 2, 2024

/s/  \_\_\_\_\_  
Joseph G.S. Greenlee

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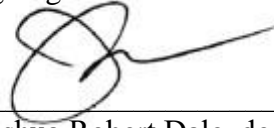
**VERIFICATION**

I, Joshua Robert Dale, declare:

I am counsel for Plaintiff Poway Weapons & Gear, Inc. in the above-entitled matter, and am authorized to make this verification on its behalf. This Amended Verified Complaint for Declaratory, Injunctive, or Other Relief is not verified by an officer of Plaintiff because the officers of Plaintiff are located in a county other than the county in which I have my office. I have read the foregoing Amended Verified Complaint and know its contents. I am informed and believe and on that ground allege that the matters stated in the Amended Verified Complaint are true.

Executed on December 6, 2024, at Long Beach, California.

I declare under penalty of perjury that the foregoing is true and correct.



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Joshua Robert Dale, declarant

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**VERIFICATION**

I, Joshua Robert Dale, declare:

I am counsel for Plaintiff North County Shooting Center, Inc. in the above-entitled matter, and am authorized to make this verification on its behalf. This Amended Verified Complaint for Declaratory, Injunctive, or Other Relief is not verified by an officer of Plaintiff because the officers of Plaintiff are located in a county other than the county in which I have my office. I have read the foregoing Amended Verified Complaint and know its contents. I am informed and believe and on that ground allege that the matters stated in the Amended Verified Complaint are true.

Executed on December 6, 2024, at Long Beach, California.

I declare under penalty of perjury that the foregoing is true and correct.



\_\_\_\_\_  
Joshua Robert Dale, declarant

# EXHIBIT 1

RECEIPT



DANIELLE JAYMES
d.jaymes@pwgrange.com
Billing Address
14795 Rio Rancho, San Diego, CA 92127, United States
Mobile (858) 322-4418

Invoice #: 881548
Invoice Date: Jul 01, 2024 05:38 AM
PO#:
Booking Method: Walk In
Payment Type: Full payment
Terminal: Retail-1
Clerk's Name: Danielle J

PWG Range
13550 Danielson Street
Poway, CA, USA
- 92064

Table with 4 columns: Item, Qty, Price, Total. Rows include SIG SAUER P365 9MM 3.1" OPTIC RDY 10RD BLK, MAGTECH 9MM 115GR FMJ, FEDERAL HST 9MM 147G JHP, and CA DROS FEE.

Pickup Address

13550 Danielson Street, Poway, CA, United States #, 92064

Sub Total: \$890.16 Discount: \$93.75 CA AB28 - Tax: \$82.42 Tax: \$57.27 Shipping: \$0.00 Total: \$936.09

PAYMENT INFO

Outstanding Balance: \$0.00

Table with 6 columns: #, Payment Method, Check/Code/Note, Amount, Date, Status. Row 1: 1, Credit Card (Retail-1), (\*\*\*\*1009), \$936.09, Jul 01, 2024 05:38 AM, Paid

PRODUCT RETURN & SPECIAL ORDER POLICY

Any Returns or Special Orders that are canceled are subject to a 20% processing fee. Returns are ONLY accepted for merchandise found defective immediately upon receipt. PWG Range MAY accept returns on products that do not fit or are the wrong size or configuration, at the company's sole discretion. ANY RETURNS FOR PURCHASED ITEMS WILL BE CREDITED TO THE CUSTOMER AS AN IN-STORE CREDIT ONLY. AMMUNITION MAY NOT BE RETURNED

FIREARM RETURNS: Please take your time to inspect all firearms thoroughly BEFORE proceeding with the transfer (DROS). Once a firearm is DROS'd to you it is considered used, even if un-fired or not delivered to you. Consequently, we cannot provide a full refund for new firearms once they have been transferred into



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your possession. Also, we DO NOT reimburse FFL transfer fees on returned items. Any defects found after the transfer, the firearm MUST be returned directly to the manufacture for replacement or repair (in accordance with the manufacturer's warranty policy). By sending a defective firearm directly to the manufacture, you can avoid the unnecessary transfer fees of returning the firearm to us through or any local FFL dealer. If we do receive a defective firearm that has already been transferred, we will simply forward the firearm to the manufacture on your behalf and possibly at your cost.

# EXHIBIT 2



BUENA PARK, CA  
8990 KNOTT AVENUE  
BUENA PARK, CA 90620  
United States  
714-229-0135

Store: 105 Register: 3  
Date: 7/1/24 Time: 10:48 AM  
Ticket: 786  
Salesperson:  
Jeffrey

Welcome to our store!

Item	Qty	Price	Amount
STD AMMO BCKGRND CK FEE STD AMMO FEE			
6536205	1 ea	1.00	1.00 N
American Eagle 9mm Luger 100-Round Value Pack AE9DP100 . . 9MM			
5146428	1 ea	49.99	49.99 T
American Eagle 9mm Luger 100-Round Value Pack AE9DP100 . . 9MM			
5146428	1 ea	49.99	49.99 T

Subtotal	100.98
Tax 7.7500%	7.74
Sales Tax 11.0000%	11.00

Total 119.72

Cash	30.00
Debit Card	50.00

\*\*\*\*\*9648

Auth #: 002880

Transaction Type: Sale

Auth Time: 10:48 AM

# EXHIBIT 3



# Information Update

You may now file a claim for refund using the California Department of Tax and Fee Administration (CDTFA) online services at [onlineservices.cdtfa.ca.gov](https://onlineservices.cdtfa.ca.gov).

To submit a claim for refund, simply log in using your username and password, and click on the account for which you want to request a refund. The claim for refund is located under the *I Want To* section, *More* subsection. Simply select the *Submit a Claim for Refund* link, and follow the prompts.

**CLAIM FOR REFUND OR CREDIT**

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

(Instructions on back)

NAME OF TAXPAYER(S)	CDTFA ACCOUNT NUMBER <i>(only list one account number per claim)</i>
SOCIAL SECURITY NUMBER(S)* OR EMPLOYER IDENTIFICATION NUMBER	GENERAL PARTNER(S) <i>(if applicable)</i>
BUSINESS NAME <i>(if applicable)</i>	BUSINESS LOCATION ADDRESS <i>(if applicable)</i>
MAILING ADDRESS <i>(if applicable)</i>	

Please select the tax or fee program that applies to your claim for refund or credit.

<input type="checkbox"/> Sales and Use Tax <input type="checkbox"/> Lumber Assessment <input type="checkbox"/> Prepaid Mobile Telephony Services (MTS) Surcharge  For overpayments of use tax by a purchaser of a vehicle or undocumented vessel to the Department of Motor Vehicles (DMV), please complete <a href="#">CDTFA-101-DMV</a> , <i>Claim for Refund or Credit for Tax Paid to DMV</i> .  <b>For the above tax/fee programs, mail your completed form to:</b> California Department of Tax and Fee Administration Audit Determination and Refund Section MIC:39 PO Box 942879 Sacramento, CA 94279-0039  <b>Or email to:</b> <a href="mailto:BTfD-ADRS@cdtfa.ca.gov">BTfD-ADRS@cdtfa.ca.gov</a>	<input type="checkbox"/> Alcoholic Beverage Tax <input type="checkbox"/> California Electronic Cigarette Excise Tax <input type="checkbox"/> California Tire Fee <input type="checkbox"/> Cannabis Taxes <input type="checkbox"/> Childhood Lead Poisoning Prevention Fee <input type="checkbox"/> Cigarette and Tobacco Products Tax <input type="checkbox"/> Covered Electronic Waste Recycling Fee <input type="checkbox"/> Diesel Fuel Tax <input type="checkbox"/> Emergency Telephone Users Surcharge <input type="checkbox"/> Energy Resources (Electrical) Surcharge <input type="checkbox"/> Firearms, Firearm Precursor Parts, and Ammunition Excise Tax <input type="checkbox"/> Hazardous Substances Tax <input type="checkbox"/> Integrated Waste Management Fee <input type="checkbox"/> Lead-Acid Battery Fee <input type="checkbox"/> Lithium Extraction Excise Tax	<input type="checkbox"/> Marine Invasive Species Fee <input type="checkbox"/> Motor Vehicle and Jet Fuel Taxes <input type="checkbox"/> Natural Gas Surcharge <input type="checkbox"/> Occupational Lead Poisoning Prevention Fee <input type="checkbox"/> Oil Spill Response, Prevention, and Administration Fees <input type="checkbox"/> Tax on Insurers <input type="checkbox"/> Timber Yield Tax <input type="checkbox"/> Underground Storage Tank Maintenance Fee <input type="checkbox"/> Use Fuel Tax <input type="checkbox"/> Water Rights Fee  <b>For the above tax/fee programs, mail your completed form to:</b> California Department of Tax and Fee Administration Appeals and Data Analysis Branch MIC:33 PO Box 942879 Sacramento, CA 94279-0033  <b>Or email to:</b> <a href="mailto:adab@cdtfa.ca.gov">adab@cdtfa.ca.gov</a>
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The undersigned hereby makes a claim for refund or credit of \$ \_\_\_\_\_, or such other amounts as may be established, in tax, interest, and penalty in connection with:

Return(s) filed and paid for the period \_\_\_\_\_ through \_\_\_\_\_  
 Determination(s)/billing(s) dated \_\_\_\_\_ and paid \_\_\_\_\_  
 Other *(describe fully)*: \_\_\_\_\_

Basis for refund *(required)*:

Supporting documentation, including amended return(s),  is attached.  will be provided upon request.

SIGNATURE		DATE SIGNED	
PRINT NAME		CONTACT PERSON <i>(if other than signatory)</i>	
TITLE OR POSITION	TELEPHONE NUMBER	TITLE OR POSITION OF CONTACT PERSON	TELEPHONE NUMBER
EMAIL ADDRESS		EMAIL OF CONTACT PERSON	

\*See [CDTFA-324-GEN-WEB](#), *Privacy Notice—Website—No Action Needed*, regarding disclosure of the applicable social security number. **30**

## INSTRUCTIONS FOR COMPLETING CLAIM FOR REFUND

When submitting a claim for refund or credit, you must provide the time period covered by the claim, explain the specific grounds upon which the claim is based, and provide documentation that supports the claim. The documentation should be detailed, include amended returns, and provide proof of the overpayment. Please include your documentation with your claim for refund or credit (or, if the documentation is extensive, please have it readily available upon request).

### What You Need to Know

- Your claim must be filed within the statute of limitations for the tax or fee program.\*
- Compliance with the statute of limitations is based on the filing date of your claim.
- Your filing date is the date of mailing (postmark), the electronic transmittal date (when applicable), or the date that you personally deliver your claim to your nearest CDTFA office. This date may differ from the date signed.
- You may only list one account number per claim form. If you are claiming a refund for multiple tax or fee programs, a separate form is needed for each account.
- If your claim is for a refund of a partial payment or installment payment, your claim will cover all future payments applied to a single determination. If you have been issued more than one Notice of Determination (determination), you need to file a claim for refund for each separate determination to ensure that all future payments associated with that determination are covered.
- This form should only be completed if an overpayment has been made. Otherwise, you can amend your return by logging in with your username and password on our website at [onlineservices.cdtfa.ca.gov](http://onlineservices.cdtfa.ca.gov). We will contact you if additional information is required to refund any overpayment.

### How to Complete the Claim Form

- **Taxpayer Name and Account Number:** Enter your name(s) and account number as registered with CDTFA. If you (claimant) are not registered with CDTFA, enter the name(s) shown on the documents that support the claim for refund. Do not enter the business name (DBA) unless it is also the name that is registered with CDTFA.
- **Social Security Number (SSN) or Employer Identification Number (EIN):** Disclosure of the applicable SSN(s) is required (see [CDTFA-324-GEN-WEB](#), *Privacy Notice—Website—No Action Needed*) even if you are not registered with CDTFA, as there are instances where a refund (or portion thereof) or credit interest may be disclosed to the Internal Revenue Service. Failure to provide a SSN or EIN may delay the processing of your claim for refund. Enter the SSN(s) of both spouses if you are filing a claim as a married couple. Enter the SSN(s) of the general partner(s) and the name(s) of the partner(s) if the claimant is a partnership. Enter the EIN for all other business entities.
- **Refund Amount:** Enter the amount of your claim.
- **Overpayment Type:** Check the appropriate box to indicate if your claim is for a return filing payment, determination or billing payment, or any other type of overpayment, and enter the applicable dates. If you select “other,” fully explain the circumstances of your claim.
- **Basis for Refund:** Provide the basis or grounds for the claim, or describe the circumstances that caused the overpayment. Claims for refund cannot be considered unless this field is completed.
- **Business Name:** Enter the name of the business. For example, if your name is John Doe and the DBA is XYZ Auto Repair, XYZ Auto Repair should be entered.
- **Signature and Title or Position:** Sign your name as the preparer and include your title or position (for example, bookkeeper, attorney, accountant, or taxpayer).
- **Date Signed:** Enter the date the claim form is signed.
- **Contact Person (if other than signatory):** You may use this line to designate a person (other than yourself) to contact, should CDTFA have questions or require additional information. Such persons may be employees, consultants, accountants, attorneys, or others as you designate. A signed [CDTFA-392](#), *Power of Attorney*, may be required.
- **Telephone Number:** Please include your telephone number (and contact person’s telephone number, if applicable).
- **Email:** Please include your email address (and contact person’s email address, if applicable). If you would like to communicate through email, please include a signed [CDTFA-82](#), *Authorization for Electronic Transmission of Data*.

\*The time period for filing a claim for refund will vary depending on a number of factors, particularly the type of overpayment and the tax or fee program for which you are filing a claim for refund. Please check the appropriate laws and regulations for the specific tax or fee program for which you are filing a claim. You may also refer to publication 117 or publication 17 referenced above.

### How to Submit Your Claim

Choose one of the following:

- Log in with your username and password on our website at [onlineservices.cdtfa.ca.gov](http://onlineservices.cdtfa.ca.gov). Click on the account for which you want to request a refund, and select the *More* link under the *I Want To* section. Then select the *Submit a Claim for Refund* link, and follow the prompts.
- Mail, email, or fax as applicable to the appropriate location listed on the front page.
- Hand-deliver to any CDTFA office (for a list of CDTFA offices, please visit our website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov)).

### For More Information

- Call our Customer Service Center at 1-800-400-7115 (TTY:711) to be directed to the specific office responsible for your tax or fee account.
- See [publication 117](#), *Filing a Claim for Refund*.
- See [publication 17](#), *Appeals Procedures: Sales and Use Taxes and Special Taxes and Fees*.

# EXHIBIT 4



**ONLINE SERVICES FILING RECORD:  
ACH PAYMENT**

State of California  
**CALIFORNIA DEPARTMENT OF  
TAX AND FEE ADMINISTRATION**



**Taxpayer Name:** POWAY WEAPONS & GEAR, INC.

**Period:** September 30, 2024

**Account Type:** Firearm and Ammunition Excise Tax

**Submitted:** October 01, 2024

**Account Number:** 259-232672

**Confirmation #:** 0-044-419-935

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Please review the information below for your payment to the California Department of Tax and Fee Administration. You may want to print a copy for your records.

Your confirmation number is **0-044-419-935**

**Paid For:** Firearm and Ammunition Excise Tax  
259-232672

**Payment Type:** Return Payment

**Paid From:** WELLS FARGO BANK NA \*\*\*\*9748

**Period End Date:** 30-Sep-2024

**Payment Amount:** \$34,666.00

**Payment Date:** 01-Oct-2024

**Submitted Date:** 01-Oct-2024 01:58:55 PM

This is only the payment submission. It is your responsibility to review your bank statement to confirm that this transaction was successful.

**Contact Us:**

California Department of Tax and Fee Administration 1-800-400-7115

651 Bannon Street

Sacramento, CA 94279

Email CDTFA by visiting <http://www.cdtfa.ca.gov/email/>

# EXHIBIT 5

**CLAIM FOR REFUND OR CREDIT**

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

(Instructions on back)

NAME OF TAXPAYER(S) <b>Poway Weapons &amp; Gear</b>	CDTFA ACCOUNT NUMBER (only list one account number per claim) <b>259-232672</b>
SOCIAL SECURITY NUMBER(S)* OR EMPLOYER IDENTIFICATION NUMBER <b>90-0950778</b>	GENERAL PARTNER(S) (if applicable)
BUSINESS NAME (if applicable) <b>Poway Weapons &amp; Gear</b>	BUSINESS LOCATION ADDRESS (if applicable) <b>13550 Danielson Street, Poway CA 92064</b>
MAILING ADDRESS (if applicable) <b>13550 Danielson Street, Poway CA 92064</b>	

Please select the tax or fee program that applies to your claim for refund or credit.

<input type="checkbox"/> Sales and Use Tax <input type="checkbox"/> Lumber Assessment <input type="checkbox"/> Prepaid Mobile Telephony Services (MTS) Surcharge  For overpayments of use tax by a purchaser of a vehicle or undocumented vessel to the Department of Motor Vehicles (DMV), please complete <b>CDTFA-101-DMV, Claim for Refund or Credit for Tax Paid to DMV.</b>  <b>For the above tax/fee programs, mail your completed form to:</b> California Department of Tax and Fee Administration Audit Determination and Refund Section MIC:39 PO Box 942879 Sacramento, CA 94279-0039  <b>Or email to: <a href="mailto:BTfD-ADRS@cdtfa.ca.gov">BTfD-ADRS@cdtfa.ca.gov</a></b>	<input type="checkbox"/> Alcoholic Beverage Tax <input type="checkbox"/> California Electronic Cigarette Excise Tax <input type="checkbox"/> California Tire Fee <input type="checkbox"/> Cannabis Taxes <input type="checkbox"/> Childhood Lead Poisoning Prevention Fee <input type="checkbox"/> Cigarette and Tobacco Products Tax <input type="checkbox"/> Covered Electronic Waste Recycling Fee <input type="checkbox"/> Diesel Fuel Tax <input type="checkbox"/> Emergency Telephone Users Surcharge <input type="checkbox"/> Energy Resources (Electrical) Surcharge <input checked="" type="checkbox"/> Firearms, Firearm Precursor Parts, and Ammunition Excise Tax <input type="checkbox"/> Hazardous Substances Tax <input type="checkbox"/> Integrated Waste Management Fee <input type="checkbox"/> Lead-Acid Battery Fee <input type="checkbox"/> Lithium Extraction Excise Tax	<input type="checkbox"/> Marine Invasive Species Fee <input type="checkbox"/> Motor Vehicle and Jet Fuel Taxes <input type="checkbox"/> Natural Gas Surcharge <input type="checkbox"/> Occupational Lead Poisoning Prevention Fee <input type="checkbox"/> Oil Spill Response, Prevention, and Administration Fees <input type="checkbox"/> Tax on Insurers <input type="checkbox"/> Timber Yield Tax <input type="checkbox"/> Underground Storage Tank Maintenance Fee <input type="checkbox"/> Use Fuel Tax <input type="checkbox"/> Water Rights Fee  <b>For the above tax/fee programs, mail your completed form to:</b> California Department of Tax and Fee Administration Appeals and Data Analysis Branch MIC:33 PO Box 942879 Sacramento, CA 94279-0033  <b>Or email to: <a href="mailto:adab@cdtfa.ca.gov">adab@cdtfa.ca.gov</a></b>
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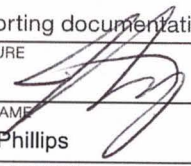
The undersigned hereby makes a claim for refund or credit of \$ 34,666.00, or such other amounts as may be established, in tax, interest, and penalty in connection with:

Return(s) filed and paid for the period \_\_\_\_\_ through \_\_\_\_\_  
 Determination(s)/billing(s) dated \_\_\_\_\_ and paid \_\_\_\_\_  
 Other (describe fully): \_\_\_\_\_

Basis for refund (required):

California's 11% excise tax on firearms and ammunition, Cal. Rev. Code § 36011 et seq., violates the right to keep and bear arms secured by the Second Amendment to the United States Constitution, as incorporated against the States by the Fourteenth Amendment, and is invalid.

Supporting documentation, including amended return(s),  is attached.  will be provided upon request.

SIGNATURE 		DATE SIGNED <b>October 22, 2024</b>	
PRINT NAME <b>John Phillips</b>		CONTACT PERSON (if other than signatory)	
TITLE OR POSITION <b>President</b>	TELEPHONE NUMBER <b>858-883-4295</b>	TITLE OR POSITION OF CONTACT PERSON	TELEPHONE NUMBER
EMAIL ADDRESS <b>jphillips@pwgrange.com</b>		EMAIL OF CONTACT PERSON	

\*See CDTFA-324-GEN-WEB, Privacy Notice—Website—No Action Needed, regarding disclosure of the applicable social security number.

# EXHIBIT 6



## CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

PO BOX 942879, SACRAMENTO, CA 94279-0001 MIC: 33  
 1-916-309-1277 • FAX 1-916-323-9497  
[www.cdtfa.ca.gov](http://www.cdtfa.ca.gov)

GAVIN NEWSOM  
 Governor

AMY TONG  
 Secretary, Government Operations Agency

NICOLAS MADUROS  
 Director

POWAY WEAPONS & GEAR, INC.  
 13550 DANIELSON ST  
 POWAY CA 92064-6874

Letter Date:	November 19, 2024
Letter ID:	L0028797142
Case ID:	6323411
Account Type:	CA Firearm Excise Tax
Account Number:	259-232672
Case Type:	Claim for Refund
Date of Claim:	October 22, 2024
Period Begin:	July 1, 2024
Period End:	September 30, 2024
Amount:	\$34,666.00

Dear POWAY WEAPONS & GEAR, INC.,

This letter is in response to your claim for refund filed with the California Department of Tax and Fee Administration (CDTFA), for the period and amount referenced above. We have reviewed your claim and made a recommendation to deny your claim in full. Please refer to the supplemental information included with, or subsequent to, this letter, which includes an explanation of our findings. If you disagree with our recommendation or if you have further contentions, you may provide additional information within thirty (30) days from the date of this letter. You may submit your documents online at [onlineservices.cdtfa.ca.gov](http://onlineservices.cdtfa.ca.gov) by selecting *Respond to a Letter/Inquiry* and referencing the Letter ID above.

If you would like to request an appeals conference, you may submit your request online as described for the documents above. You may also mail or fax your request to the above address or fax number. Please submit your request within the same 30-day timeline. If no response is received within the 30-day timeline, your claim will be resolved in accordance with our findings.

If you dispute CDTFA staff's decision regarding the amount you owe, you can also request a settlement and have your case considered under the settlement provisions. Please contact the CDTFA Settlement and Administration Section at 1-916-324-2836. Information relative to the settlement process can also be found on the CDTFA's website at [www.cdtfa.ca.gov/legal/settlement-program.htm](http://www.cdtfa.ca.gov/legal/settlement-program.htm).

If you have any questions, please contact me at the telephone number or address provided at the top of this letter.

Sincerely,

Sauvera Ali  
 CDTFA  
 Appeals & Data Analysis Branch

# Memorandum

## California Department of Tax and Fee Administration Appeals and Data Analysis Branch

### Staff Recommendation

**Account Name:** POWAY WEAPONS & GEAR, INC.  
**Account No:** 259-232672  
**Case ID:** 6323411  
**Period:** July 01, 2024, through September 30, 2024  
**Tax Program:** California Firearm and Ammunition Excise Tax  
**Tax Due Date:** October 31, 2024  
**Reply Received:** October 22, 2024  
**Tax Billed:** \$34,666.00  
**Tax Paid:** \$34,666.00

On October 22, 2024, POWAY WEAPONS & GEAR, INC. (taxpayer) submitted a paper request for a Claim for Refund on a California Firearm and Ammunition Excise Tax account for the period July 01, 2024, through September 30, 2024. The taxpayer requests that the California Department of Tax and Fee Administration (CDTFA) refund the tax paid. The taxpayer's California Firearm and Ammunition Excise Tax account was created on June 13, 2024, with a commence date of July 01, 2024. On June 14, 2024 the taxpayer was sent an auto registration letter regarding their new account and filing due date. The taxpayer filed their return in a timely manner and made a payment effective on October 01, 2024 for \$34,666.00 to clear the tax liability in full.

#### Contentions:

The taxpayer contends, "California's 11% excise tax on firearms and ammunition, Cal. Rev Code §36011 et seq., violates the right to keep and bear arms secured by the Second Amendment to the United States Constitution, as incorporated against the States by the Fourteenth Amendment, and is invalid."

#### Recommendation:

Deny the claim for refund in full.

#### Reason:

On September 26, 2023, The Governor signed Assembly Bill 28 that would, commencing July 1, 2024, impose an excise tax in the amount of 11% of the gross receipts from the retail sale in this state of a firearm, firearm precursor part, and ammunition, as specified. The tax would be collected by the state pursuant to the Fee Collection Procedures Law. That said, to the extent taxpayer argues that the imposition of the taxes pursuant to the statutes violates the constitution and impermissible, CDTFA lacks the authority to make such a determination or to order any relief. Article III, Section 3.5 of the California Constitution provides that no administrative agency of the state may declare a statute unenforceable, unconstitutional, or refuse to enforce a statute on the basis of an opinion of the agency that the statute is unconstitutional, unless an appellate court has made a determination that such statute is unconstitutional.

# EXHIBIT 7

ONLINE SERVICES FILING RECORD:  
CALIFORNIA FIREARM AND AMMUNITION EXCISE TAX RETURN

State of California  
CALIFORNIA DEPARTMENT OF  
TAX AND FEE ADMINISTRATION



<b>Taxpayer Name:</b> NORTH COUNTY SHOOTING CENTER, INC.	<b>Account Number:</b> 210-473888
<b>Account Type:</b> California Firearm and Ammunition Excise	<b>Period Begin:</b> July 01, 2024
<b>Return Type:</b> Tax Original	<b>Period End:</b> September 30, 2024
<b>Submitted:</b> 10/30/2024 2:13:25 PM	<b>Due Date:</b> October 31, 2024
<b>Confirmation #:</b> 0-045-327-279	<b>Remaining Due:</b> \$24,796.00

California Firearm and Ammunition Excise Tax	
Total gross receipts from retail sales of any firearms, firearm precursor parts, or ammunition	\$225,416.00
Exemption: Retail sales to peace officers (active or retired) or law enforcement agencies employing a peace officer	\$0.00
Exemption: Total gross receipts from retail sales of any firearms, firearm precursor parts, or ammunition less than \$5,000	\$0.00
Gross receipts from retail sales of firearms, firearm precursor parts, or ammunition subject to excise tax	\$225,416.00
CA Firearms, firearm precursor parts, and ammunition excise tax (CFET) rate	0.11
Subtotal amount of CFET due	\$24,796.00
Excess CFET reimbursement collected	\$0.00
Total amount of CFET due	\$24,796.00
Penalty	\$0.00
Interest	\$0.00
<b>Total amount due and payable</b>	<b>\$24,796.00</b>



ONLINE SERVICES FILING RECORD:  
ACH PAYMENT

State of California  
CALIFORNIA DEPARTMENT OF  
TAX AND FEE ADMINISTRATION



Taxpayer Name: NORTH COUNTY SHOOTING CENTER, INC.

Period: September 30, 2024

Account Type: California Firearm and Ammunition Excise Tax

Submitted: October 30, 2024

Account Number: 210-473888

Confirmation #: 0-045-388-236

Please review the information below for your payment to the California Department of Tax and Fee Administration. You may want to print a copy for your records.

Your confirmation number is **0-045-388-236**

Paid For:	California Firearm and Ammunition Excise Tax 210-473888	Payment Type:	Return Payment
Paid From:	JPMORGAN CHASE ****1546	Period End Date:	30-Sep-2024
Payment Amount:	BANK, NA \$24,796.00		
Payment Date:	31-Oct-2024		
Submitted Date:	30-Oct-2024 02:15:00 PM		

This is only the payment submission. It is your responsibility to review your bank statement to confirm that this transaction was successful.

Contact Us:  
California Department of Tax and Fee Administration 1-800-400-7115  
651 Bannan Street  
Sacramento, CA 94279  
Email CDTFA by visiting <http://www.cdtfa.ca.gov/email/>

# EXHIBIT 8

**CLAIM FOR REFUND OR CREDIT**

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

(Instructions on back)

NAME OF TAXPAYER(S) <b>North County Shooting Center, Inc.</b>	CDTFA ACCOUNT NUMBER (only list one account number per claim)
SOCIAL SECURITY NUMBER(S) OR EMPLOYER IDENTIFICATION NUMBER <b>27-2380288</b>	GENERAL PARTNER(S) (if applicable)
BUSINESS NAME (if applicable)	BUSINESS LOCATION ADDRESS (if applicable)

MAILING ADDRESS (if applicable)  
**1440 Descanso Ave San Marcos, CA 92069**

Please select the tax or fee program that applies to your claim for refund or credit.

<input type="checkbox"/> Sales and Use Tax <input type="checkbox"/> Lumber Assessment <input type="checkbox"/> Prepaid Mobile Telephony Services (MTS) Surcharge <p>For overpayments of use tax by a purchaser of a vehicle or undocumented vessel to the Department of Motor Vehicles (DMV), please complete CDTFA-101-DMV, Claim for Refund or Credit for Tax Paid to DMV.</p> <p><b>For the above tax/fee programs, mail your completed form to:</b>                  California Department of Tax and Fee Administration                  Audit Determination and Refund Section MIC:39                  PO Box 942879                  Sacramento, CA 94279-0039  <b>Or email to:</b> <a href="mailto:BTDFD-ADRS@cdtfa.ca.gov">BTDFD-ADRS@cdtfa.ca.gov</a></p>	<input type="checkbox"/> Alcoholic Beverage Tax <input type="checkbox"/> California Electronic Cigarette Excise Tax <input type="checkbox"/> California Tire Fee <input type="checkbox"/> Cannabis Taxes <input type="checkbox"/> Childhood Lead Poisoning Prevention Fee <input type="checkbox"/> Cigarette and Tobacco Products Tax <input type="checkbox"/> Covered Electronic Waste Recycling Fee <input type="checkbox"/> Diesel Fuel Tax <input type="checkbox"/> Emergency Telephone Users Surcharge <input type="checkbox"/> Energy Resources (Electrical) Surcharge <input checked="" type="checkbox"/> Firearms, Firearm Precursor Parts, and Ammunition Excise Tax <input type="checkbox"/> Hazardous Substances Tax <input type="checkbox"/> Integrated Waste Management Fee <input type="checkbox"/> Lead-Acid Battery Fee <input type="checkbox"/> Lithium Extraction Excise Tax	<input type="checkbox"/> Marine Invasive Species Fee <input type="checkbox"/> Motor Vehicle and Jet Fuel Taxes <input type="checkbox"/> Natural Gas Surcharge <input type="checkbox"/> Occupational Lead Poisoning Prevention Fee <input type="checkbox"/> Oil Spill Response, Prevention, and Administration Fees <input type="checkbox"/> Tax on Insurers <input type="checkbox"/> Timber Yield Tax <input type="checkbox"/> Underground Storage Tank Maintenance Fee <input type="checkbox"/> Use Fuel Tax <input type="checkbox"/> Water Rights Fee <p><b>For the above tax/fee programs, mail your completed form to:</b>                  California Department of Tax and Fee Administration                  Appeals and Data Analysis Branch MIC:33                  PO Box 942879                  Sacramento, CA 94279-0033  <b>Or email to:</b> <a href="mailto:adab@cdtfa.ca.gov">adab@cdtfa.ca.gov</a></p>
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The undersigned hereby makes a claim for refund or credit of \$ 24,796, or such other amounts as may be established, in tax, interest, and penalty in connection with:

Return(s) filed and paid for the period July 1, 2024 through September 30, 2024  
 Determination(s)/billing(s) dated \_\_\_\_\_ and paid \_\_\_\_\_  
 Other (describe fully): \_\_\_\_\_

Basis for refund (required): California's 11% excise tax on firearms and ammunition Cal. Rev. Code § 36011 et seq., violates the right to keep and bear arms secured by the Second Amendment to the United States Constitution, as incorporated against the states by the Fourteenth Amendment, and is invalid.

Supporting documentation, including amended return(s),  is attached.  will be provided upon request.

SIGNATURE 	DATE SIGNED <u>12/3/2024</u>
PRINT NAME <u>Dawn L. Prince</u>	CONTACT PERSON (if other than signatory)
TITLE OR POSITION <u>Vice President</u>	TELEPHONE NUMBER <u>760-798-7300</u>
EMAIL ADDRESS <u>d1prince1@aol.com</u>	EMAIL OF CONTACT PERSON

\*See CDTFA-324-GEN-WEB, Privacy Notice—Website—No Action Needed, regarding disclosure of the applicable social security number.

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA  
3 COUNTY OF SAN DIEGO

4 I, Laura Fera, am employed in the City of Long Beach, Los Angeles County, California. I  
5 am over the age eighteen (18) years and am not a party to the within action. My business address is  
6 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

7 On December 6, 2024, I served the foregoing document(s) described as:

8 **AMENDED VERIFIED COMPLAINT FOR DECLARATORY, INJUNCTIVE, OR  
9 OTHER RELIEF**

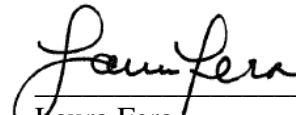
10 on the interested parties in this action by placing  
11  the original  
12  a true and correct copy  
13 thereof by the following means, addressed as follows:

14 Kara Siegel  
15 [Kara.Siegel@doj.ca.gov](mailto:Kara.Siegel@doj.ca.gov)  
16 Angela K. Zugman  
17 [Angela.Zugman@doj.ca.gov](mailto:Angela.Zugman@doj.ca.gov)  
18 Office of the Attorney General  
19 600 West Broadway, Suite 1800  
20 San Diego, CA 92101  
21 *Attorneys for Defendant*

- 22  (BY MAIL) As follows: I am “readily familiar” with the firm’s practice of collection and  
23 processing correspondence for mailing. Under the practice it would be deposited with the  
24 U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach,  
25 California, in the ordinary course of business. I am aware that on motion of the party  
26 served, service is presumed invalid if postal cancellation date is more than one day after  
27 date of deposit for mailing an affidavit.  
28  (BY ELECTRONIC MAIL) As follows: I served a true and correct copy by electronic  
transmission. Said transmission was reported and completed without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 6, 2024, at Long Beach, California.

  
\_\_\_\_\_  
Laura Fera