

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 03/13)

Fiscal Year 2014-15	BCP No.	Org. Code 0860	Department State Board of Equalization	Priority No.
Program Sales and Use Tax Program			Element	Component N/A

Proposal Title
 MANAGED CARE ORGANIZATION TAX

Proposal Summary

The Board of Equalization (BOE) requests \$235,000 (Special Funds) in FY 2014-15 and \$168,000 (Special Funds) in FY 2015-16 and 1.25 two year limited-term positions to administer the Inclusion of Medi-Cal Managed Care Plans in Sales Tax pursuant to Senate Bill (SB) 78. From July 1, 2013 until July 1, 2016, SB 78 adds Revenue and Taxation Code Article 5 (commencing with section 6174) to impose a 3.9375 percent sales tax on sellers of Medi-Cal health care services at retail resulting in an estimated \$360 million in revenue annually. Under this provision sellers that are actively engaged in the retail sale of Medi-Cal health care services are required to register, report, and pay the tax to the BOE. This program is entirely different than the routine programs the BOE administers because the sale tax is imposed upon the sellers of Medi-Cal health care services and not upon the sale of tangible personal property.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed
---	--

Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date
---	----------------	------

For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the California Technology Agency, or previously by the Department of Finance.

FSR SPR Project No. Date:

If proposal affects another department, does other department concur with proposal? Yes No
Attach comments of affected department, signed and dated by the department director or designee.

Budget Officer	Date	Chief, Financial Management Division	Date
Deputy Director, Administration	Date	Executive Director	Date

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE CALSTARS Technology Agency

BCP Type: Policy Workload Budget per Government Code 13308.05

PPBA Date submitted to the Legislature

STATE BOARD OF EQUALIZATION
Sales and Use Tax Program
Managed Care Organization Tax
Fiscal Year 2014-15

A. Proposal Summary

The Board of Equalization (BOE) requests \$235,000 (Special Funds) in FY 2014-15 and \$168,000 (Special Funds) in FY 2015-16 and 1.25 two year limited-term positions to administer the Inclusion of Medi-Cal Managed Care Plans in Sales Tax pursuant to Senate Bill (SB) 78. From July 1, 2013 until July 1, 2016, SB 78 adds Revenue and Taxation Code Article 5 (commencing with section 6174) to impose a 3.9375 percent sales tax on sellers of Medi-Cal health care services at retail resulting in an estimated \$360 million in revenue annually. Under this provision sellers that are actively engaged in the retail sale of Medi-Cal health care services are required to register, report, and pay the tax to the BOE. This program is entirely different than the routine programs the BOE administers because the sale tax is imposed upon the sellers of Medi-Cal health care services and not upon the sale of tangible personal property.

B. Background/History

Medi-Cal is California's Medicaid program. Medi-Cal is a public health insurance program which provides needed health care services for low-income individuals including families with children, seniors, persons with disabilities, foster care, pregnant women, and low income people with specific diseases such as tuberculosis, breast cancer, or HIV/AIDS. The state and federal government equally finance Medi-Cal.

The California Constitution¹ imposes a 2.35 percent tax on insurers doing business in California. Commonly referred to as the "gross premiums tax," the annual insurance tax is based on insurers' gross premiums, less return premiums. The California Constitution specifies that the 2.35 percent tax is in lieu of all other taxes and licenses, with specified exceptions. Any person that meets this constitutional provision's "insurer" definition must register with the Department of Insurance (DOI) and remit the annual gross premiums tax.

As defined in the Constitution, "insurer" does not expressly include a health care service plan, such as a Medi-Cal managed care plan. The Knox-Keene Health Care Service Plan Act Health care service plan covers these providers. Therefore, these plans are not generally prohibited from other taxation.

The "in lieu of" provision that currently exempts insurers from all other state and local taxes and licenses (with certain specified exceptions) does not apply to a Medi-Cal managed care plan. Accordingly, Medi-Cal managed care plans continue to be subject to other state, county, and municipal taxes and licenses, as applicable.

Until July 1, 2013, existing law² imposed a 2.35 percent annual tax on every Medi-Cal managed care plan doing business in this state. The tax revenues are remitted to the DOI, and are continuously appropriated to the State Department of Health Care Services (DHCS) for the Medi-Cal program in an amount equal to the difference between 100 percent and the applicable federal medical assistance percentage, with the balance appropriated to the Managed Risk Medical Insurance Board for purposes of the Healthy Families Program.

This Medi-Cal managed care plan tax is imposed on the "total operating revenues," which means all premium or capitation payments a Medi-Cal managed care plan receives for health care services, including, but not limited to, Medi-Cal services. Total operating revenues do not include amounts Medi-Cal managed care plans receive pursuant to a subcontract with a Medi-Cal managed care plan to provide Medi-Cal beneficiaries health care services.

¹ Article XIII, Section 28.

² RTC Section 12201.

Effective July 1, 2013, Managed Care Organization Tax of 3.9375 percent is imposed upon the seller of Medi-Cal health care services at retail, measured by the gross receipts from the sale of those services. Under SB 78, sellers actively engaged in the retail sale of Medi-Cal health care services, are required to register, report, and pay the tax to the BOE. A seller, under this provision is defined as any person, other than specified insurers and dental managed care plans, or any entity that enters into a contract with the DHCS. "Gross receipts," under this new law, means the total premium or capitation payments Medi-Cal managed care plan sellers receive for health care services coverage or provision, including, but not limited to, Medi-Cal services. This new law requires the tax revenues to be deposited in the State Treasury to the credit of the Children's Health and Human Services Special Fund. Furthermore, this new law prohibits counties, cities and districts (areas that impose a district tax) from imposing a sales or use tax on the gross receipts as defined above.

The BOE is statutorily mandated to administer the Sales and Use Tax program. Implementation of the new Managed Care Organization Tax program requires the BOE to develop, design, and maintain the program on a manual basis. Currently, there are a total of 24 identified managed health care providers that are subject to the new tax, and the state, rather than the beneficiaries, pays the premiums for these plans. These 24 providers, who have been remitting the gross premiums tax to the DOI, will now be required to remit the 3.9375 percent sales tax to the BOE.

C. State Level Considerations

The BOE is charged by the State Constitution, and by statute with, amongst other tasks, administering the state's sales and use tax, fuel, alcohol and tobacco taxes as well as collecting fees to fund numerous specific state programs. Successful administration of these tax and fee programs has resulted in the collection of approximately 35.6 percent of the annual revenue for state government and essential funding for counties, cities, and special taxing districts. The programs administered by the BOE produced \$53.7 billion in FY 2010-11 for education, public safety, transportation, housing, health services, social services, and natural resource management.

D. Justification

California imposes a statewide sales and use tax on the sale of tangible personal property in California. Effective January 1, 2013, the statewide rate is 7.5 percent. Under the Sales and Use Tax Program the BOE administers that program based upon the amounts reported by sellers (retailers) of sales of tangible personal property.

Pursuant to RTC Article 5 (commencing with section 6174), a 3.9375 percent sales tax is imposed upon sellers of Medi-Cal health care services at retail, measured by the gross receipts from the sale of those services. Every seller that is actively engaged in the retail sale of Medi-Cal health care services is required to register, report, and pay the tax to the BOE.

The additional funding for 1.25 positions for a two year limited-term will allow for the BOE to perform the necessary registration and administration of the new tax program because the Managed Care Organization Tax requires the BOE to develop and design new manual registration, return, and delinquency forms. This new tax also requires the BOE to design and develop a new manual tracking system for all required registered sellers. Furthermore, this new tax will require the BOE staff to review new reports associated with the new managed care accounts registered with the new program. Such new activity within the BOE will require staff to monitor the collection of the reported amounts manually. Finally, the revenue generated from the program will be identified and captured separately from the ordinary sales and use taxes administered by the BOE, which will require the BOE staff to ensure the payments and funds are allocated correctly and accurately so that the Children's Health and Human Services Special Fund is protected.

Currently, the sales and use tax program is paying for the costs to administer the Managed Care Organization Tax, whose revenues benefit the Children's Health and Human Services Special Fund. A

fund shift in spending authority from the General Fund to the Children’s Health and Human Services Special Fund will need to take place.

E. Outcomes and Accountability

	Projected Outcomes	
	2014-15	2015-16
Estimated Revenue	\$360,000,000	\$360,000,000

F. Analysis of All Feasible Alternatives

Alternative 1 – Provide funding of \$235,000 in FY 2014-15 and \$168,000 in FY 2015-16 for 1.25 two-year limited-term positions.

Alternative 1 requests resources to allow the BOE to administer the new tax program under its current sales and use tax program.

Pros:

- Provides the resources necessary to efficiently administer the statutorily mandated tax imposed upon sellers that are engaged in the retail sale of Medi-Cal health care services.
- Provides for adequate resources to sellers to whom the tax is imposed upon.
- Provides funding from the correct fund source to adequately protect the Children’s Health and Human Services Special Fund.

Cons:

- Requires a budget augmentation.
- Requires a follow up budget change proposal (BCP) to make the positions permanent should the program be extended.

Alternative 2 – Provide funding of \$235,000 in FY 2014-15 and \$168,000 in FY 2015-16 and ongoing for 1.25 permanent positions.

Pros:

- Provides the resources to efficiently administer the statutorily mandated tax imposed upon sellers that are engaged in the retail sale of Medi-Cal health care services.
- Provides for adequate resources to sellers to whom the tax is imposed upon.
- Provides funding from the correct fund source to adequately protect the Children’s Health and Human Services Special Fund.
- Does not require a follow up BCP.

Cons:

- Requires a budget augmentation.
- Requires a negative BCP to remove staff should program not be extended.

Alternative 3 - Deny the request.

Pros:

- Does not require a budget augmentation.

Cons:

- Does not provide a match of funding source to the revenue stream.

- Does not guarantee the Children’s Health and Human Services Special Fund will be adequately protected.
- Does not guarantee the registration and remittance by sellers to whom the tax is imposed upon will be accurately reported and paid.

G. Implementation Plan

July 1, 2014 through June 30, 2015:

- Hire and train staff
- Evaluate, analyze and develop enhancements to the registration aspects of the program
- Monitor and maintain database for registered sellers under the program
- Evaluate, analyze and develop enhancements to the tax returns
- Process incoming tax returns
- Analyze and verify tax returns
- Issue delinquency notices to applicable sellers
- Issue deficiency determinations to sellers reporting inadequate amounts
- Review and audit records of registered sellers

H. Supplemental Information *(Check box(es) below and provide additional descriptions.)*

None Facility/Capital Costs Equipment Contracts Other _____

I. Recommendation

Alternative 1 is recommended.

Alternative 1 allows the BOE to meet its statutory obligation to efficiently administer the Managed Care Organization Tax program.

Return Analysis Unit (RAU)

The RAU is responsible for critical return/payment processing, maintenance, billing/adjustment and desk review activities for selected Sales and Use Tax programs. In addition, RAU performs desk audits/reviews on periodic returns. RAU investigates reporting discrepancies and prepares necessary determinations. RAU staff reviews corrected return information submitted by taxpayers and takes appropriate action. RAU provides advisory services to taxpayers by telephone and written correspondence. RAU administers the Sales and Use Tax Department Electronic Funds Transfer (EFT) program including registering taxpayers for the program, providing taxpayer assistance with making EFT payments, enforcing compliance and maintaining EFT payments. RAU staff performs return and/or payment maintenance associated with the Sales and Use Tax Department and other E-Services programs, such as electronic return filing and credit card payments.

0.25 Business Taxes Representative (BTR)

The BTR will be responsible in reviewing the new EFT reports associated with the new managed care accounts registered with the program. In addition, since a new taxable activity type (TAT) will be established, it is estimated an additional five (5) new reports will be required for review. Also, since the new managed program will be excluded from the BOE’s mainframe (administered manually), the BTR will be required to monitor the collection portion manually. In addition, since the revenue generated from the program will be captured in a separate fund, the BTR in RAU will manually ensure payments and funds are allocated accurately.

The table below provides the estimated workload for these positions.

Workload Detail				
Classification: Business Taxes Representative	Time Measure		On-going Activities	
Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
EFT Reports Review/Reconciliation	H	0.45	288	109.4
Payment Maintenance	H	0.60	288	115.2
Return Maintenance	H	0.55	288	109.4
Total 334 hours				334
Total 0.25 Positions Requested (1,800 Hours/Position)				0.256

Administration

1.0 Accounting Officer (Specialist)

The Accounting Officer (Specialist) performs professional accounting work in the establishment, maintenance, research, and analysis of accounts and financial records for the Revenue Section. The Accounting Officer (Specialist) is responsible for maintaining accounting records for funds administered by the BOE; prepare, review and analyze financial reports, statements, accounts and records; maintain the General Ledgers; reconcile the fund and review expenditures against allotments. Considerable contacts are made with Board offices, the Budget Section, Cashiers, the State Controller's Office (SCO), the State Treasurer's Office (STO), the Bureau of State Audits and various State departments and members of the public.

The administration of this program will be mostly on a manual basis. This complicates the workload for the accounting branch in the areas of remittances and reconciliations. Based on our experience with the lumber fee, accounting for these single special funds separate from the core sales and use tax program is very labor intensive.

Workload Detail				
Classification: Accounting Officer (Specialist)	Time Measure		On-going Activities	
Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Reconcile accounts with the SCO.	H	20	12	240
Compile fiscal year-end information and complete financial statements.	H	80	1	80
Post entries to the general ledger and accounting registers.	H	30	12	360
Process SCO journal entries.	H	10	12	120
Process revenue documents and fund adjustments from Cashiers.	H	10	12	120
Process refunds from the program area.	H	5	12	60
Balance revenue reports received from the Technology Services Department against EFT transactions reported by the STO.	H	10	12	120
Reconcile non-EFT and EFT deposits to bank statements.	H	10	12	120
Prepare transmittals.	H	20	12	240
Report revenue to control agencies (SCO, STO, Dept. of Finance (DOF), Bureau of State Audits) and BOE units.	H	10	12	120
Prepare monthly allocation of total payments, less expenditures, refunds, or adjustments for recipient funds.	H	10	12	120
Analyze fund cash daily/weekly for allocation or refund purposes.	H	5	12	60
Issue interim statements for management, other agencies, or special interest groups as needed.	H	5	12	60
Total 1820 hours				1820
Total 1.0 Positions Requested (1,800 Hours/Position)				1.0

