

**BOARD OF EQUALIZATION****BUSINESS TAXES COMMITTEE MEETING MINUTES**

HONORABLE BETTY T. YEE, COMMITTEE CHAIR

450 N STREET, SACRAMENTO

MEETING DATE: SEPTEMBER 15, 2010, TIME: 9:30 A.M.

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**ACTION ITEMS & STATUS REPORT ITEMS****Agenda Item No: 1****Title: Proposed regulatory changes regarding sales of meals at summer camps****Issue/Topic:**

Should Regulation 1506, *Miscellaneous Service Enterprises*, be revised to clarify when organized camps' sales of meals are nontaxable sales of student meals?

**Committee Discussion:**

Staff described the proposed changes to the regulation, and interested parties addressed the Committee supporting staff's recommendation. Staff also explained that following approval of the proposed revisions, outreach efforts are planned to explain how tax applies to camps' sales of meals and to make camps aware of their need to obtain seller's permits.

**Committee Action/Recommendation/Direction:**

Upon motion by Ms. Alby, seconded by Ms. Mandel, the Committee unanimously approved and authorized for publication Alternative 1 – Staff Recommendation. There is no operative date, and implementation will take place 30 days after approval by the Office of Administrative Law. A copy of the proposed revisions to Regulation 1506 is attached.

**Agenda Item No: 2****Title: Suggested revisions to Regulation 1807, *Petitions for Reallocation of Local Tax*****Issue/Topic:**

Interested parties addressed the Board suggesting revisions to BOE procedures for handling petitions for local tax reallocation.

**Committee Discussion:**

Interested parties discussed the proposal to revise Regulation 1807 to speed up the petition process.

**Committee Action/Recommendation/Direction:**

Upon motion by Ms. Yee, seconded by Mr. Horton, the matter was referred to the Business Taxes Committee for further discussion and possible action through the interested parties process. Board Members asked staff to provide in its initial discussion paper an update of the status of local tax appeal cases including whether those cases arose under prior or current rules for local tax appeals.

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/s/ Betty T. Yee  
Honorable Betty T. Yee, Committee Chair

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/s/ Ramon J. Hirsig  
Ramon J. Hirsig, Executive Director

BOARD APPROVED

at the September 15, 2010 Board Meeting

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/s/ Diane Olson  
Diane Olson, Chief  
Board Proceedings Division

**Regulation 1506. Miscellaneous Service Enterprises.****(a) LICENSED ARCHITECTS.**

(1) IN GENERAL. Fees paid to licensed architects for their ability to design, conceive or communicate ideas, concepts, designs, and specifications are not subject to tax. Any plans, specifications, renderings or models or other instruments of service provided by a licensed architect under a licensed architect's contract or commission are integral to the licensed architect's services and are not subject to tax. The licensed architect is the consumer of any tangible personal property, including plans, specifications, renderings or models, used or transferred in the performance of professional services notwithstanding the fact that a fee may be added to the cost of the property and separately stated on a billing to the customer. If after the completion of the contract or commission the licensed architect provides additional copies of the original plans or specifications, or any models or renderings of an existing structure, the architect is regarded as making a sale of such copies, models or renderings.

(2) LICENSED ARCHITECT. A "licensed architect" is defined under the Business and Professions Code Chapter 3, Division 3, Section 5500 as follows:

"As used in this chapter, architect means a person who is licensed to practice architecture in this state under the authority of this chapter."

A licensed architect preparing or being in responsible control of plans, specifications, and instruments of service is required to affix to those plans, specifications, and instruments of service their stamp or seal which bears the licensee's name, his or her license number, the legend "Licensed Architect" and the legend "State of California," and which shall provide a means of indicating the renewal date of the license.

(3) ARCHITECTURAL PERSPECTIVISTS AND MODELERS. Architectural perspectivists do not act as "licensed architects." Architectural perspectivists are the retailers of renderings, prints and drawings they provide to architects or other consumers and tax applies to their entire charge for such items. Modelers do not act as "licensed architects." Modelers are the retailers of models they provide to architects or other consumers, and tax applies to their entire charge for such items.

(4) Licensed architects who produce renderings, prints, drawings or models pursuant to a contract that includes professional architectural services are not retailers of the renderings, prints, drawings or models they provide pursuant to that contract for architectural services. Tax does not apply to their charge for such items.

**(b) BARBERS, BEAUTY SHOP OPERATORS, AND SHOE POLISHERS** Barbers, beauty shop operators, and shoe polishers are the consumers of the supplies and other property used in performing their services, and tax applies with respect to the sale to them of the supplies and other property. They are retailers, however, of supplies, used articles, or other tangible personal property, which they sell to customers in the regular course of business, and tax applies to the gross receipts from such sales.

**(c) CLOTHES CLEANERS AND DYERS**

(1) CLOTHES CLEANING – IN GENERAL. Persons who provide clothes-cleaning services are consumers of the supplies and other materials used in performing their cleaning services, and tax applies to the sale to them of the supplies and other materials and not to their charges for such services.

(2) RENTALS. Clothes cleaners are the consumers of linen supplies and similar articles, including towels, uniforms, coveralls, shop coats, dust cloths, and similar items, rented to others when an essential part of the rental contract is the furnishing of the recurring service of laundering or cleaning of the articles rented, and tax applies with respect to the sale to them of such articles.

(3) CLOTHES DYEING – IN GENERAL. Persons who provide dyeing services are retailers, not consumers, when their charges are for the dyeing of new fabrics, garments, or other such items and tax applies to their gross receipts from such sales. Persons who dye new items are required to hold a seller's permit.

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Dyers are consumers of the supplies and other materials used in dyeing used fabrics, garments, or other such items and tax applies to the sale to them of the supplies and other materials and not to their charges for their dyeing services.

(4) **ALTERATION OF GARMENTS – IN GENERAL.** For the purposes of this subdivision (c), alteration of garments means and includes any work performed upon new or used men's, women's and children's clothing to meet the requirements of the customer whether the work involves the addition of material to the garment, removal of material, refitting, or repairing. Alteration of garments does not mean or include the process of dyeing garments. Alteration of garments also does not mean or include work performed upon new or used personal and household items such as handbags, stuffed animals, bedding, and draperies. The application of tax to a clothes cleaner's or a dyer's charges for the alteration of personal or household items is explained in Regulation 1524.

**(A) Alteration of Garments by Clothes Cleaning or Dyeing Establishments.** A clothes cleaning or dyeing establishment, including wet cleaners (e.g., launderers) and dry cleaners, means and includes a clothes cleaner or dyer who (1) operates a location or locations as a pickup and delivery point for garment cleaning, or (2) provides spotting and pressing services on the premises, but not garment cleaning, or (3) operates a garment cleaning or dyeing plant on the premises.

A clothes cleaner or dyeing establishment described above is the consumer of property used or furnished in the alteration of new or used garments provided that:

1. Seventy-five percent (75%) or more of the establishment's total gross receipts represent charges for garment cleaning or dyeing services, and
2. No more than twenty percent (20%) of the establishment's total gross receipts during the preceding calendar year were from the alteration of garments.

If a clothes cleaner or dyer is not an establishment as described or does not meet the requirements of this paragraph (A), tax applies to the clothes cleaner's or the dyer's charges for the alteration of garments as explained in Regulation 1524.

**(B) Alteration of Garments by a Third Party.** When a clothes cleaner or dyer who meets the requirements of subdivision (c)(4)(A) contracts with a third party such as a tailor for the alteration of garments instead of performing such alterations itself, the clothes cleaner or dyer is a consumer, not a retailer, of the alterations provided by the third party and may not issue a resale certificate to the third party for such alterations. Tax applies to the third party's charges to the clothes cleaner or dyer for such alterations as explained in Regulation 1524.

(5) **MISCELLANEOUS SALE OF ITEMS.** Clothes cleaners and dyers, whether or not they meet the requirements of subdivision (c)(4)(A), are retailers of any supplies, used items, or other tangible personal property such as lint brushes, abandoned garments, wood hangers, or novelty items, which they sell to customers in the regular course of business, and tax applies to the gross receipts from such sales. As retailers of tangible personal property, such persons are required to hold a seller's permit.

**(d) CIRCULATING LIBRARIES.** When circulating libraries, which are engaged in the business of renting books to others, pay tax measured by the purchase price of such books either to the person from whom the books are purchased or to the board, tax does not apply to the amount charged for the rental of such books. Such libraries are retailers of new or used books, which they sell to consumers in the regular course of business, and tax applies to the gross receipts from such sales.

**(e) DENTISTS AND DENTAL LABORATORIES.** Dentists are consumers of the materials, supplies, dental laboratory products and other tangible personal property which they use in performing their services. Tax, accordingly, applies to the sale of the tangible personal property to them.

Dental laboratories are the retailers of the plates, inlays and other products which they manufacture for dentists or other consumers. Tax applies to their entire charges for such products regardless of whether a separate charge or billing is made for materials and manufacturing services.

**(f) GUN CLUBS.** Gun clubs are consumers, not retailers, of clay pigeons or blue rocks furnished to members or patrons in connection with trapshooting or similar sports even though the charge for the

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service is measured by the number of clay pigeons or blue rocks used. The tax applies with respect to the sale of such property to the clubs.

**(g) LICENSED HEARING AID DISPENSERS.** Persons licensed as hearing aid dispensers by the Department of Consumer Affairs, Hearing Aid Dispensers Examining Committee, are consumers of hearing aids furnished or sold by them. The term "hearing aid" includes any necessary accessory or component part of the hearing aid which is fully worn on the body of the user such as cords, connector tubing, ear molds, or batteries, whether the part is sold or furnished separately or in conjunction with the hearing aid. The term also includes replacement and repair parts. Tax applies with respect to the sale of such products to licensed hearing aid dispensers.

Tax applies to the retail sale of such products by persons who are not licensed hearing aid dispensers.

**(h) SUMMER ORGANIZED CAMPS.**

(1) CAMPS IN GENERAL. The tax applies to gross receipts from the sale of meals or other tangible personal property at ~~summer~~ camps, whether operated by municipal or private corporations, or other parties.

(2) CAMPS QUALIFYING AS SCHOOLS OR EDUCATIONAL INSTITUTIONS. ~~When a camp qualifies as a school or educational institution, tax, with respect to meals, applies in the same manner as to schools and educational institutions the camp's sales of student meals are not subject to tax. If a camp meets all of the following conditions, the camp will qualify as a school or educational facility for purposes of this regulation:~~

(A) The camp conducts regularly scheduled classes,

(B) Students are required to attend the classes,

(C) Qualified instructors are in charge of the classes, and

(D) The camp is an "organized camp" as defined in California Health and Safety Code section 18897.

~~To qualify as a school or educational institution for purposes of this regulation, the camp must conduct regularly scheduled classes, with required attendance, in charge of qualified instructors.~~

An example of a camp that qualifies as a school or education institution includes, but is not limited to the following: A camp offers a session where campers have a schedule of daily activities they are required to attend. These activities include team-building exercises, guided nature hikes, and wilderness survival techniques. The activities are led by staff that the camp determined to have sufficient training and experience to lead the activities.

An example of a camp that does not qualify as a school or educational institution includes, but is not limited to the following: A camp offers a session that includes activities that are regularly scheduled. Participants are required to attend a camp orientation on the first day, but during the rest of the camp they can attend as many of the scheduled activities as they want, or they can elect to attend no activities.

If a single charge is made for all of the privileges extended by the camp, a segregation must be made ~~and the tax returned~~ on that portion of the total charge representing taxable receipts from the sale of meals or other tangible personal property. In the absence of such a segregation, the taxable receipts from the sale of meals or other tangible personal property shall be determined by the board based on information available to it.

**(i) TAXIDERMISTS.** Taxidermists are consumers of the materials used in repairing, stuffing and mounting skins, heads, etc., of animals, birds, fish, and the like furnished by their customers, and tax applies with respect to the sale of such property to them. If, however, a separate charge for such property is made on the invoices to the customers at the fair retail selling price, the taxidermist is the retailer of the property and tax applies to such separate charge.

Tax applies to retail sales by taxidermists of skins, heads, mountings or other tangible personal property.

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**(j) LICENSED VETERINARIANS.**

## (1) DEFINITIONS. As used herein:

**(A)** The term “licensed veterinarian” means any person licensed as a veterinarian by the California Department of Consumer Affairs, Board of Examiners in Veterinary Medicine.

**(B)** The term “drugs and medicines” includes substances or preparations intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals and which is commonly recognized as a substance or preparation intended for this use. The term includes legend drugs, pills and capsules (other than vitamins), liquid medications, injected drugs, ointments, vaccines, intravenous fluids, and medicated soaps if those soaps are available only to veterinarians. The term does not include vitamins, shampoos, pet foods, prescription diet foods, artificial diets, flea powders, and flea sprays.

**(C)** The term “professional services” includes the diagnosis and treatment of disease or trauma in animal life. It also includes the administration of drugs and medicines by means of, for example, injection, intravenous solution, or oral or bodily application.

## (2) APPLICATION OF TAX.

**(A)** Licensed veterinarians are consumers of drugs and medicines which they use or furnish in the performance of their professional services. Accordingly, tax does not apply to a licensed veterinarian’s charges to clients for such drugs and medicines, whether or not separately stated. Licensed veterinarians are also consumers of tangible personal property, other than drugs and medicines, which they use or which they furnish to clients without a separately stated charge. Tax applies to the sale of such drugs, medicines and other items to licensed veterinarians except:

1. Operative April 1, 1996, drugs or medicines which are purchased to be administered to animal life as an additive to feed or drinking water of food animals (as defined in Regulation 1587 (18 CCR 1587), “Animal Life, Feed, Drugs and Medicines”) or of non-food animals which are being held for sale in the regular course of business, and the primary purpose of the drugs or medicines is the prevention and control of disease, or

2. Operative January 1, 1997, drugs or medicines which are purchased to be administered directly (e.g., orally, by injection, or by application to the body) to food animals and the primary purpose of the drugs or medicines is the prevention or control of disease of the food animals. Veterinarians remain consumers of drugs and medicines administered directly to non-food animals.

**(B)** Licensed veterinarians are retailers of drugs and medicines which they furnish for a consideration without performing specific related professional services. Licensed veterinarians are also retailers of tangible personal property, other than drugs and medicines, which they furnish to clients for a separately stated charge. Unless otherwise exempt, tax applies to charges made by licensed veterinarians to clients for such drugs, medicines and other items. See Regulation 1587(18 CCR 1587), “Animal Life, Feed, Drugs and Medicines” for exemption for sales of feed, drugs, or medicines for certain animals. Tax applies to separately stated charges made for X-rays if the X-rays are delivered to clients.

*References:* Sections 6006, 6007, 6015, 6018.1, 6018.7, 6358, 6358.4 and 6363, Revenue and Taxation Code.

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