



**STATE BOARD OF EQUALIZATION  
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date:	<b>04/21/14</b>	Bill No:	<a href="#"><u>Assembly Bill 2031</u></a>
Tax Program:	<b>Lumber Product Assessment</b>	Author:	<b>Dahle</b>
Sponsor:	<b>BOE</b>	Code Sections:	<b>PRC 4629.5</b>
Related Bills:		Effective Date:	<b>01/01/15</b>

**BILL SUMMARY**

This Board of Equalization (BOE) sponsored bill establishes a threshold of annual sales of \$5,000 in qualifying lumber products, under which a retailer is not required to collect and report the lumber product assessment (LPA).

**Summary of Amendments**

Since the previous analysis, this bill was amended to (1) remove the bad debt deduction provision and (2) reduce the small seller threshold from \$25,000 to \$5,000 in annual sales of qualifying lumber products.

**ANALYSIS**

**CURRENT LAW**

Beginning in January 1, 2013, the Legislature enacted Assembly Bill 1492,<sup>1</sup> imposing a 1% assessment on a person who purchases lumber products and engineered wood products to be collected by the retailer at the time of sale.

For the privilege of selling tangible personal property at retail, existing Sales and Use Tax Law<sup>2</sup> imposes sales tax upon a retailer. Retailers are responsible for reporting and paying the retail sales tax. RTC Section 6055 allows retailers to claim a bad debt deduction for previously reported taxable sales if they do not receive total compensation for the retail sale transaction insofar as the measure of the tax is represented by accounts that have been found worthless and charged off for income tax purposes. If retailers only collect a portion of the reported taxable amount, they also may claim a partial deduction for that portion found to be uncollectible.

Currently, the statute:

- Does not provide any type of exclusion for otherwise qualified businesses that have few to no sales of wood products subject to the LPA. These businesses must file zero or small dollar returns.

**PROPOSED LAW**

This bill amends PRC Section 4629.5 to define a “retailer” as one who has sales of qualified lumber products and engineered wood products of \$5,000 or more during the previous calendar year.

<sup>1</sup> Article 9.5 (commencing with Section 4629) Chapter 8 of Part 2 of Division 4 of the Public Resources Code (PRC) [Assembly Bill 1492, Chapter 289, Statutes 2012]

<sup>2</sup> Article 1 (commencing with Section 6051) of Part 1 of Division 2 of the Revenue and Taxation Code (RTC)

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE’s formal position*

**BACKGROUND**

All retailers that may make sales of lumber products or engineered wood products are required to register with the BOE and report the LPA on those sales, regardless the amount of sales. During calendar year 2013, approximately 29,600 businesses accounts, with approximately 39,600 retail locations were registered to collect the LPA. To date, over 33,000 of these retail locations have been closed by the BOE because they were filing zero returns and/or were not making sales of wood products subject to the LPA.

Of the remaining registered accounts, approximately 605 retail locations reported LPA sales of less than \$5,000 for calendar year 2013.

**COMMENTS**

1. **Sponsor and Purpose.** The BOE is sponsoring this bill to ease the burden for qualifying, small sellers of wood products by eliminating the expense of collecting and reporting the LPA.
2. **The April 21, 2014 amendments** (1) remove bad debt deduction provisions from the bill and (2) reduce the small seller threshold from \$25,000 to \$5,000 in annual sales of qualified wood products.
3. **Product Tracking.** If the small seller threshold provision is enacted, retailers must still continue to track their sales of qualifying wood products and engineered wood products to determine if they qualify under the threshold.
4. **Zero Returns.** The BOE de-registered accounts that reported zero sales of lumber products subject to the LPA during calendar year 2013.

**COST ESTIMATE**

The BOE has not completed a detailed cost analysis of this bill. However, any costs savings realized by having fewer retailers is likely to be offset by additional costs associated with administering a small seller threshold.

**REVENUE ESTIMATE**

Based on LPA returns for 2013, a BOE revenue loss of approximately \$6,000 to \$8,000 could be expected due to the small seller allowance. However, the LPA is assessed on the purchaser, with a requirement for the retailer to collect and report the assessment to the BOE. Accordingly, the purchaser would still be required to report the LPA to the BOE even if the retailer is not required to collect and report the amounts.

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