

1 C. D. Michel – SBN 144258  
Joshua Robert Dale – SBN 209942  
2 Anna M. Barvir – SBN 268728  
Tiffany D. Chevront – SBN 317144  
3 MICHEL & ASSOCIATES, P.C.  
180 E. Ocean Blvd., Suite 200  
4 Long Beach, CA 90802  
Telephone: (562) 216-4444  
5 Facsimile: (562) 216-4445  
Email: cmichel@michellawyers.com

**ELECTRONICALLY FILED**  
Superior Court of California  
County of Sacramento  
08/11/2025  
By:           P. Russell           Deputy

6 David H. Thompson\*  
7 Peter A. Patterson\*  
Megan M. Wold\*  
8 Athanasia O. Livas\*  
COOPER & KIRK, PLLC  
9 1523 New Hampshire Ave N.W.  
Washington, D.C. 20036  
10 Telephone: (202) 220-9600  
Facsimile: (202) 220-9601  
11 Email: dthompson@cooperkirk.com  
ppatterson@cooperkirk.com  
12 \*Pro Hac Vice Applications Forthcoming

13 Attorneys for Plaintiffs

14 **SUPERIOR COURT OF CALIFORNIA**  
15 **COUNTY OF SACRAMENTO**

16 POWAY WEAPONS & GEAR, INC. and SGR  
VENTURES LLC (D/B/A SACRAMENTO  
17 GUN RANGE),

18 Plaintiffs,

19 v.

20 CALIFORNIA DEPARTMENT OF TAX AND  
FEE ADMINISTRATION; TRISTA  
21 GONZALES, in her official capacity as  
Director of the California Department of Tax  
22 and Fee Administration,

23 Defendants.

Case No.: **25CV018964**

**VERIFIED COMPLAINT FOR  
DECLARATORY, INJUNCTIVE, AND  
OTHER RELIEF**

1 Plaintiffs Poway Weapons & Gear, Inc. and SGR Ventures LLC (d/b/a “Sacramento Gun  
2 Range”), complain of the California Department of Tax and Fee Administration and its Director,  
3 Trista Gonzales, and allege as follows:

#### 4 INTRODUCTION

5 1. Plaintiffs sue to challenge the constitutionality of Assembly Bill 28, which imposes  
6 an 11% excise tax on gross receipts from the retail sale of firearms, “firearm precursor parts,”<sup>1</sup> and  
7 ammunition. *See* Assem. Bill 28, 2023-2024 Reg. Sess. (Cal. 2023) (“AB 28”); CAL. REV. CODE §  
8 36001 *et seq.*; CAL. PENAL CODE §§ 26700, 26705, 30395, 34400. This excise tax is levied directly  
9 on the sellers of firearms, “firearm precursor parts,” and ammunition in California. In effect, the tax  
10 is passed on to individuals seeking to purchase such products.

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

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

---

24  
25  
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 **THE PARTIES**

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

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

8 12. On October 1, 2024, Poway Weapons & Gear submitted payment of the 11% excise  
9 tax for its sales during the third quarter of 2024 (July 1, 2024 through September 30, 2024) to the  
10 California Department of Tax and Fee Administration. Ex. 4. The amount of the payment was  
11 \$34,666.00. *Id.* On October 22, 2024, Poway Weapons & Gear sought a refund of that payment. Ex.  
12 5.

13 13. On November 6, 2024, Poway’s refund request was denied. In an explanation issued  
14 on November 19, 2024, the California Department of Tax and Fee Administration confirmed that it  
15 “lacks the authority” to refund a tax payment based on an argument that a statute is unconstitutional  
16 “unless an appellate court has made a determination that such statute is unconstitutional.” Ex. 11.

17 14. Poway administratively appealed the refund denial. On February 11, 2025, the  
18 California Department of Tax and Fee Administration notified Poway that because it was engaged  
19 in litigation over the excise tax, the Department was holding Poway’s administrative “claim for  
20 refund case [] stayed in abeyance pending the litigation.” Ex. 2.

21 15. Accordingly, to reanimate the administrative appeal refund process stayed by the  
22 Department, Plaintiffs voluntarily dismissed a previously filed suit challenging AB 28 on  
23 constitutional grounds in the Superior Court for the County of San Diego. *Jaymes v. Maduros*, No.  
24 37-2024-00031147-CU-MC-CTL (Mar. 19, 2025). The Court entered dismissal on April 1, 2025.

25 16. Poway informed the Department of the voluntary dismissal of the lawsuit, and the  
26 Department resumed the administrative process. Ex. 3.

27 17. The Department “fully denied” Poway’s refund claim on May 14, 2025. Ex. 1. The  
28 Department further advised that “Section 55243 of the Fee Collection Procedures Law provides that

1 any further claim with regard to the disallowed amount must be brought as an action against the  
2 California Department of Tax and Fee Administration in a court of competent jurisdiction . . . within  
3 90 days after the mailing of this letter.” *Id.*

4 18. Plaintiff Poway has completed the administrative refund process, and its claim was  
5 “fully denied.” *Id.* Poway has exhausted all administrative remedies.

6 19. Plaintiff Poway remains subject to the unconstitutional excise tax, submitting  
7 payments quarterly as required by state law. On January 31, 2025, Poway was charged and remitted  
8 payment for \$54,990 under the excise tax. Ex. 6.

9 20. Plaintiff Sacramento Gun Range is a licensed dealer of firearms and ammunition,  
10 which it sells at its shooting range and retail location at 3443 Routier Road, Sacramento CA 95827.

11 21. On July 1, 2024, Plaintiff Sacramento Gun Range began collecting from its customers  
12 California’s 11% excise tax on qualifying sales of firearms, firearm precursor parts, and ammunition.  
13 It adds the 11% excise tax as a line item on its customers’ receipts.

14 22. On October 2, 2024, Plaintiff Sacramento Gun Range submitted payment of the 11%  
15 excise tax for its sales during the third quarter of 2024 (July 1, 2024 through September 30, 2024)  
16 to the California Department of Tax and Fee Administration. The amount of the payment was  
17 \$24,640.00. Ex. 8.

18 23. On October 22, 2024, Plaintiff Sacramento Gun Range sought a refund of that  
19 payment of \$24,640.00 from the Department. Ex. 9.

20 24. On November 19, 2024, the Department recommended full denial of Plaintiff  
21 Sacramento Gun Range’s refund request. Ex. 10. The Department noted: “the taxpayer contends,  
22 ‘California’s 11% excise tax on firearms and ammunition, Cal. Rev Code §36011 et seq., violates  
23 the right to keep and bear arms secured by the Second Amendment to the United States Constitution,  
24 as incorporated against the States by the Fourteenth Amendment, and is invalid.” *Id.* at 3.

25 25. The Department denied the request, stating: “CDTFA lacks the authority to make  
26 such a determination or to order any relief. Article III, Section 3.5 of the California Constitution  
27 provides that no administrative agency of the state may declare a statute unenforceable,  
28 unconstitutional, or refuse to enforce a statute on the basis of an opinion of the agency that the statute

1 is unconstitutional, unless an appellate court has made a determination that such statute is  
2 unconstitutional.” *Id.*

3 26. On May 14, 2025, Plaintiff Sacramento Gun Range’s refund request was “fully  
4 denied.” Ex. 7. The Department further advised that “Section 55243 of the Fee Collection Procedures  
5 Law provides that any further claim with regard to the disallowed amount must be brought as an  
6 action against the California Department of Tax and Fee Administration in a court of competent  
7 jurisdiction . . . within 90 days after the mailing of this letter.” *Id.*

8 27. Plaintiff Sacramento Gun Range has completed the administrative refund process,  
9 and its claim was “fully denied.” *Id.* Sacramento Gun Range has exhausted all administrative  
10 remedies.

11 28. Plaintiff Sacramento Gun Range remains subject to the unconstitutional excise tax,  
12 submitting payments quarterly as required by state law.

13 29. The California Department of Tax and Fee Administration is charged with  
14 administering and collecting the 11% excise tax. CAL. REV. CODE § 36031(a). A taxpayer may bring  
15 an action “against the board” “[w]ithin 90 days after the mailing of the notice of the board’s action  
16 upon a claim for refund.” *Id.* § 55243. The term “board” refers to the California Tax and Fee  
17 Administration. *Id.* § 20(a).

18 30. Defendant Trista Gonzales is the Director of the California Department of Tax and  
19 Fee Administration. She enforces the 11% excise tax in her official capacity as Director. *Id.* §  
20 36031(a).

### 21 GENERAL ALLEGATIONS

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

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

28 33. Proceeds from the excise tax “shall be deposited in the Gun Violence Prevention and

1 School Safety Fund,” *id.* § 36041, which exists to fund various California political initiatives, *id.* §  
2 36005.

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

8 35. In fact, sellers of firearms and ammunition have added a line item to customer  
9 receipts reflecting that the 11% tax is passed on to the purchaser of firearms and ammunition.

10 36. Firearm manufacturers and dealers must remit the 11% excise tax collected from  
11 individual sales and submit quarterly returns. CAL. REV. CODE §§ 36011, 36032, 36033. Plaintiffs  
12 are collecting the 11% excise tax through a line item added to customer receipts.

13 37. As taxpayers, Plaintiffs have been indisputably harmed by the enforcement of the  
14 unconstitutional excise tax. Further, Plaintiffs face the administrative burden of complying with the  
15 tax, and risk facing penalties for even accidental non-compliance or delay. For example, AB 28  
16 dictates that “[e]ach licensed firearms dealer, firearms manufacturer, or ammunition vendor subject  
17 to the excise tax imposed . . . shall register for a certificate of registration with the department using  
18 electronic media in a form prescribed by the department” including identifying information about  
19 the business and “any other information as the department may require.” CAL. REV. CODE § 36001.  
20 “The department may, after notice and hearing, revoke a certificate of registration for  
21 any . . . violation or omission” of AB 38, and will “notify the Department of Justice of the  
22 revocation.” *Id.* § 36038. Taxpayers like plaintiffs also face “interest and penalties” beyond the 11%  
23 excise tax. *Id.* § 36039.

24 38. Plaintiffs may file for a refund from the Department if they disagree with the amount  
25 of tax paid. Although Plaintiffs did pursue this administrative process before bringing this suit, the  
26 refund process was futile, because the California Department of Tax and Fee Administration lacks  
27 authority to declare a tax unconstitutional and refund payment on a constitutional basis. Plaintiffs  
28 do not claim that they have been misclassified as subject to the tax but that the tax itself is

1 unconstitutional.

2 **CLAIMS FOR RELIEF**

3 **COUNT 1**

4 **Violation of Second and Fourteenth Amendments to the United States Constitution**

5 39. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

6 40. The Second Amendment provides: “A well regulated Militia, being necessary to the  
7 security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” U.S.  
8 CONST. amend. II. The Second Amendment is incorporated against the State of California through  
9 the Fourteenth Amendment.

10 41. To secure “the core right to possess a firearm for self-defense[,]” the Second  
11 Amendment’s protections extend to “necessary,” “ancillary rights,” including the right to acquire  
12 and sell firearms and ammunition for lawful purposes. *Rhode v. Bonta*, 2025 WL 2080445, at \*8  
13 (9th Cir. July 24, 2025) (“[T]he right to keep and bear arms wouldn’t mean much without the ability  
14 to acquire arms.”) (quotation marks omitted); *Teixeira v. Cnty. of Alameda*, 873 F.3d 670, 677–78,  
15 682 (9th Cir. 2017) (en banc) (“Commerce in firearms is a necessary prerequisite to keeping and  
16 possessing arms for self-defense[.]”); *Jackson v. City & Cnty. of San Francisco*, 746 F.3d 953, 967  
17 (9th Cir. 2014) (“[W]ithout bullets, the right to bear arms would be meaningless.”). In other words,  
18 just as “the First Amendment right to speak would be largely ineffective if it did not include the right  
19 to engage in financial transactions that are the incidents of its exercise,” the Second Amendment  
20 “right to keep and bear arms . . . would be toothless” “without protection for [the] closely related  
21 rights” of acquiring firearms and ammunition. *Luis v. United States*, 578 U.S. 5, 26–27 (2016)  
22 (Thomas, J., concurring in judgment) ((cleaned up)).

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

28 43. Additionally, the excise tax impermissibly singles out the exercise of a constitutional

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>2</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 44. An actual and judicially cognizable controversy exists between Plaintiffs and  
13 Defendants regarding whether Defendants’ administration of the 11% excise tax violates the Second  
14 Amendment to the United States Constitution.

15 **COUNT 2**

16 **Refund of Unconstitutional Taxation**

17 45. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

18 46. For the reasons set out above, California’s 11% excise tax on firearms and  
19 ammunition violates the Second and Fourteenth Amendments. The tax implicates conduct protected  
20 by the Second Amendment’s plain text—acquiring firearms and ammunition—and is not part of this  
21 Nation’s history of gun regulation. Independently, the tax impermissibly singles out constitutional  
22 rights for special taxation.

23 47. Plaintiffs Poway Weapons & Gear Inc. and Sacramento Gun Range, Inc., have paid  
24 the 11% excise tax on their sales of firearms and ammunition, as required, and they have sought a  
25 refund of the same.

26 \_\_\_\_\_  
27 <sup>2</sup> Plaintiffs do not challenge California’s ordinary sales tax as applied to firearms and  
28 ammunition because it applies equally to all goods sold in the state and, unlike the excise tax on  
firearms and firearm parts, does not single out Second Amendment-protected items for special  
taxation.



1 **VERIFICATION**

2 I, John Phillips, declare as follows:

3 I am the Founder and President of Poway Weapons & Gear, Inc., and Chief Executive Officer  
4 of SGR Ventures LLC (d/b/a Sacramento Gun Range), both Plaintiffs in the above-named action. I  
5 am authorized to make this verification on their behalf.

6 I declare that I have read the foregoing Verified Complaint for Declaratory and Injunctive  
7 Relief and know the contents thereof. I declare that the factual matters set forth in paragraphs 10-  
8 28 are correct to my knowledge. The remaining matters are stated on information and belief, and, as  
9 to those matters, I believe them to be true.

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

12  
13 Date: August 11, 2025

14   
15 \_\_\_\_\_  
16 John Phillips  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **EXHIBIT 1**



**CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION**

PO BOX 942879, SACRAMENTO, CA 94279-0001 MIC: 33  
1-916-309-0335 • FAX 1-916-323-9497  
[www.cdtfa.ca.gov](http://www.cdtfa.ca.gov)

GAVIN NEWSOM  
Governor

NICOLAS MADUROS  
Secretary, Government Operations Agency

TRISTA GONZALEZ  
Director

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

Letter Date: May 14, 2025  
Letter ID: L0031045352  
Case ID: 6323411  
Account Type: CA Firearm Excise Tax  
Account Number: 259-232672  
Date of Claim: October 22, 2024  
Period Begin: July 1, 2024  
Period End: September 30, 2024  
Claim Amount: \$34,666.00  
Mail Date: May 14, 2025

**NOTICE OF DENIAL OF CLAIM FOR REFUND**

**Mailed at Sacramento, California**

You are hereby notified that the claim for refund referenced above was fully denied in the amount of \$34,666.00.

Section 55243 of the Fee Collection Procedures Law provides that any further claim with regard to the disallowed amount must be brought as an action against the California Department of Tax and Fee Administration in a court of competent jurisdiction in any city or city and county of this state in which the Attorney General has an office on the grounds set forth in the claim. Such action must be filed within 90 days after the mailing of this letter and failure to do so constitutes a waiver of any demand against the state.

Sincerely,

Margaret Topete  
Business Taxes Specialist  
Appeals & Data Analysis Branch



0031045352 01

# **EXHIBIT 2**



STATE OF CALIFORNIA

**CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION**

PO BOX 942879, SACRAMENTO, CA 94279-0001 MIC: 33  
1-916-309-0329 • 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: February 11, 2025  
Letter ID: L0029699459  
Account Type: CA Firearm Excise Tax  
Account Number: 259-232672

Period(s): 7/1/2024 - 9/30/2024

Period	Tax/Fee	Interest	Penalty	Other	Credit(s)	Total
30-Sep-2024	\$34,666.00	\$0.00	\$0.00	\$0.00	-\$34,666.00	\$0.00

Dear POWAY WEAPONS & GEAR, INC.:

Poway Weapons & Gear, Inc., is named in litigation with CDTFA involving the same contentions as in claim for refund, case ID 6323411. Therefore, this claim for refund case is stayed in abeyance pending the litigation.

Please contact Margaret Topete at phone number (916) 309-0335 or email [Margaret.Topete@cdtfa.ca.gov](mailto:Margaret.Topete@cdtfa.ca.gov), with questions relating to this letter.

For questions relating to this letter, please call the telephone number listed above. You can also visit our website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov) to amend returns, request a refund, obtain copies of regulations, forms, publications, and other information.

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

NR



0029699459 01

# **EXHIBIT 3**

---

**RE: [External] Re: [SECURE] SGR Ventures, LLC. & Poway Weapons & Gear, Inc. Claims for Refund Case ID's 6304881 and 6323411**

---

From Topete, Margaret <Margaret.Topete@cdtfa.ca.gov>

Date Thu 4/10/2025 3:26 PM

To John Phillips <jphillips@sgrange.us>

Dear Mr. Phillips,

Thank you for your telephone call and sending the below email. As discussed in our telephone call, the Revenue and Taxation Code section 55243 allows you to bring an action in court within 90 days of the claim for refund denial notice. Your claims for refund were recommended for full denial and you have the option to proceed with the appeals conference or withdraw from the appeal. If you submit a withdraw request, the claim for refund will be denied and you will receive a claim for refund denial letter indicating that you must file in court within 90 days of the letter.

Please confirm in writing, your request to withdraw the claims from the appeals conference by submitting your withdraw request for each account, by logging in at our website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov), select the account, and select *Submit/Manage an Appeal* from the *I Want to* submenu, and select *Withdraw Request* from the *Manage an Appeal submenu*.

In your email you indicated you would like to continually appeal the excise tax. For each quarterly payment made you need to submit a claim for refund and proceed in the same manner as above. For faster processing, I recommend you submit your claims for refund through your on-line services at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov) and select *More* from the *I Want to* menu and select *Submit a Claim for Refund*.

Please contact me with any questions.

Thank you,

**Margaret Topete**

Business Taxes Specialist

Appeals and Data Analysis Branch (ADAB)

California Department of Tax and Fee Administration

651 Bannan #100 MIC: 33

Sacramento, CA 95811 MIC: 33

Phone: 1-916-309-0335 | Fax: 1-916-323-9497

Email: [Margaret.Topete@cdtfa.ca.gov](mailto:Margaret.Topete@cdtfa.ca.gov) | [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov)



**CDTFA**  
CALIFORNIA DEPARTMENT OF  
TAX AND FEE ADMINISTRATION

Thank you for connecting with us



The information contained in this e-mail is private, confidential, or legally privileged. It is intended only for the use of the person(s) name herein as sender and recipients of the communication. Any retention, display, dissemination, distribution, disclosure, publication or copying of the contents of the attached message by individuals other than the sender or recipient of the said communication is strictly prohibited. If you receive this e-mail in error, please immediately notify the CDTFa by return e-mail and delete this message from your computer, without printing the message, and without disclosing its contents to any person other than the sender or recipient. Persons who copy or disclose such confidential information are subject to applicable legal penalties.

---

**From:** John Phillips <jphillips@sgrange.us>

**Sent:** Tuesday, April 8, 2025 4:15 PM

**To:** Topete, Margaret <Margaret.Topete@cdtfa.ca.gov>

**Cc:** John Phillips <jphillips@weaponsandgear.com>

**Subject:** [External] Re: [SECURE] SGR Ventures, LLC. & Poway Weapons & Gear, Inc. Claims for Refund Case ID's 6304881 and 6323411

**CAUTION:** This email originated from outside the organization.

Do not click links or open attachments unless you recognize the sender and know the content is safe.

*Note: This conversation is restricted, so you might not be able to cut or copy from it. See the information above the To line for more details. Also, while the conversation is restricted, the conversation owner can send the message to other people.*

**From:** John Phillips <jphillips@weaponsandgear.com>

**Date:** Friday, April 4, 2025 at 12:04 PM

**To:** Topete, Margaret <Margaret.Topete@cdtfa.ca.gov>

**Cc:** John Phillips <jphillips@weaponsandgear.com>, John Phillips <jphillips@sgrange.us>

**Subject:** Re: [SECURE] SGR Ventures, LLC. & Poway Weapons & Gear, Inc. Claims for Refund Case ID's 6304881 and 6323411

Margaret,

I am not sure if you are aware but the lawsuit of Jaymes vs Board of Equalization has been dismissed at our request. I would like to begin the formal appeals process for Poway Weapons & Gear as well as SGR Ventures LLC for all quarters files thus far. I would like to continually appeal the FET tax each quarter I file moving forward until we are able to get through the entire appeal process and then move this into the courts.

Would you please let me know what steps I need to take to get the appeals re-initiated for both entities below?

Thank you,



John Phillips  
Founder/President

**PWG Range**

**Tel: (858) 206-5057 ext. 100**

---

**From:** Topete, Margaret <Margaret.Topete@cdtfa.ca.gov>  
**Sent:** Friday, January 31, 2025 8:08 AM  
**To:** jphillips@sgrange.us <jphillips@sgrange.us>  
**Cc:** John Phillips <jphillips@weaponsandgear.com>  
**Subject:** [SECURE] SGR Ventures, LLC. & Poway Weapons & Gear, Inc. Claims for Refund Case ID's 6304881 and 6323411

Dear Mr. Phillips,

I am responding to your email to Ali Sauvera in which you inquired about your appeal case hearings.

My name is Margaret Topete with the Appeals and Data Analysis Branch (ADAB), Business Tax and Fee Division (BTFD) of the California Department of Tax and Fee Administration (CDTFA). Your claim for refund cases for SGR Ventures, LLC (case 6304881) and Poway Weapons & Gear, Inc. (case 6323411), submitted under the California Firearm and Ammunition Excise Tax, were transferred to me because appeals conferences were requested.

I am communicating with you in this email for both entities because you are the Member/Officer for both companies, however each company is a separate legal entity and has a separate claim:

- SGR Ventures, LLC, Claim Case ID: 6304881, Account Number: 237302688
- Poway Weapons & Gear, Inc., Claim Case ID: 6323411, Account Number: 259-232672

It appears that Poway Weapons & Gear, Inc, is involved in litigation with CDTFA involving the same claim contentions, therefore claim case 6323411 will be stayed in abeyance pending the litigation.

SGR Ventures, LLC is not named in the litigation therefore the appeals case may either proceed with the appeals conference or you may choose to hold it in abeyance, pending resolution of the Poway Weapons & Gear, Inc litigation, since both cases maintain the exact same contentions.

If you elect to proceed with the appeals conference for SGR Ventures, LLC, I will prepare a Summary Analysis, a document which presents your contentions and BTFD's position and will mail a copy of the Summary Analysis to you, and then forward this case to the Appeals Bureau for scheduling and holding of the conference.

Please complete the attached form CDTFA-82, *Authorization for Electronic Transmission of Data*, for each entity, authorizing communications by email.

**Please reply to this email with your option for SGR Ventures, LLC, and the completed forms CDTFA-82 for each entity, at your earliest convenience.** Please contact me with any questions.

Below please find reference materials for additional information on the CDTFA appeals process:

- [Publication 142-A: Introduction to Appeals Conference](#)
- [Publication 17: Appeals Procedures](#)

Thank you,

**Margaret Topete**

Business Taxes Specialist

Appeals and Data Analysis Branch (ADAB)

California Department of Tax and Fee Administration

651 Bannan #100 MIC: 33

Sacramento, CA 95811 MIC: 33

Phone: 1-916-309-0335 | Fax: 1-916-323-9497

Email: [Margaret.Topete@cdtfa.ca.gov](mailto:Margaret.Topete@cdtfa.ca.gov) | [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov)



**CDTFA**  
CALIFORNIA DEPARTMENT OF  
TAX AND FEE ADMINISTRATION

Thank you for connecting with us



[How Are We Doing? – Business Tax and Fee Division \(ca.gov\)](#)

The information contained in this e-mail is private, confidential, or legally privileged. It is intended only for the use of the person(s) name herein as sender and recipients of the communication. Any retention, display, dissemination, distribution, disclosure, publication or copying of the contents of the attached message by individuals other than the sender or recipient of the said communication is strictly prohibited. If you receive this e-mail in error, please immediately notify the CDTFA by return e-mail and delete this message from your computer, without printing the message, and without disclosing its contents to any person other than the sender or recipient. Persons who copy or disclose such confidential information are subject to applicable legal penalties.

This email message is for the sole use of the intended recipient(s) and may contain confidential, privileged and/or proprietary information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.

# **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

---

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 <a href="#">CDTFA-101-DMV, Claim for Refund or Credit for Tax Paid to DMV.</a>  <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>
---	--	---

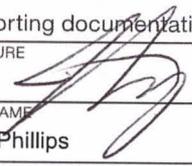
The undersigned hereby makes a claim for refund or credit of \$ 34,666.00, or such other amounts as may be established, in tax, interest, and penalty in connection with:

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**

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

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



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

**Account Number:** 259-232672

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

**Period Begin:** October 01, 2024

**Return Type:** Original

**Period End:** December 31, 2024

**Submitted:** 1/31/2025 3:27:46 PM

**Due Date:** January 31, 2025

**Confirmation #:** 0-047-351-411

**Remaining Due:** \$54,990.00

<b>California Firearm and Ammunition Excise Tax</b>	
Total gross receipts from retail sales of any firearms, firearm precursor parts, or ammunition	\$499,913.00
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	\$499,913.00
CA Firearms, firearm precursor parts, and ammunition excise tax (CFET) rate	0.11
Subtotal amount of CFET due	\$54,990.00
Excess CFET reimbursement collected	\$0.00
Total amount of CFET due	\$54,990.00
Penalty	\$0.00
Interest	\$0.00
<b>Total amount due and payable</b>	<b>\$54,990.00</b>

# **EXHIBIT 7**



**CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION**

PO BOX 942879, SACRAMENTO, CA 94279-0001 MIC: 33  
1-916-309-0335 • FAX 1-916-323-9497  
www.cdtfa.ca.gov

GAVIN NEWSOM  
Governor

NICOLAS MADUROS  
Secretary, Government Operations Agency

TRISTA GONZALEZ  
Director

SGR VENTURES LLC  
13550 DANIELSON ST  
POWAY CA 92064-6874

Letter Date: May 14, 2025  
Letter ID: L0031027252  
Case ID: 6304881  
Account Type: CA Firearm Excise Tax  
Account Number: 237-302688  
Date of Claim: October 22, 2024  
Period Begin: July 1, 2024  
Period End: September 30, 2024  
Claim Amount: \$24,640.00  
Mail Date: May 14, 2025

**NOTICE OF DENIAL OF CLAIM FOR REFUND**

**Mailed at Sacramento, California**

You are hereby notified that the claim for refund referenced above was fully denied in the amount of \$24,640.00.

Section 55243 of the Fee Collection Procedures Law provides that any further claim with regard to the disallowed amount must be brought as an action against the California Department of Tax and Fee Administration in a court of competent jurisdiction in any city or city and county of this state in which the Attorney General has an office on the grounds set forth in the claim. Such action must be filed within 90 days after the mailing of this letter and failure to do so constitutes a waiver of any demand against the state.

Sincerely,

Margaret Topete  
Business Taxes Specialist  
Appeals & Data Analysis Branch



0031027252 01

# **EXHIBIT 8**

**ONLINE SERVICES FILING RECORD:  
ACH PAYMENT**

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



**Taxpayer Name:** SGR VENTURES LLC  
**Account Type:** California Firearm and Ammunition Excise Tax  
**Account Number:** 237-302688

**Period:** December 31, 2024  
**Submitted:** January 31, 2025  
**Confirmation #:** 0-047-255-538

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 **0-047-255-538**

Paid For:	California Firearm and Ammunition Excise Tax 237-302688	Payment Type:	Return Payment
Paid From:	BANK OF MARIN ****2801	Period End Date:	31-Dec-2024
Payment Amount:	\$44,665.00		
Payment Date:	31-Jan-2025		
Submitted Date:	31-Jan-2025 03:10:25 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 9**



CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

PO BOX 942879, SACRAMENTO, CA 94279-0001 MIC: 33  
1-916-309-0344 • FAX 1-916-323-9497  
www.cdtdfa.ca.gov

GAVIN NEWSOM

Governor

AMY TONG

Secretary, Government Operations Agency

NICOLAS MADUROS

Director

SGR VENTURES LLC  
13550 DANIELSON ST  
POWAY CA 92064-6874

Letter Date: October 23, 2024  
Letter ID: L0028319741  
Case ID: 6304881  
Account Type: CA Firearm Excise Tax  
Account Number: 237-302688

Date of Claim: October 22, 2024  
Period Begin: July 1, 2024  
Period End: September 30, 2024  
Amount: \$24,640.00

Dear SGR VENTURES LLC:

The California Department of Tax and Fee Administration (CDTFA) is in receipt of your claim for refund or credit return dated October 22, 2024, for the period and amount referenced above. We will review your claim and notify you if additional information is required.

Please do not claim this refund as a credit on any future returns.

Please refer to the Case ID indicated above on all future correspondence regarding this claim.

If you have any questions, please contact the CDTFA Appeals and Data Analysis Branch at 1-916-309-0284.

California Department of Tax and Fee Administration



0028319741 01

# **EXHIBIT 10**



## 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

SGR VENTURES LLC  
13550 DANIELSON ST  
POWAY CA 92064-6874

Letter Date: November 19, 2024  
Letter ID: L0028874440  
Case ID: 6304881  
Account Type: CA Firearm Excise Tax  
Account Number: 237-302688  
Case Type: Claim for Refund  
Date of Claim: October 22, 2024  
Period Begin: July 1, 2024  
Period End: September 30, 2024  
Amount: \$24,640.00

Dear SGR VENTURES LLC,

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:** SGR VENTURES, LLC.  
**Account No:** 237-302688  
**Case ID:** 6304881  
**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:** \$24,640.00  
**Tax Paid:** \$24,640.00

On October 22, 2024, SGR VENTURES, LLC. (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 02, 2024 for the amount of \$24,640.00 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.

As of the date of this recommendation, no appellate court has ruled that the statutes are unconstitutional. Hence, as an administrative agency, CDTFA, including the Appeals Bureau, cannot consider any contention that would deem a statute unconstitutional or refuse to enforce the statutes. Such argument may be brought before an appropriate appellate court to determine whether there were any violations of any State and/or Federal Constitution. As explained previously, the 11% excise tax on firearms and ammunition was imposed on claimant pursuant to the statutes written and operative during the relevant periods.

# **EXHIBIT 11**



## 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.