



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Fourth District, Los Angeles  
JOHN CHIANG  
State Controller  
CYNTHIA BRIDGES  
Executive Director

December 18, 2012

Dear Interested Party:

Enclosed is the Initial Discussion Paper on proposed permanent Regulation 2000, *Retailer Reimbursement Retention*, for the Lumber Products Assessment. Discussion regarding proposed Regulation 2000 is scheduled for the Board's **May 22, 2013 Business Taxes Committee** meeting.

However, before the issue is presented at the Business Taxes Committee meeting, staff would like to provide interested parties an opportunity to discuss the issue and present any suggested changes or comments. Accordingly, a meeting is scheduled in **Room 122 at 10:00 a.m. on January 10, 2013**, at the Board of Equalization, 450 N Street, Sacramento, California.

If you are unable to attend the meeting but would like to provide input for discussion, please send your submission to the above address or send a fax to 1-916-322-4530 before January 8, 2013. In addition, please feel free to publish this letter and paper on your website or otherwise distribute it to your associates, members, or other persons that may be interested in attending the meeting or presenting their comments.

If you plan to attend the meeting on January 10, 2013 or would like to participate via teleconference, please let staff know by contacting Ms. Lynn Whitaker at 1-916-324-8483 or [Lynn.Whitaker@boe.ca.gov](mailto:Lynn.Whitaker@boe.ca.gov) prior to January 8, 2013. This will allow staff to make alternative arrangements should the expected attendance exceed the maximum capacity of Room 122 and to arrange for teleconferencing.

Whether or not you are able to attend the above interested parties' meeting, please keep in mind that the due date for interested parties to provide written responses to staff's analysis is January 22, 2013. Please be aware that a copy of the material you submit may be provided to other interested parties. Therefore, please ensure your comments do not contain confidential information.

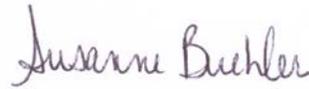
If you are interested in other topics to be considered by the Business Taxes Committee, you may refer to the "Business Taxes Committee" page on the Board's Internet web site (<http://www.boe.ca.gov/meetings/btcommittee.htm>) for copies of Committee discussion or issue papers, minutes, a procedures manual and calendars arranged according to subject matter and by month.

E-file now, find out how . . . [www.boe.ca.gov](http://www.boe.ca.gov)



Thank you for your consideration. I look forward to your comments and suggestions. Should you have any questions, please feel free to contact Ms. Kirsten Stark, Supervisor, Business Taxes Committee and Training Section, at 1-916-322-0849.

Sincerely,



Susanne Buehler, Chief  
Tax Policy Division  
Sales and Use Tax Department

SB:lw

Enclosure

cc: (all with enclosures)  
Honorable Jerome E. Horton, Chairman, Fourth District  
Honorable Michelle Steel, Vice Chair, Third District  
Honorable Betty T. Yee, Member, First District (MIC 71)  
Senator George Runner (Ret.), Member, Second District (MIC 78)  
Honorable John Chiang, State Controller, c/o Ms. Marcy Jo Mandel

(via email)

Mr. Robert Thomas, Board Member's Office, Fourth District  
Mr. Neil Shah, Board Member's Office, Third District  
Mr. Tim Treichel, Board Member's Office, Third District  
Mr. Alan LoFaso, Board Member's Office, First District  
Ms. Mengjun He, Board Member's Office, First District  
Mr. James Kuhl, Board Member's Office, Second District  
Mr. Lee Williams, Board Member's Office, Second District  
Ms. Natasha Ralston Ratcliff, State Controller's Office  
Ms. Cynthia Bridges (MIC 73)  
Mr. Randy Ferris (MIC 83)  
Mr. Jeffrey L. McGuire (MIC 43)  
Mr. Jeff Vest (MIC 85)  
Mr. David Levine (MIC 85)  
Mr. Robert Tucker (MIC 82)  
Ms. Christine Bisauta (MIC 82)  
Mr. Kevin Smith (MIC 82)  
Mr. Steve Smith (MIC 82)  
Mr. Bradley Heller (MIC 82)  
Mr. Todd Gilman (MIC 70)  
Ms. Laureen Simpson (MIC 70)  
Mr. Bill Benson (MIC 67)  
Mr. Joe Fitz (MIC 67)  
Mr. Stephen Rudd (MIC 46)  
Mr. Kevin Hanks (MIC 49)

Ms. Kirsten Stark (MIC 50)

Ms. Lynn Whitaker (MIC 50)

**INITIAL DISCUSSION PAPER**  
**Lumber Products Assessment**  
**Regulation 2000, *Retailer Reimbursement Retention***

**Issue**

Adopt a permanent regulation determining the amount of collected lumber products assessment retailers may retain for cost reimbursement.

**Background**

Assembly Bill (AB) 1492 (Chapter 289, Statutes 2012) imposes, beginning January 1, 2013, a one-percent assessment on purchasers of lumber products and engineered wood products to be collected by the retailer at the time of sale. As enacted by AB 1492, Public Resources Code (PRC) section 4629.5(a)(3) provides:

The retailer shall collect the assessment from the person at the time of sale, and may retain an amount equal to the amount of reimbursement, as determined by the State Board of Equalization pursuant to regulations, for any costs associated with the collection of the assessment, to be taken on the first return or next consecutive returns until the entire reimbursement amount is retained. For purposes of this paragraph, the State Board of Equalization may adopt emergency regulations pursuant to Section 11346.1 of the Government Code. The adoption of any regulation pursuant to this paragraph shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, and general welfare.

To ensure that a Board-determined reimbursement amount was authorized before the affected retailers' collection duties begin, the Board approved emergency Regulation 2000, *Retailer Reimbursement Retention* at its October 23, 2012 Board meeting. The regulation allows retailers to retain \$250 per location as reimbursement for startup costs:

**Emergency Regulation 2000, *Retailer Reimbursement Retention***

Public Resources Code section 4629.5, as added by Statutes 2012, chapter 289, requires the Board of Equalization to adopt a regulation to determine the amount of reimbursement a retailer may retain for costs associated with the collection of the Lumber Products Assessment imposed by Public Resources Code section 4629.5.

A retailer required to collect the Lumber Products Assessment may retain \$250 per location as reimbursement for startup costs associated with the collection of the assessment. Such reimbursement is to be taken on the retailer's first return on which the Lumber Products Assessment is reported or, if the amount of the collected assessment is less than the allowed reimbursement, on the retailer's next consecutive returns until the allowed reimbursement amount is retained.

**INITIAL DISCUSSION PAPER**  
**Lumber Products Assessment**  
**Regulation 2000, Retailer Reimbursement Retention**

“Location” means and is limited to a business location registered under the retailer’s seller’s permit as of January 1, 2013, where sales of products subject to the assessment are made.

Regulation 2000 was approved by the Office of Administrative Law (OAL) on December 4, 2012 and is effective January 1, 2013. (See “Discussion of Emergency Regulation Process,” page 4.)

Prior to the Board’s approval of Regulation 2000, several interested parties submitted comments and appeared at the meeting to discuss the proposed emergency regulation (see Exhibit 1 for written submissions). Although the Board approved Regulation 2000, the members referred the issue to the Business Taxes Committee for further analysis and consideration while drafting the permanent regulation. The proposed permanent Regulation 2000 is scheduled to be presented at the May 22, 2013 Business Taxes Committee meeting.

**Discussion - Startup Costs or Continuous Reimbursement**

As provided in the emergency regulation, staff believes the language of PRC section 4629.5 and the legislative intent behind AB 1492 provide for a one-time reimbursement of startup costs to implement the Lumber Products Assessment on January 1, 2013. This one-time reimbursement amount is indicated by the language in PRC 4629.5(a)(3) which explains that the retailer may retain an amount “...to be taken on the first return or next consecutive returns until the entire reimbursement amount is retained.” The statute does not authorize retailers to retain additional amounts after a determined amount is retained. Staff believes if continuous reimbursement was intended, the statute would have explicitly provided an amount or percentage to be routinely claimed on the taxpayer’s return as in other Board of Equalization (BOE) programs where taxpayers retain reimbursement amounts.<sup>1</sup>

The intent that reimbursement be limited to startup costs was noted in the BOE legislative [analysis](#)<sup>2</sup> for AB 1492. In addition, the Senate and Assembly floor analysis for AB 1492 refer to retailers being reimbursed for “...costs to set up collection systems.” The California Forestry Association, a sponsor of AB 1492, confirms this intent in their submission supporting the provisions of emergency Regulation 2000 (Exhibit 1, page 11).

However, the California Retailers Association (CRA) points out in their submissions that retailers will incur ongoing costs to collect the assessment as long as they sell lumber in California. (Exhibit 1, pages 1–6). That is, retailers will have ongoing costs to collect the assessment as inventories change and products require evaluation and coding to capture whether they are subject to the assessment (including engineered wood products that are reformulated).

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<sup>1</sup> Reimbursement is allowed under the California Tire Fee Law, Covered Electronic Waste Recycling Fee, and the Cigarette and Tobacco Products Tax Law. The California Tire Fee Law and Covered Electronic Waste Recycling Fee Law authorize a retail seller to retain 3 percent and 1.5 percent of the fee, respectively, as reimbursement of collection costs. The Cigarette and Tobacco Products Tax Law provides that cigarette tax stamps are to be sold to licensed distributors at a specified discount, which is intended to help defray the cost (leasing of equipment/labor cost) to the distributor for affixing the stamps.

<sup>2</sup> <http://www.boe.ca.gov/legdiv/pdf/1492abenr12cw.pdf>

**INITIAL DISCUSSION PAPER**  
**Lumber Products Assessment**  
**Regulation 2000, *Retailer Reimbursement Retention***

CRA believes that the nonspecific language of AB 1492 provides the Board the flexibility to allow ongoing reimbursement to reflect the ongoing nature of collecting the assessment.

The West Coast Lumber & Building Material Association (West Coast), an industry trade organization representing independent lumber yards in California, also believes reimbursement should be ongoing. West Coast notes that the list of wood products subject to the assessment is subject to annual review by the Board of Forestry and Fire Protection and retailers will need to adjust their collection systems to account for any modifications to the list. (Exhibit 1, pages 7-8). Based on a survey of their members, West Coast requests the regulation allow retailers to retain \$1,500 annually to handle those updates and changes.

**Discussion - Amount of Reimbursement**

Most of the emergency regulation discussion focused on the amount of reimbursement retailers are allowed to retain. Staff interprets the language in PRC 4629.5(a)(3), “and may retain an amount equal to the amount of reimbursement, as determined by the State Board of Equalization pursuant to regulations...” to mean that BOE was given the authority to determine a specific amount for reimbursement. As provided in the emergency regulation, staff determined the allowed reimbursement to be \$250 per location registered under the retailer’s seller’s permit as of January 1, 2013, and where sales of products subject to the assessment are made. That amount may be retained by retailers without any requirement that the retailer substantiate its costs.

The \$250 reimbursement amount was based on BOE’s understanding of the amount of retailer reimbursement discussed when the legislation was drafted. Although the statute and legislative analyses do not specify whether “retailer” was intended to mean “registered retailer” or “retail location,” staff believed the statute could be interpreted to allow reimbursement on a per location basis to benefit the taxpayer. Staff supported the \$250 amount by using U.S. Census Bureau data and a 2006 PricewaterhouseCoopers LLP report on gross retail sales tax compliance costs for programming and servicing cash registers for sales tax rate and bases changes. (See October 12, 2012 Chief Counsel [Memo](#)<sup>3</sup> (on the adoption of emergency Regulation 2000.) As noted in the memo, staff does not believe the statute gives the Board the authority to define costs in a manner that would allow each affected retailer to come up with its own unique reimbursement amount.

The California Forestry Association supports the staff-determined amount and explains that the legislative intent and history was to allow only a one-time amount to cover initial costs of compliance, which the Legislature had been informed would be no more than \$250 per retail establishment (Exhibit 1, page 11).

Other interested parties, however, consider the amount allowed in emergency Regulation 2000 to be unreasonably low given retailers’ actual costs to change their reporting systems to collect the assessment. Comments from interested parties describe the work involved and estimated actual costs:

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<sup>3</sup> [http://www.boe.ca.gov/meetings/pdf/102312\\_J1\\_AB1492\\_Emergency\\_Regs.pdf](http://www.boe.ca.gov/meetings/pdf/102312_J1_AB1492_Emergency_Regs.pdf)

**INITIAL DISCUSSION PAPER**  
**Lumber Products Assessment**  
**Regulation 2000, *Retailer Reimbursement Retention***

CRA states that retailers will have only a short amount of time to reconfigure computer systems, take inventory of what they sell, determine which products are subject to the assessment, and test their systems for accuracy in order to be compliant by January 1, 2013. Complicating this effort is that the end of the year is the busiest time for many retailers.

West Coast surveyed their membership on estimated costs to implement the new assessment. The average cost for implementation from the respondents (42 separate retailers reporting, some with multiple locations) was \$4,521 per location. In addition, some retailers responded that their current software systems could not be modified to collect the new assessment. Respondents estimated that the cost of a new computer system capable of handling the new assessment ranged from \$100,000 to \$250,000. West Coast believes those retailers should be allowed reimbursement at a level sufficient to recover the cost of replacement computer systems.

84 Lumber had their IT department prepare a preliminary analysis of the cost to change their point-of-sale system to implement the assessment; they conservatively estimated they will incur \$21,000 in costs to collect the assessment (Exhibit 1, pages 9-10).

**Discussion - Emergency Regulation Process**

Approved emergency regulations remain effective for 180 days unless OAL approves a re-adoption of the emergency regulation during that time period. OAL may approve two re-adoptions of the same emergency regulation and each re-adoption may extend the emergency regulation's effective period for up to 90 days. Emergency regulations are repealed when their effective periods expire. However, an emergency regulation can become permanent if the Board re-adopts the regulation through the regular rulemaking process and transmits the completed rulemaking file to OAL during the period the emergency regulation is in effect.

The Board approved Emergency Regulation 2000 on October 23, 2012, and the regulation was approved by OAL on December 4, 2012. The emergency regulation is effective on January 1, 2013, and will expire on July 2, 2013. In order to work with interested parties through the Business Taxes Committee process, staff intends to request re-adoption of the emergency regulation.

**Summary**

Staff believes the reimbursement provisions in emergency Regulation 2000 reflect the intended amount of retailer reimbursement discussed when the legislation was drafted. However, an interested parties meeting is scheduled for January 10, 2013, to discuss this issue before the permanent regulation is drafted. Staff welcomes any comments, suggestions, or implementation cost information from interested parties.

Prepared by the Tax Policy Division, Sales and Use Tax Department

Current as of 12/17/2012



September 24, 2012

The Honorable Jerome Horton  
Board of Equalization  
450 N Street, MIC:72  
Sacramento, CA 95814

**RE: Emergency Regulations – AB 1492 Timber Assessment**

Dear Boardmember Horton:

The California Retailers Association (CRA) writes in regards to the emergency regulations that the Board of Equalization (BOE) will be adopting in the next several weeks relative to the recently enacted timber assessment. It is our hope that the BOE uses their expertise and authority in this area in determining a vendor compensation scheme that is both fair and equitable while recognizing the ongoing costs that retailers will incur in complying with AB 1492.

The California Retailers Association is the only statewide trade association representing all segments of the retail industry including general merchandise, department stores, mass merchandisers, supermarkets, fast food restaurants, chain drug and convenience stores, as well as specialty retailers such as auto, book and home improvement stores. CRA works on behalf of California's retail industry, which currently operates over 164,200 stores with sales in excess of \$571 billion annually and employing 2,776,000 people – nearly one fifth of California's total employment.

AB 1492 is a comprehensive forestry reform package that augments the General Fund the revenue from a lumber products fee assessment to offset timber review costs to the industry. In order to support increased regulatory activities, AB 1492 charges consumers a new 1% assessment on the purchase of lumber products at the point of sale. CRA has historically opposed product-specific point of sale fees because it increases costs and liability for retailers and is an unsustainable model given the hundreds, if not thousands of products that many of our members carry.

CRA worked very closely with the Administration after AB 1492 was introduced in the May Revision to carefully construct language to this bill that made the bill more workable for the retail industry. This included:

- Requiring that the fee be separately stated on the receipt so the consumer can understand the new change.
- Clarifying that the fee is to be collected from the consumer at the point of sale. The original language required the retailer to pay the fee.
- Allowing the BOE to promulgate regulations relative to vendor compensation.

With these amendments, we adopted a neutral position on the measure as it moved through the Legislature. There were many discussions that took place on the issue of whether there should be any vendor allowance provided, whether the allowance would be one-time or ongoing, and what the amount should be. Since consensus could not be reached, all parties agreed to defer these decisions to the BOE, since the Board is already very familiar with the administration of vendor allowances.

The reality for our members is that ongoing costs will be incurred for as long as they continue to sell lumber in the state of California. Effective January 2013, we will begin collecting, reporting, and remitting these fees to the BOE. Our members will also spend a tremendous amount of time and resources reprogramming their systems and testing these changes to our systems. After building the systems, they will interconnect them to all retail locations nationwide while ensuring that the systems have been properly changed. These efforts are by no means one-time. Inventories change on an ongoing basis and we will be subject to audits in the future. In fact, our members review thousands of SKUs on a monthly basis for compliance purposes and they will have to do that to comply with AB 1492. Additionally, vendors commonly reengineer products while maintaining the same SKU. These products may have more wood product and our members will have to figure out if the timber assessment applies. We fully recognize that the first year of implementation will be a trial and error period. The main concern is that there remains a lot of uncertainty around which products must be assessed and given our constantly changing inventories, it seems the uncertainty will inevitably remain moving forward.

Some questions include:

1. What happens if a retailer sells a product for which a fee should have been collected?
2. Does the assessment apply when we inbound inventory or just when items are sold?
3. Is the timber fee included in the tax base subject to retail sales tax?
4. Is the timber fee refundable if merchandise is returned for a refund?
5. How will the timber fee be handled if merchandise is exchanged in a net zero transaction?
6. Is the fee due on sales made in California stores, but shipped to customers outside of the state?
7. Is the fee due on sales made from stores outside of the state but shipped to customers inside California?

8. Is the fee due on a tax exempt sale? (Sales to a registered CA lumber reseller, the federal government, a Native American reservation)

These are important issues that our members need clarity on before the effective date that we are required to collect the timber fee. It is also our hope that the BOE acknowledges the ongoing nature of collecting this fee recognizes these areas of concern.

It is our understanding that the Board plans to move forward with emergency regulations on this matter in the next several weeks. We strongly urge the BOE to conduct an independent cost analysis that factors in all of the costs that we will incur from collecting this fee in making their determination. We would also respectfully request a meeting with you to discuss this matter further and to answer any questions you may have. Thank you for your attention to this matter.

Sincerely,



BILL DOMBROWSKI  
President & CEO  
California Retailers Association

cc: The Honorable Betty Yee  
The Honorable Michelle Steel  
The Honorable George Runner  
The Honorable John Chiang



October 21, 2012

The Honorable Jerome Horton  
Board of Equalization, Chairman  
450 N Street, MIC:72  
Sacramento, CA 95814

RE: Emergency Regulation 200 – AB 1492 Lumber Assessment

Dear Chairman Horton:

Thank you for the opportunity to provide feedback and comments on the Board's proposed emergency regulation 2000 relating to retailer reimbursement retention as allowed under the recently enacted Lumber Products Assessment. CRA would like to acknowledge the work that all involved stakeholders have put into this effort thus far. However, we remain concerned with the proposed level of retailer reimbursement and do not believe that the proposed reimbursement amount would adequately account for the true costs that our members will incur as a direct result of complying with this new law.

The California Retailers Association is the only statewide trade association representing all segments of the retail industry including general merchandise, department stores, mass merchandisers, fast food restaurants, convenience stores, supermarkets and grocery stores, chain drug, and specialty retail such as auto, vision, jewelry, hardware and home stores. CRA works on behalf of California's retail industry, which currently operates over 164,200 stores with sales in excess of \$571 billion annually and employing 2,776,000 people—nearly one fifth of California's total employment. The retail industry in California represents one in every four jobs in the State, a total of nearly 5 million jobs (2009), and accounts for 17.8% of the State's GDP.

As you know, effective January 1, 2013, retailers will be required to collect a one-percent assessment on the purchase of lumber products from consumers at the point of sale. In order to do this, our members will have to carry out an exhaustive effort in the next two months reconfiguring their computer systems, taking inventory of what they sell, making a determination among thousands of products on whether the product is subject to the assessment, testing the system for accuracy, among a host of other things in order to be fully compliant by January 1, 2013. It is also key to mention that this exhaustive administrative effort will overlap with the busiest time of year for retailers with the holiday season nearing.

Additionally, AB 1492 (Chapter 289, Statutes of 2012) provides that retailers “may retain an amount equal to the amount of reimbursement, as determined by the State Board of Equalization pursuant to regulations, for any costs associated with the collection of the assessment...” However, despite feedback from impacted companies, emergency regulation 2000 will only allow retailers to retain \$250 per location to reimburse them for costs associated with the collection of the assessment. While we appreciate the acknowledgement that retailers WILL incur costs for collection and remittance of the assessment, we believe that the figure proposed shortchanges our members by significantly limiting cost recovery. Nothing in AB 1492 specifies that reimbursement was intended to be paid on a one-time basis, nor does it propose to reimburse retailers on a per-location basis. However, the proposed regulation has been formulated based upon interpretations that this was the intent of AB 1492.

The BOE memorandum dated October 12, 2012 provides that there is support for an interpretation that AB 1492 provides for affected retailers to retain a one-time amount for the reimbursement of costs to set up new collection systems. We would respectfully disagree as the language as provided above simply states that we may retain “an amount equal to the amount of reimbursement.” Also noted in the memorandum was a recent study of sales tax collection costs. This study analyzed the costs associated with sales tax compliance and found that \$250 reflects an average cost for programming and servicing cash registers. Using this as a foundation for determining reimbursement for the lumber products assessment raises the important question of whether or not setting up a tax collection system for lumber products would be the same as the general cost of administration of a sales tax. We would argue that comparing the two would be like comparing apples to oranges given that select (lumber product) SKUs will have to be programmed into the system as opposed to sales tax which applies to most products universally.

Also cited in the memorandum were examples of retailer reimbursement for the California Tire Fee Law and the Covered Electronics Waste Recycling Fee Law, where retailers receive reimbursement in the amounts of 1.5 percent and 3 percent respectively. It was further noted that these programs explicitly provided guidance that reimbursement will be provided on an ongoing basis and that AB 1492 did not provide such specificity. However, again, nothing in AB 1492 limited cost recovery in the manner that we see in emergency regulation 2000. We would also argue that given the E-Waste Law and the Tire Fee Law, there is established precedent for this type of reimbursement in California Law. What the Board is prepared to adopt at the October 23<sup>rd</sup> hearing runs counter to precedent and is very disappointing.

We are, however, heartened by the possibility, as expressed on page 3 of the BOE memorandum, that there may be a future opportunity to substantiate through documentation from retailers what costs we have incurred through our efforts to comply with AB 1492. We would appreciate and look forward to the opportunity to work with the BOE to look into that issue in the near future.

We thank you for the opportunity to provide comment on this important issue. If you have any questions, please feel free to call me at (916) 443-1975.

Sincerely,



**BILL DOMBROWSKI**  
President & CEO  
California Retailers Association

Cc: The Honorable Betty Yee  
The Honorable Michelle Steel  
The Honorable George Runner  
The Honorable John Chiang

# **WEST COAST LUMBER & BUILDING MATERIAL ASSOCIATION**

177 Parkshore Drive • Folsom, California 95630 Telephone 916/235-7490 Fax 916/235/7496  
www.lumberassociation.org

October 12, 2012

The Honorable John Chiang, State Controller  
California State Board of Equalization  
PO Box 942850  
Sacramento, CA 95450

**Re: AB 1492**

Dear Commissioner Chiang:

AB 1492 is now law. It was one of the last bills passed prior to adjournment and with the legislature using what is widely considered less than good judgment and logic to deal with a very real issue for the timber producers of California. It is unfortunate the bill passed but now this retail segment of the lumber industry must deal with it.

The legislation contains a provision for reimbursement to lumber retailers for their costs in setting up the collection system. The law also requires that this additional one per cent lumber tax be reported separately on invoices. Further, the list of wood products covered under the law, as defined by the Board of Forestry and Fire Protection, is subject to change and interpretation as consideration is given to the variety and composition of such products. The Board of Forestry recognizes the list of products subject to the tax is open to interpretation and their emergency regulations reflect a potential need to modify the list.

That is not a simple process for the lumber dealers who utilize a computer software program to determine sales taxes and now this additional tax. It is costly, time-consuming and subject to adjustment as the list of products change.

The West Coast Lumber & Building Material Association, an industry trade organization representing the majority of the 300 plus independent lumber yards in the state, recently surveyed the membership on estimated costs to implement the additional tax.

**The average cost for implementation from the respondents (42 separate locations reporting, some with multiple locations) was \$4,521 per location. Additionally, estimates of \$1,500 annually for updates and changes were also reported by respondents.** It should be noted these responses are only those from lumber retailers who believe they have the computer software systems capable of making the modifications.

An additional group of lumber retailers have significantly and extraordinary larger costs in that they may have an older software systems that cannot be modified to handle the changes. Some have custom systems developed in-house for very specific purposes and cannot be modified, and there are even a few businesses who do not use computers for this purpose. Those with the older and custom systems will have very significant additional costs in implementing this additional tax collection. **The cost estimates for new systems capable of handling this new tax range from \$100,000 to \$250,000.**

**We request that the regulations being promulgated by the Board of Equalization contain retailer reimbursement of a minimum of \$4,500 per business location and \$1,500 annually to handle updates and changes for those businesses' computer systems capable of implementing the additional tax.**

**We additionally request that those businesses whose current computer systems cannot be updated to implement the additional tax be reimbursed as a level sufficient to recover the cost of replacement computer systems.**

The time frame for implementing this additional tax is also a concern. Lumber dealers, as well as the several computer software providers who generally serve this industry, indicate that meeting a January 1, 2013, date for implementation is difficult, if not impossible to meet.

The retail lumber industry in California has been in difficult economic conditions for the past six years, with more than 60 retail lumber operations going out of business in that time, and many of the remainder doing business at about 75% of the volume they did six years ago. Those who are still in business will likely survive although it will be many years, if ever, for most to regain what was lost in this recession. This is one more challenge to doing business in the state of California, this time an additional burden to one of the oldest and most vital industries in the state.

We are available to provide additional information as necessary.

Sincerely,



**KEN DUNHAM**  
Executive Director



1019 ROUTE 519 • EIGHTY FOUR, PENNSYLVANIA 15330-2813  
PHONE: (724) 228-8820

October 18, 2012

State Board of Equalization  
450 N. Street, Sacramento, California  
PO Box 942879  
Sacramento, California 94279-0080

Attention: Ms. Joann Richmond, Chief, Board Proceedings Division

Reference: Board Meeting October 23, 2012 – Public Comments  
Chief Counsel Matters – Item J – Rulemaking  
Adoption of Emergency Regulation 2000 – Lumber Products Assessment  
Adoption of Retailer Reimbursement Retention – \$250.00 per Location

We would like to present the following public comments regarding this new Lumber Products Assessment and the related Retailer Reimbursement Retention amount of \$250.00 per location. This fee is proposed as a one time start up cost regarding costs associated with collection of this new Lumber Products Assessment.

We had our IT department prepare a preliminary analysis of what it might cost to make changes to our POS system to implement the collection of this new Lumber Products Assessment. The cost of programming development of a system is not dependent on the number of locations. These costs should be considered in addition to an implementation fee that would be associated with the retailer locations registered and located in California.

This change is completely new development affecting the following areas of our reporting system (Requiring new programming)

- Inventory ( Product Assignment)
- Estimating
- Deposits
- Commercial Sales
- Job Accounting
- Sales reporting
- Tax Exempt reporting
- Corporate back end processing
- Invoicing changes to comply

These new programming changes are a direct result of having to report and track this New Lumber Assessment separate and distinct from sales and use tax reporting requirements. This tracking will require file conversions within all of the systems listed above. The development time is directly related to the tax being a first of its kind at the SKU level.

We want to point out that a very conservative estimate as to the cost we will incur to implement this new assessment for our California locations would be approximately \$21,000.00. The final amount will be dependent on what the final regulation tells us as to what will be taxable for this New Lumber Assessment.

We trust this information will be considered in final passage of this new Regulation as to what business should be reimbursed for this additional burden put on the business community. This new regulation may impact business owners who currently operate in the State of California and new business who may want to operate a business in the future in the State of California.

Sincerely,

David E. Carlsen  
Vice President Tax  
84 Lumber Company  
Cc: File, Ken Warner, Paul Lentz



CALIFORNIA FORESTRY ASSOCIATION

PHONE 916.444.6592 • FAX 916.444.0170 • E-MAIL cfa@cwo.com • www.foresthealth.org

1215 K STREET • SUITE 1830 • SACRAMENTO, CA 95814

October 19, 2012

Honorable Jerome E. Horton, Chairman  
Honorable Michelle Steel, Vice Chair  
Honorable Betty T. Yee, 1<sup>st</sup> District  
Senator George Runner, 2<sup>nd</sup> District  
Honorable John Chiang, State Controller

California State Board of Equalization  
450 N Street  
Sacramento, CA 95814

*Re: Support for Staff Recommendation on Lumber Products Assessment*

Dear Chairman Horton and Board Members:

On behalf of the California Forestry Association, I write to urge your adoption of the staff recommendation for the emergency regulations to implement AB 1492, the forestry reform package, including the 1% assessment on the purchase of lumber products in this state. This is in the State Board of Equalization (SBE) Board Meeting agenda for October 23 under Chief Counsel Matters – Item J – Rulemaking – Adoption of Emergency Regulation – Lumber Products Assessment.

CFA was a key sponsor of AB 1492, working closely with the Legislature and the administration, and we believe that the staff's recommendation reflects the legislative intent regarding retailer compensation. Therefore, we urge you to approve and adopt proposed Regulation 2000, Retailer Reimbursement Retention for implementation of the Lumber Products Assessment. AB 1492 provides the SBE with the authority to adopt an emergency regulation to determine the amount of reimbursement retailers may retain for their compliance costs for collecting the fee beginning January 1, 2013. We concur with the staff's analysis that the legislative intent and history was to allow only a one-time amount to cover initial costs of compliance, which the Legislature had been informed would be no more than \$250 per retail establishment.

As you may be aware, in instances wherein retailers receive ongoing compensation for collection of a fee, the underlying statutes clearly specify an amount and that they are ongoing reimbursements to the retailer.

No such provisions exist in AB 1492. Therefore, there is no authority to provide retailers with reimbursement of actual or ongoing costs of compliance.

Thank you for your consideration. If you have any questions, please feel free to contact me.

Sincerely,



David A. Bischel  
President