

Memorandum

To: Honorable John Chiang, Chair
Honorable Claude Parrish, Vice Chairman
Honorable Bill Leonard
Ms. Betty T. Yee, Acting Member
Honorable Steve Westly

Date: July 7, 2006

From: Ms. Kristine Cazadd, Chief Counsel
Legal Department, MIC: 83 
Mr. Todd Gilman, Chief 
Taxpayers' Rights and Equal Employment Division, MIC: 70

Subject: July 18, 2006 Agenda, Chief Counsel Matters Item # M 1
Taxpayers' Bill of Rights Follow-Up Report Cigarette and Tobacco Products Licensing Act (AB 71): Inspection Fact Sheet and Survey

BACKGROUND

On March 28, 2006, during a Taxpayers' Bill of Rights hearing, it was suggested by a taxpayer that the cigarette license inspection program use customer service surveys so that BOE management could identify opportunities to improve inspector professionalism. Board Member Leonard favored the idea and asked the Taxpayer's Advocates (TRA) office to work with the taxpayer and look into the possibility of creating a customer service survey. As a result of the hearing, the Investigations Division (ID) and TRA office met and developed two customer service feedback options.

The first option is a proposed Cigarette and Tobacco Products Licensing Act Taxpayer Rights Fact Sheet (attached) with highlighted information on how to make a complaint. This would be provided to taxpayers at the onset of a compliance inspection. Currently, there is no ID form provided to taxpayers with comprehensive information about the compliance inspection process and about how to voice their concerns regarding the conduct of the investigators. The Fact Sheet will give the taxpayer a detailed explanation of the inspection process, what they can expect during an inspection, and the remedies available in the event their cigarette and tobacco products are seized. Furthermore, the Fact Sheet information will describe taxpayer rights and the inspection complaint process, and will specifically identify Board staff, including the Taxpayers' Rights Advocate, who can assist in resolving their complaint. Feedback received from taxpayers will provide ID with valuable information on the effectiveness and professionalism of the investigators and our inspection program along with opportunities to improve our training.

Taxpayers' Bill of Rights Follow-Up Report
Cigarette and Tobacco Products Licensing Act (AB 71):
Inspection Fact Sheet and Survey

The second option is to add to the Fact Sheet an Inspection Survey form (attached) which would be provided to the taxpayer. This Survey would allow the taxpayer an opportunity to indicate his or her concerns about various aspects of the investigators' conduct during the inspection of the taxpayer's place of business. By checking the appropriate box, the taxpayer would be able to express an opinion on selected aspects of the inspection process or the investigators' conduct as well as provide written comments. The results of the survey, if this option is selected, will provide ID with additional information about the conduct and professionalism of the investigators and opportunities to make improvements and track staff activity.

INVESTIGATIONS DIVISION'S RECOMMENDATION

We recommend that the Board adopt option 1, the Fact Sheet describing the taxpayers' rights and complaint procedures, as it encourages direct contact with Investigations Division and the Taxpayers' Rights Advocate's Office without requiring added time and expense of mailing and processing the survey forms. The Fact Sheet provides taxpayers with comprehensive information on what they can expect during the inspection process, informs them of their rights, and encourages direct communication between the taxpayer and the investigator.

The survey sheet requests a subjective evaluation and is more costly and time consuming to process. Although it does not directly contribute to communications between the taxpayer and Investigations Division or the Taxpayers' Rights Advocate Office about the inspection process, it does provide an additional method for evaluating the investigators' conduct.

We would further recommend that the Fact Sheet be translated into the Board's four core languages, Spanish, Korean, Chinese, and Vietnamese plus Punjabi and Arabic. Publication 78, *Sales of Cigarettes and Tobacco Products in California*, is currently being translated into these languages based on needs identified by the inspectors.

Please feel free to make any suggestions or changes to the attachments or direct us to provide other alternatives. If you have any further questions you may contact Kristine Cazadd at 916-445-4380 or Todd Gilman at 916-324-2796.

KC:TG:sj

Attachment

cc (with copy of attachment):

Mr. Ramon Hirsig
Ms. Jean Ograd
Mr. Gil Haas, Jr.
Ms. Mary Ann Alonzo
Mr. Randy Silva
Mr. Gonzalo Hernandez
Mr. Sid Zigelman

Cigarette and Tobacco Products Licensing Act

Compliance Inspection Procedures

INSPECTION

Fact Sheet

Publication xxx
Investigations Division
916.324.0105

[http://www.boe.ca.gov/invest/
investcont.htm](http://www.boe.ca.gov/invest/investcont.htm)

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Your business has been selected for a compliance inspection by the Board of Equalization Investigations Division in accordance with the California Revenue and Taxation Code §30435, and the California Business and Professions Code §22980. The purpose of this inspection is to ensure you are in compliance with the requirements of Division 8.6 of the Business and Professions Code, *California Cigarette and Tobacco Products Licensing Act of 2003*. At the time of inspection, you will be provided a copy of publication 78, *Sales of Cigarettes and Tobacco Products in California-License Requirement for Retailers*. This publication discusses the requirements that must be met in order to sell cigarettes and tobacco products at retail in California. You will also be given information regarding compliance with the Master Settlement Agreement Directory as it applies to the sales of cigarettes and roll-your-own tobacco, as well as information on the classification of certain cigars as cigarettes for tax purposes.

Your Rights

Every employee of the Board of Equalization shares responsibility to you, as a California taxpayer, for upholding your rights. We want you to know that we will honor and safeguard those rights every time we interact with you. As explained in Publication 70, *Understanding Your Rights as a California Taxpayer*, you have the right to

- courteous and prompt service
- be treated fairly
- confidentiality
- information and assistance
- address your elected Board Member

Your rights during the inspection process are summarized below.

The Inspection Process

During the inspection, the investigators will inspect all of the cigarette and tobacco products located on your premises and in any adjacent building or storage container where you maintain cigarette and tobacco product inventory. The investigators will scan the tax indicia affixed to cigarettes in your inventory and review both your purchase and sales invoices in an effort to reconcile them with your inventory.

At the time of the inspection, the investigators will request the following:

1. Identification of all of your cigarette and tobacco products inventory.

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2. All your purchase invoices of cigarette and tobacco products for the last year of business operation.
3. The location of purchase and sales invoices (or register tapes) for cigarette and tobacco products for up to four years of business operation.
4. Personal identification.

Products Seized During an Inspection

If during the inspection, untaxed, counterfeit, or illegal cigarette or tobacco products are found, they will be subject to seizure and a citation may be issued. A notice of seizure will be mailed to you, detailing the products seized and your right to contest the forfeiture of the property. The Board of Equalization is not legally permitted to return seized cigarettes or tobacco products unless they were erroneously or illegally seized. To recover cigarette or tobacco products that you believe were erroneously or illegally seized, you must file a verified petition for the release of your product. For this purpose, a *Petition for Release or Recovery of Property* form will be mailed to you with your *Notice of Seizure and Forfeiture*. Your petition must explain the reason for your request to recover the seized product.

Investigations Division Complaint Procedure

If you believe the conduct of an investigator during the performance of his or her duties was unprofessional or violated your rights, you may direct a complaint to the Board as follows:

Call or write the Investigations Division at 916-324-0105 or Investigations Division, Board of Equalization, P.O. Box 942879, Sacramento, CA 94279-0042, and explain how the investigator was unprofessional or inconsiderate in the conduct of the inspection. Your complaint will be handled by an Investigations Division supervisor or manager, who will contact you in writing to address your concerns. If you are unable to resolve your problem with the Investigations Division or prefer to direct your complaint outside of the Investigations Division, you may contact the Taxpayers' Rights Advocate Office.

Taxpayers' Rights Advocate Office

The Board of Equalization Taxpayers' Rights Advocate Office (TRAO) generally assists taxpayers who have been unable to resolve a matter through routine channels, when they want information regarding procedures relating to a particular set of circumstances, or when there appears to be rights violated. You may call the TRAO toll-free at 888-324-2798. The Advocate will independently investigate the inspection complaint and respond accordingly when the matter is ready to close.

For more Information

If you have any questions regarding the inspection program, you may contact the Investigations Division at 916-324-0105. If you need more information on the Cigarette and Tobacco Products Licensing Act, you may contact the Excise Taxes Division at 916-327-4208. You may also wish to order the following publications from the Information Center or check for them on our website at www.boe.ca.gov:

Publications

- 4A California Cigarette and Tobacco Products Licensing Act of 2003
- 63 Cigarette Distributor Licensing and Tax Stamp Guide
- 70 Understanding Your Rights as a California Taxpayer
- 78 Sales of Cigarettes and Tobacco Products in California
- 78-S Venta de Cigarrillos y Productos de Tabaco en California (Spanish)
- 93 Cigarette and Tobacco Products Taxes

Tax Evasion hurts all of us...

To report suspected tax evasion, contact the Board of Equalization's Tax Evasion Hotline at 888-334-3300 or the Investigations Division at 916-324-0105.

**Board of Equalization Cigarette and Tobacco
Products Licensing Act of 2003
Inspection Survey**

We would appreciate if you would take a few minutes to complete this survey. The information you provide in this survey will provide the Board of Equalization with valuable feedback on the effectiveness of our inspections. It will also help us to improve procedures and services to the business community and the taxpayers of our State.

Please answer the questions listed below by checking the appropriate box.

INSPECTION SURVEY

1. Did the investigators properly identify themselves? Yes No
2. Did the Investigators provide you with Publication 78 and their business cards? Yes No
3. Were the Investigators courteous during your inspection? Yes No
4. Were your questions regarding the inspection process thoroughly answered? Yes No
5. If you received a citation, were the Investigators' explanations clearly presented? Yes No

COMMENTS

OPTIONAL:

NAME	TELEPHONE NUMBER ()
ADDRESS (Street, City, State, Zip Code)	PERMIT NUMBER

INVESTIGATOR(S) _____
