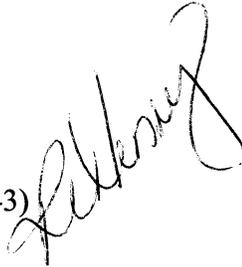


M e m o r a n d u m

To : Mr. Ramon J. Hirsig
Executive Director (MIC 73)

Date: April 5, 2007

From : Ms. Randie J. Henry, Deputy Director
Sales and Use Tax Department (MIC 43)



Subject : **Proposed Revisions to Audit Manual Chapter 2,**
Preparation of Field Audit Reports

In accordance with the established procedures for audit and compliance manual revisions, I am submitting the following proposed revisions to Audit Manual Chapter 2, *Preparation of Field Audit Reports*, for your approval to forward to the Board Proceedings Division. These changes have been reviewed and approved by SUTD management, provided to Board Members, and posted for two months at <http://www.boe.ca.gov/sutax/staxmanuals.htm> to solicit comments from interested parties.

We received no comments from the public. On March 21, 2007, we sent a memo advising Board Members that there were no comments and of our intention to place these revisions on the April 25, 2007 Administrative Agenda as a consent item.

Copies of the proposed revisions are attached for your reference. We request your approval to forward these proposed changes to the Board Proceedings Division for placement on the next Administrative Agenda as a consent item.

If you have any questions, please let me know or contact Mr. Jeff McGuire at 324-1825.

Approved:



Ramon J. Hirsig
Executive Director

Mr. Ramon J. Hirsig
Executive Director (MIC 73)

-2-

April 5, 2007

Attachment

cc: (all without attachments)
Mr. Stephen Rudd (MIC 46)
Ms. Freda Orendt (MIC 47)
Mr. Jeff McGuire (MIC 92)
Mr. Joe Young (MIC 49)
Ms. Kelly Reilly (MIC 47)

BOARD APPROVED
At the April 25, 2007 Board Meeting

Gary Evans, Acting Chief
Board Proceedings Division

AM

Section

Summary of Revisions

- 0201.01** Creates new section for a brief description of Start 21 Program.
- 0201.12 & 0212.03** Clarifies the definition of Form BOE-596 to conform with revised Form BOE-79-F.
- 0201.20** Creates new section for the current version of Form BOE-1296.
- 0202.39** Inserts a footnote to clarify that the taxpayer's name on the audit report maybe abbreviated if the legal name is in fact abbreviated. The auditor should not initiate the abbreviation the taxpayer's legal name.
- 0202.45** Explains that if dual determination is not requested, BOE 414-A should be forwarded to the district of account of the probable owner for investigation. Requires the auditor to obtain a "53" series arbitrary permit number from District Compliance for unregistered probable owner listed in a dual determination.
- 0202.50** Clarifies that the requirement to include partners' name and address under "RUPA Compliance" comment applies only to closed-out partnership accounts.
- 0203.06** Explains that with the exception of periods extended through amnesty, the audit period should not include reporting periods that have expired unless the taxpayer signs a waiver. Explains that the period covered by audit does not include any period that would expire within 30 days (not 45) of the date the audit is transmitted to Audit Determination and Refund Section.
- 0203.12 & 0203.09** Renames "BOE-414-A1" with "Sales Tax Calculation Summary," a report printed with the system-generated audit report that is no longer referred to as BOE-414-A1.
- 0203.15** Requires the auditor to review the taxpayer's records in IRIS to see if the Board holds security deposits, and to enter all offsets as a negative number in the upload disk.
- 0203.21** Inserts 40% penalty for failure to remit sales tax reimbursement or use tax collected.
- 0204.12** Updates information that may appear at the bottom or top of BOE-414-A. Clarifies that notations that appear on the bottom of the front of BOE-414-A are entered on page 3 of Form BOE-414-A.
- 0204.14** Explains that approval to impose fraud or intent to evade penalty or jeopardy determination will be obtained from the Chief, Headquarters Operations Division after the district review process is completed.
- 0204.16** Inserts procedures from APMG 2214.50, *Statutory Provisions*, and clarifies persons to whom dual determination may be issued.
- 0205.10** Clarifies that audit hours are not limited to whole hours (can be fractional).
- 0205.36** Deletes the instruction to write the word "Special" on page 3 of BOE-414-A since Start 21 does not allow the user to type in "special." Inserts new Form BOE-79-AP and Form BOE-79-F to the list of transmittal form letters.
- 0205.38** Updates procedures for preparing "special" transmittal letters.

- 0205.40** Instructs users to contact Audit Determination and Refund Section – Allocation Group for questions regarding local sales and use tax allocation.
- 0205.41** Instructs users to contact Local Revenue Allocation Section for questions regarding district tax reallocation.
- 0205.44** Includes completed Form BOE-502 in the HQ packet and explains that the form will be forwarded to Business Taxes Committee and Training Section.
- 0205.48** Deletes section, “Form BOE-523 to Clear Delinquencies” (0205.48). Form BOE-523 is no longer required to clear delinquent periods. IRIS clears delinquent periods when audit or field billing order is billed.
- 0205.49** Inserts the provisions of Sales and Use Tax Section 7086.
- 0205.51 –**
- 0205.57** Creates new section to conform with Form BOE-414-A revision 4-05.
- 0205.66** Deletes the requirement to include in the General Audit Comments the period of the first tax change and the measure of the tax, when a waiver is not obtained from the taxpayer. This information is automatically printed in the system-generated audit report.
- 0206.03** Provides an example of the extent of comments regarding the taxpayer’s business.
- 0206.09** Deletes the requirement to include a comment on taxpayer’s present financial condition. Deletes the DMV comment since the BOE does not currently provide this type of referral. Inserts comments on Amnesty and Error in Transcript of Returns Filed.
- 0206.21** Explains the Board’s implementation of the use of the North American Industrial Classification System (NAICS) code.
- 0206.40** Explains Headquarters’ responsibility to forward the FTB packet to FTB for audits that involve jeopardy determinations or bankruptcy proceedings. Explains that reaudits must include an updated FTB package.
- 0206.48** Updates and provides an example of claim for refund comments.
- 0206.49** Updates dual determination comments using revised text suggested by Legal.
- 0206.50** Deletes section, “Refund of Unconstitutional Transactions and Use Tax Comments.” SDJK & MPRI expired in 1992.
- 0206.52** Creates new section for amnesty comment.
- 0206.55** Updates comments under RUPA Compliance.
- 0206.58** Creates new section for Tax Error. Clarifies the definition of a tax error and requires auditor’s comment for errors greater than \$50.
- 0207.00** Renames section from “Form BT-414-A1, Summary by Quarters” to “Exit Conference.” The Sales Tax Calculation Summary is now automatically printed with the system-generated audit report and is no longer referred to as “414-A1.” Procedures for interest calculations were incorporated in section 0217.00.
- 0207.04** Inserts the use of Form BOE-1P for advance payments if a partial phone billing has been issued. Deletes reference to exhibit 29 and refers users of the manual to the Board’s website for the current version of Forms BOE-1 and BOE-1P.
- 0208.03** Updates procedure for printing BOE-414.

- 0208.04** Updates procedure for validation of BOE-414.
- 0208.05** Updates procedure for downloading electronic version of the transcript of returns filed.
- 0208.12** Updates procedure for obtaining a reconciliation schedule between the tax prepaid to gasoline vendors and the prepaid tax claimed by the taxpayer.
- 0209.15** Creates new section for tax area code. Explains that the area code must reflect the audit period, taking into account city incorporation, annexation and taxpayer relocation during the audit period.
- 0209.18** Clarifies that if the auditor finds improper distribution of local tax, the auditor will reallocate the tax for the two preceding funding periods which usually include the preceding three quarterly periods.
- 0209.24** Clarifies that the tax change recommended in audit will be prorated to local jurisdictions in the same ratio as reported by the taxpayer for the twelve (not three) quarter-summary provided on the Form BOE-414-L.
- 0210.04** Deletes the word “special” as the appropriate entry for special transmittal letter. Start 21 does not allow such entry.
- 0210.06** Deletes the use of BOE-414-B for understatement or overstatement of SDJF/MPRI (expired in 1992). Deletes the use of Form BOE-1043 – this form is obsolete.
- 0210.12** Deletes “signs of apparent adverse financial condition” from the required comments on BOE-414-B. Comment on taxpayer’s financial condition is no longer required.
- 0210.19** Deletes section “Under or Over Claiming of SDJF & MPRI Credits.” SDJF & MPRI expired in 1992.
- 0211.06** Explains the importance of accurate information on BOE-414-C as misinformation on this form serves as basis for Section 6596 relief.
- 0211.09** Deletes the requirement to include bank information on the back of BOE-414-C.
- 0211.18** Deletes the requirement to complete certain sections of BOE-414-C in the field. Requires auditors to answer questions explained in sections 0205.51 – 0205.57.
- 0212.09** Explains that comments on field waivers should not attest to the accuracy and acceptance of returns filed and that audit working papers should not be provided to the taxpayer or attached to Form BOE-596. Explains the use of transmittal letter Form BOE-79-F and that it should not be relied upon as written advice as stated on the form. Increases the maximum hours that an auditor may charge on field waivers from 3 to 8. Requires auditors to answer questions explained in sections 0205.51 – 0205.57.
- 0213.03** Explains that auditors will arrange the documents constituting the field audit report according to the Form BOE -1161 and requires the District Audit Control staff to break these documents into three basic components: Taxpayer Packet, Headquarters Packet, and Audit Packet. Updates the arrangement of documents within each packet and explains the flow of audit forms and working papers after completion. Inserts the requirement to send audit working papers to Headquarters with the HQ packet, for audits and FBOs with a recommended refund of \$50,000 or more. Clarifies what needs to be included in the FTB packet.

- 0214.06** Deletes the requirement to prepare BOE-414-A1. This form is currently called “Sales Tax Calculation Summary” and is automatically printed with the system-generated audit report.
- 0215.03** Inserts the length of time (eight years) the three-year statute of limitations is extended in cases where no return was filed. Clarifies that Form BOE-122 is valid when signed only by the taxpayer, and not also by a Board representative.
- 0215.09** Clarifies that the signing of a waiver for an eight-year audit period does not hold all periods covered open for filing of claims for refund.
- 0215.17** Explains that the audit supervisor should review and initial all Waiver of Limitation forms for accuracy and completeness before they are presented to the taxpayer for signature.
- 0215.27** Explains that audit reports recommending additional liability for periods that are about to expire and where no waiver has been secured should be transmitted to Headquarters at least 30 (not 45) days prior to the date such liability will expire. Explains that phone billing may be requested 5 days of the expiration of the statute of limitations only under extraordinary circumstances.
- 0216.03** Updates auditor’s comments on claims for refund.
- 0216.11** Explains that while the Board cannot issue a Notice of Determination for an underpayment for periods that are expired because of the statute of limitations, the Board may apply such underpayment against an overpayment in a different reporting period under a timely claim for refund, provided both periods are covered by the claim for refund.
- 0217.01** Explains the use of Form BOE-767.
- 0217.03** Refers users of the manual to the Board’s website for applicable interest rates.
- 0217.10** Deletes obsolete procedure for transmitting BOE-414-A1 that is currently referred to as “Sales Tax Calculation Summary.”
- 0217.13** Removes incorrect advice resulting in overpayment under section 6596, from the list of situations where credit interest is allowed. Section 6596 relief does not apply to overpayment of tax.
- 0218.00 –**
- 0218.21** Deletes sections – procedures were either obsolete or were transferred to another section.
- 0219.06** Refers to the Return Analysis Unit for handling of certain Tax Return and/or Account Adjustment Notice (BOE-523).
- 0219.09** Updates changes handled by District Compliance and those handled by the Return Analysis Unit.
- 0219.12** Updates general instructions for section 5 of Form BOE-523. This section of the form is no longer used to clear delinquent periods by audit or field billing order.
- 0220.06** Updates what a Schedule G allows a retailer to do, which does not include “repay one time credit” and “claim any carry over of excess one time credit.” Deletes guidelines for errors in repayment or carry over of one time credit, and the 10% penalty for failure to timely prepay the one time credit.

0222.40 Creates new section for correspondence with taxpayer representatives. Explains that representatives should be provided a copy of correspondence with the taxpayer, upon request by the taxpayer or when the representative is involved in an audit, petition, or claim for refund. Provides procedure for looking up a specific representative or listing of representatives in IRIS.

Exhibit

- 1, page 4** Deletes “Present Financial Condition” comment.
- 1, page 5** Updates “Regulation 1595” comment to conform with section 0206.42. Inserts “Amnesty” comment. Deletes “Local Tax Allocation” comment (also appears on exhibit 7).
- 4** Replaces BOE-414-A1 (Summary by Quarters) with BOE-767 (Tax, Penalty and Interest Calculation). The Sales Tax Calculation Summary (formerly referred to as BOE-414-A1) is printed automatically with the system-generated audit report. Using BOE-767 as exhibit will be more beneficial since auditors are required to complete Form BOE-767 that provides district audit control staff the basis for calculating tax, interest and penalty.
- 11** Deletes bank information.
- 17 & 18** Inserts a notation that the taxpayer must sign the waiver prior to the expiration of the period covered by the waiver.
- 19** Inserts “Short term leases of TPP” and Long Term Lease of TPP, under existing conditions. Inserts reference footnote.
- 20** Deletes leases negotiated inside and outside the state from existing conditions. Inserts “Short term leases of TPP” and Long Term Lease of TPP, under existing conditions. Inserts reference footnote.
- 21** Deletes Form BOE-523 for clearing delinquent periods. BOE-523 is no longer required to clear delinquent periods by audit or field billing order. The IRIS system clears delinquent periods when billed by audit or field billing order.
- 22** Inserts “Jet Fuel” to the exhibit title.
- 23** Deletes schedule of interest rates. Refers users of audit manual to the Board’s website where updated interest rates are maintained.
- 24** Inserts BOE-79-AP and BOE-79F.
- 27** Creates new exhibit for Form BOE-1161, Audit Arrangement Sheet.
- 29** Deletes Form BOE-1, Audit Payment Info. Refers users of the audit manual to the Board’s website for the current version of the form.

PREPARATION OF FIELD AUDIT REPORTS **0200.00**

INTRODUCTION **0201.00**

START 21 PROGRAM **0201.01**

The Start 21 program is an Excel workbook that contains a set of Board approved audit forms that are electronically linked for use by field auditors. The purpose of the program is to standardize the electronic audit form templates being used in the field and give SUTD an efficient mechanism to quickly update the forms as revisions become necessary. Start 21 is the only approved audit form template package for use with regular audits, revised audits, reaudits and field billing orders.

AUDIT REPORT DEFINED **0201.03**

The term “audit report” as used in this chapter means an auditor’s report of his or her findings and recommendations after completion of an audit. Form BOE-414-A, *Report of Field Audit*, is used when recommending an increase or decrease of the self-assessed tax. Form BOE-414-C, *Report of Examination of Records*, is used when a “no change” audit results.

FORM BOE-414-A, REPORT OF FIELD AUDIT, DEFINED **0201.06**

Form BOE-414-A, *Report of Field Audit*, is the auditor’s statement of findings and recommendations, which is the basis of the system-generated field audit report. The system-generated field audit report is neither a determination nor a refund and should never be referred to as such. Determinations are made when a Notice of Determination is mailed from Headquarters. Refunds are made when a Notice of Refund is mailed together with a warrant issued by the Controller.

FORM BOE-414-B, FIELD BILLING ORDER, DEFINED **0201.09**

Form BOE-414-B, *Field Billing Order*, is used by the district or branch office to recommend additional tax liability or refund from procedures other than those used in regular audits. It is not an audit report and does not change the audit status of the account.

FORM BOE-414-C, REPORT OF EXAMINATION OF RECORDS, DEFINED **0201.10**

Form BOE-414-C, *Report of Examination of Records*, is a “no change” audit report describing the work performed in verifying the accuracy of a taxpayer’s returns. It records the auditor’s findings with a minimum of written comments. It is not a “check sheet” to be used indiscriminately or superficially; rather, it is a medium for an orderly report of the auditor’s conclusions after examination of all pertinent records (Audit Manual (AM) sections 0211.00 — 0211.18). Under appropriate circumstances, Form BOE-414-C may be used as a schedule for a “no change” portion of an audit resulting in a tax change.

FORM BOE-596, REPORT ON ACCOUNT BEING WAIVED FOR AUDIT, DEFINED **0201.12**

Form BOE-596, *Report on Account Being Waived for Audit*, is a disclaimer of opinion that provides a method of reporting a conclusion that an audit is not

warranted and the assignment is being closed. An approved Form BOE-596 has the same effect as an audit report in that it removes an account from the list of active accounts eligible for audit. See AM sections 0212.00 — 0212.09 for instructions in preparing this form. Exhibits 13 and 14 provide illustrations of a completed Form BOE-596 for office and field waivers, respectively.

FORM BOE-414-Z, ASSIGNMENT CONTACT HISTORY, DEFINED 0201.14

Form BOE-414-Z, *Assignment Contact History*, is used to provide a record of taxpayer contacts and requests. It develops a history of staff actions and taxpayer responses. See AM section 0221.06.

FORM BOE-414-Z1, ASSIGNMENT STATUS REPORT, DEFINED 0201.15

Form BOE-414-Z1, *Assignment Status Report*, is used when circumstances warrant a written record of the status on an assignment at some point in time (e.g., training assignments, long term complex audits or cases involving sensitive issues). The use of Form BOE-414-Z1 is discretionary. See AM section 0221.09.

FORM BOE-1296, ACCOUNT UPDATE INFORMATION, DEFINED 0201.20

Auditors must complete Form BOE-1296, *Account Update Information* (exhibit 23), for each audit report including on Forms BOE-414-C, the *Report of Examination of Records* and BOE-414-B, *Field Billing Orders*, with the exception of audits of Fortune 500 businesses (www.fortune.com). The form should be completed during the course of field work – before the exit conference with the taxpayer and/or representative. As soon as this form is completed, it should be routed to the District Principal Compliance Supervisor, via the auditor’s supervisor.

Form BOE-1296 allows auditors to record information regarding a taxpayer’s bank accounts, merchant account provider (credit card processor), accounts and notes receivables, and suppliers. This form also allows the auditor to indicate whether a taxpayer includes or adds sales tax reimbursement to the sales price of tangible personal property. Examples of the taxpayer’s records illustrating that the taxpayer has included or added sales tax reimbursement to the sales price of tangible personal property must be attached to Form BOE-1296. Any statements made by a taxpayer regarding payment of the liability (for example, statements that the taxpayer is unable to pay the entire liability at once but can pay it over the next four months), should also be documented on the back of this form.

In the case of automobile or mobile home dealers, Form BOE-1296 should include the value and location of all non-disbursed escrow accounts established for funds received from buyers as whole or partial payment for mobile homes. If appropriate, the auditor should comment on the adequacy of the current security posted by the taxpayer.

In bankruptcy cases, the auditor is required to include the following comments:

- Type of Bankruptcy filed, such as Chapter 7, 11, 13.
- Petition date (the date the bankruptcy was filed).
- Bar date (or the last day to file a claim), Case Number, and Court of Jurisdiction.

IMPORTANCE OF PROMPT COMPLETION OF REPORTS

0201.21

All audit assignments are to be completed promptly. Priority will be given to reaudits to expedite the clearing of petition and refund cases. Priority is also given to "legal" audits (bankruptcies, probates and assignments) to allow Headquarters sufficient time to meet statutory requirements of claims.

FRONT OF FORM BOE-414-A, REPORT OF FIELD AUDIT **0202.00**

GENERAL **0202.03**

District auditors prepare Form BOE-414-A, *Report of Field Audit*, in accordance with the instructions in this chapter. In most cases, a Notice of Determination will be prepared in Headquarters directly from information shown on the front of the system-generated version of the BOE-414-A report. When the report involves a bankruptcy, assignment or probate case, write the word "Legal" in red immediately in the upper right-hand corner of the form (AM section 0204.12).

ACCOUNT NUMBER **0202.10**

Enter the complete account number including the two-letter tax code, the two or three letter office code and the eight- or nine-digit number portion of the account number (e.g., SR-AC-013-654321), as it appears on Form BOE-414. Some accounts will have a three-letter tax code, of which the first two letters represent the taxable activity type and the third letter is the taxable activity indicator. For example, SR Y AC 013-654321 and SR Z AC 013-654321.

If no permit has been issued, the district office will obtain a permit for the taxpayer. Arbitrary numbers are no longer issued for audits, and an issue and cancel permit may be necessary for taxpayers who are no longer in business. If the determination is for use tax on a vehicle, vessel or aircraft, the district office will contact the Consumer Use Tax Section.

The auditor will ascertain changes from the Taxable Activity Registration System, Account Inquiry (TAR AI). If the auditor notes changes or discrepancies in the taxpayer's account information, the auditor must notify District Compliance. See AM section 0219.03 for further information.

CASE ID **0202.12**

The Case ID number is a unique identifier for an audit. Enter the Case ID number as noted in the Audit Subsystem.

ACT. (ACTIVE) — CO. (CLOSE-OUT) **0202.13**

Place an "X" in the appropriate box to indicate whether the account is active or closed out at the end of the audit period.

B.A. (BUSINESS ADDRESS) **0202.15**

Enter the address at which the business is actually conducted if different from the mailing address. Otherwise, write "Same." If the registration system (screen TAR AI) shows a different business location and/or mailing address, the auditor must notify District Compliance as discussed in AM section 0219.03. It is very important that the registration be immediately corrected. The auditor will not be able to enter a different business address than the one displayed on the registration system when preparing audit reports (Form BOE-414-A or system-generated audit report).

DATE OF REPORT**0202.18**

The date of the audit report is the last date the auditor charges time to the assignment. In the case of audits returned for correction, the completion date will be changed to the actual date the assignment was last considered even though no additional time charges are required.

AREA CODE**0202.21**

The twelve (12) digit area code will be transcribed from TAR AI. However, when additional local tax liability or credit is to be allocated or reallocated to more than one local jurisdiction, the auditor must prepare Form BOE-414-L, *Auditor's Worksheet - Local Sales and Use Tax Allocation* (AM section 0209.00). In those rare instances where the entire additional local tax liability is to be allocated to a single jurisdiction other than that in which the permit is located, prepare Form BOE-414-L using the area code for the jurisdiction receiving the allocation and provide a brief explanation of the allocation of the local tax to such jurisdiction in the "General Audit Comments" section of Form BOE-414-A.

See AM section 0209.15 regarding changes in tax area code during the audit period due to incorporation, annexation or relocation.

BUS. (BUSINESS) CODE**0202.27**

Transcribe the business code from TAR AI (AM section 0206.21).

EXTRA COPIES**0202.33**

Leave this section blank.

FIRM NAME**0202.36**

If the taxpayer is operating the business under a fictitious business name (e.g., H.M. Jones, firm name, "The Wagon Wheel"), place the fictitious business name on this line. If the taxpayer does not use a firm name, leave the line blank.

OWNER**0202.39**

Enter the correct legal name of the taxpayer in the space provided (do not abbreviate¹). The taxpayer's legal name must be accurate since determinations issued to the wrong person are invalid. Enter the correct name in the designated space on Form BOE-414-A even if it is different than the name in which the permit was issued. If any changes are necessary to correct the taxpayer's name or address as it appears in the Board's records, the auditor must immediately notify District Compliance as discussed in AM section 0219.03. The correct information cannot be entered on the audit report until the registration system information is updated.

WHERE PROPRIETOR'S NAME IS IN DOUBT**0202.42**

If there is no question as to the identity of the owner, but only a question as to the correct name, the correct name should appear on the audit report. The auditor must contact District Compliance immediately to have the name

¹ The taxpayer's legal name should be entered on audit reports as is, even if part of the name is abbreviated. However, an auditor should not initiate the abbreviation of any part of the taxpayer's legal name.

changed. As stated previously, the correct information cannot be entered on the audit report until the registration system information is updated (see AM section 0219.03). For example:

Old name:	California Glass Company, Inc.
Correct name:	California Glass Company, Ltd., or
Old name:	J. O. Smith
Correct name:	Oliver Smith

WHERE PRECISE OWNERSHIP IS UNKNOWN

0202.45

If it is impossible to determine the name of the owner, the auditor should ascertain the name and permit number of all possible or probable owners and enter those names and permit numbers under a separate heading in the "General Audit Comments" section of Form BOE-414-A. This information allows issuance of a Notice of Determination against all possible parties who may be liable for the tax. In these cases, enter on the front of Form BOE-414-A the registered owner of the permit number audited. Then, enter the following notation on page 3 of Form BOE-414-A under "Special Instructions": "Attention Audit Determination and Refund Section — Dual determinations requested." A dual determination cannot be issued without a permit number. Therefore, if a person listed as a probable owner is not registered with the Board, the auditor should contact District Compliance to obtain a "53" series arbitrary permit number for that person.

If the auditor is not going to request the dual determination in conjunction with the current audit billing, the auditor should send a copy of Form BOE-414-A and all available supporting documentation to the district of account of the probable owner for further investigation.

INDIVIDUAL PROPRIETORS

0202.48

Enter the name of the owner and the fictitious business name, if any, on the form where indicated.

HUSBAND AND WIFE CO-OWNERSHIP

0202.49

Some accounts are registered as a husband and wife co-ownership. Enter the name of both husband and wife on the form.

Example: John F. and Mary G. Smith

PARTNERSHIP ACCOUNTS

0202.50

In order to inform general partners of their partnership's tax liability, the Integrated Revenue Information System (IRIS) automatically sends notices of determination to all known general partners on all partnership accounts, including closed-out accounts, at the time the initial notice is prepared. A separate notice is sent to the partnership entity.

For closed-out partnership accounts, the auditor must enter the name and address of all known partners in the "General Audit Comments" section of Form BOE-414-A, under the caption "RUPA Compliance" (AM section 0206.55). In addition, the auditor must place a statement on page 3 of Form BOE-414-A under the "Special Instructions" caption, indicating that there are general partners listed in the "General Audit Comments" section of the form.

GENERAL PARTNERSHIPS**0202.51**

Enter only the name of the partnership. The names of all partners are to be listed in the "General Audit Comments" section of Form BOE-414-A, under the comment "Type of Business Organization" (see AM section 0206.12).

If the account is not registered in the partnership name (e.g., a partnership name was not provided at the time of registration), then the account registration needs to be changed to reflect the partnership entity as the owner of record. To have the account registration changed, the auditor must notify District Compliance as discussed in AM section 0219.03.

LIMITED PARTNERSHIPS**0202.54**

Unlike general partnerships, all limited partnerships (and limited liability partnerships) are required to register with the Secretary of State. Enter the limited partnership's name, as registered with the Secretary of State, on Form BOE-414-A. List all partners, however, with their designation in the "General Audit Comments" section of Form BOE-414-A, under the caption "Type of Business Organization" (see AM section 0206.12). For example:

"Limited Partnership. John L. Ritter, general partner, and
Robert M. Kyle, limited partner."

LIMITED LIABILITY COMPANIES**0202.56**

Enter the name of the limited liability company in the section provided on the form. The name of each limited liability company must be followed by the letters "LLC." List the names of managers, members, and any officers with their designations in the "General Audit Comments" section of Form BOE-414-A, under the caption "Type of Business Organization" (AM section 0206.12).

CORPORATIONS**0202.57**

If the corporation operates under a fictitious business name, enter both the corporate name and the fictitious business name on the form. The auditor must ascertain the correct corporate designation, such as Company; Co.; Company, Inc.; Co., Inc.; Inc.; Incorporated; or Ltd., since many corporations have names which are identical except for a difference in such designations. List the names of the primary officers of the corporation in the "General Audit Comments" section of Form BOE-414-A, under the caption "Type of Business Organization" (AM section 0206.12).

Dual determinations may be issued against a corporation and its corporate officers, shareholders or other responsible persons. See AM section 0204.16 for further information.

PRIVATE TRUSTS**0202.60**

Place the names of the trustees in addition to the name under which the business is operated in the section provided on the form. Do not include the names of the beneficiaries.

JOINT VENTURES**0202.63**

Enter the name of each party to the venture in addition to the name under which the venture is being conducted.

NAME CHANGES DUE TO MARRIAGE**0202.66**

If a person who operated a business under a maiden name is later married and continues to operate the business as sole owner, enter the name and firm name as follows:

FIRM NAME	Robin Hood Tearoom
OWNER	Robin Smith, formerly Robin Jones

DECEASED TAXPAYERS (PROBATE CASES)**0202.69**

If the report covers the operations of a decedent, enter the name and firm name as follows:

FIRM NAME	Acme Electrical Works
OWNER	John Smith, deceased

If the audit covers operations subsequent to date of death, where the business is operated by a personal representative, then the name and firm name should appear as follows:

FIRM NAME	Acme Electrical Works
OWNER	Estate of John Smith, deceased Peter Jones, Executor

The name and firm name should be shown in this manner whether or not the personal representative (executor, executrix, administrator, administratrix, etc.) has obtained a new permit.

If a deceased taxpayer's business is operated after the taxpayer's death, two audit reports (BOE-414-A) are required, one for the period prior to death and one for the period when the business is operated by the decedent's personal representative.

BANKRUPTCY CASES**0202.72**

For the period during which the business was operated by the debtor, enter the name and firm name in the same manner as though the taxpayer was not a debtor. For the period during which the business is operated by a trustee, enter the name and firm name as follows:

FIRM NAME	Elite Restaurant
OWNER	Estate of John Smith, debtor Peter Jones, Trustee

As in probate cases, the above style should be used whether or not a new permit has been obtained.

If a taxpayer operates a business after filing a bankruptcy petition, two audit reports (BOE-414-A) are required, one for the period prior to bankruptcy and one for the period when the business is operated by the trustee under the jurisdiction of the court.

ASSIGNMENT FOR THE BENEFIT OF CREDITORS**0202.75**

For periods during which the business is operated by an assignor, the assignor's name and firm name should appear as though no assignment had been made. For the periods during which the business is operated by the assignee, the name and firm name should appear as follows:

FIRM NAME	Best Bakery
OWNER	Peter Jones, Assignee for John Smith

RECEIVERSHIP**0202.78**

If a court has appointed a receiver, enter the name and firm name as it was prior to the receivership. However, the name and firm name for periods operated by the receiver should appear as follows:

FIRM NAME	Alaska Fur Store
OWNER	John Jones, Receiver for Peter Smith

GENERAL RESPONSIBILITIES**0202.80**

If the district office learns that a taxpayer's account (any business tax) is involved in bankruptcy (either Chapter 7, 11, or 13), assignment or probate, the district office will enter this information on the Legal subsystem.

Special timelines and procedures apply to audits concerning bankruptcies, assignments for the benefit of creditors, receiverships, and probates. To ensure the timely preparation and filing of appropriate claims by the Special Procedures Section, "Legal" audits must be transmitted to Headquarters one month prior to the claims bar date (see Compliance Policy and Procedures Manual (CPPM) section 754.000 and AM section 0215.21).

M.A. (MAILING ADDRESS)**0202.81**

Enter the taxpayer's current mailing address. If the mailing address shown on TAR AI is different, the registration records must be corrected. To correct the registration records, the auditor must notify District Compliance as discussed in AM section 0219.03.

To ensure proper notification to the taxpayer in the event of a liability or refund, it is important to verify the taxpayer's close-out mailing address at the time of the investigation or audit. District staff, upon noting a change in the mailing address, must notify District Compliance for entry on the registration system as discussed in AM section 0219.03. The on-line registration system allows immediate changes to be made to the mailing address on active and closed out sales and use tax accounts.

If the district is about to issue a determination close to statute or on a closed-out account and if the district is uncertain about the taxpayer's correct address, or has information of a possible alternate address, then the determination will be mailed to the last address of record received from the taxpayer in addition to any other address believed to be the taxpayer's correct address.

JURIS — AMOUNT**0202.84**

Leave this section blank.

**FRONT OF FORM BOE-414-A, LIABILITY OR CREDIT
DISCLOSED BY AUDIT**

0203.00

GENERAL

0203.03

Enter the amounts for tax, penalty, and the date to which interest is computed in the spaces provided. This information will allow all reviewers and users of the audit report to easily cross-check these figures. The auditor will not enter the amount of interest since interest computation in the system is made by district audit control after the audit report is turned in for district processing. At that time, audit control will enter the interest in the space provided on Form BOE-414-A.

PERIOD

0203.06

Enter the beginning and ending dates of the period audited, including any reporting period for which no tax change is recommended. Generally, unless there are circumstances such as a close out, an audit period should encompass at least twelve quarterly reporting periods. If the audit report is completed with less than twelve quarterly reporting periods, provide a brief explanation why the period is shorter, in the "General Audit Comments" section of Form BOE-414-A.

With the exception of periods extended through amnesty, the audit period should not include any reporting period which has expired under the statute of limitations unless the taxpayer signed Form BOE-122, *Waiver of Limitation*, which is attached to the audit report. Unless otherwise instructed, all audit periods include the last completed reporting period preceding the date audit work is commenced.

Generally, the period covered by audit does not include any period that would expire within 30 calendar days of the date the audit is transmitted to Audit Determination and Refund Section (ADRS). Audit reports containing recommendations for additional liability for periods that are about to expire and where no waiver has been secured should be transmitted to Headquarters at least 30 calendar days prior to the date on which such liability will expire. (See AM section 0215.27, especially for audit periods not meeting the 30 calendar day requirement.) On close-out audits, the period covered will conclude with the last day the business operated.

INTEREST TO

0203.09

The date to which interest is computed, as shown on the system-generated Sales Tax Calculation Summary, may be entered by the auditor or the District Audit Control.

TOTALS

0203.12

The District Audit Control will enter on this line the tax, interest, and penalty totals from the system-generated Sales Tax Calculation Summary.

CREDITS/DEBITS

0203.15

These three boxes are for Headquarters use. Enter credits available for application to audit liabilities in the "Special Instructions" section on page 3 of Form BOE-414-A (AM section 0205.62). These credits may be in the form of

payment on account, application of a cash deposit, time certificates of deposit, book entry time deposit, fully paid investment certificates, or a combination of these. The auditor should review the taxpayer's records in IRIS (TPS TP) to determine if the Board holds security deposits for the taxpayer.

The auditor should enter all offsets as a negative number on an upload disk. The upload disk contains a summary of differences identified by the auditor, including offsets in text format. Information contained in the upload disk is the basis for uploading the measure in the system for computing tax, interest and penalty and for allowing offsets on the face of the audit report.

Unmatched prepayments that were not cleared under AM section 0208.83 should not be applied against audit or field billing recommendations. The auditor should identify and explain such unmatched prepayments in the "General Audit Comments" section of Form BOE-414-A. ADRS will make the adjustment accordingly.

REVENUE AND TAXATION CODE (RTC) SECTION 6406 CREDITS **0203.16**

The auditor-prepared upload disk will reflect credit or debit adjustments to credits taken on returns for taxes paid to other states. Offset credit interest and offset credit penalty for negligence, failure to file, and/or fraud will be allowed on RTC section 6406 Credits.

BALANCE **0203.18**

Leave this section blank.

PENALTIES **0203.21**

Provide an explanation of the penalty recommended in the space indicated by the asterisk (*). The following are typical explanations of penalty recommendations in sales and use tax audits:

Negligence

Penalty of 10% has been added for negligence.

Penalty of 10% has been added for intentional disregard of the law or authorized rules and regulations.

Fraud

Penalty of 25% has been added for fraud or intent to evade the law or authorized rules and regulations.

Failure to File Returns

Penalty of 10% has been added for failure to file returns.

Penalty of 10% has been added for quarter ended 9/30/xxxx for failure to file a return.

Penalty of 10% has been added for the month of November xxxx for failure to file a return.

Failure to Remit Sales Tax Reimbursement or Use Tax Collected

Penalty of 40% has been added for failure to timely remit sales tax reimbursement or use tax collected from customers.

Misuse of Resale Certificates

Penalty of 10% or \$500, whichever is greater, has been added for each misuse of a resale certificate.

Non-Permitted Sellers and Consumers

Penalty of 50% has been added for operating without a permit.

Two penalties

Penalty of 25% for fraud or intent to evade the law or rules and regulations plus penalty of 10% for failure to file returns has been added.

Penalty of 10% has been added for the period from 7/1/xxxx to 12/31/xxxx for negligence and penalty of 10% has been added for the period from 1/1/xxxx to 6/30/xxxx for failure to file returns.

See AM Chapter 5, Penalties, for more information on penalties.

FRONT OF FORM BOE-414-A ANALYSIS OF MEASURE OF TAX

0204.00

GENERAL

0204.03

Make a clear, specific and concise description of each class of transaction under "Analysis of Measure of Tax" on the face of Form BOE-414-A. Different classes of transactions, where separately identified in the audit working papers, should not be lumped together under one category even though consolidated on a "Summary of Differences," Schedule 414-A2, or "Taxable Measure," Schedule 12 (i.e., self-consumed merchandise, sales of furniture and equipment, etc., should not be lumped together with an understatement of taxable sales based on application of markup).

Keeping the description of each class of transactions separate is vital because the system-generated copy of this report is sent to the taxpayer, which serves as the summary of the audit findings. Frequently, taxpayers file petitions for redetermination because the taxpayer is unable to understand or reconcile the "Analysis of Measure of Tax" with the information furnished by the auditor. Many of these petitions can be avoided by keeping the descriptions of each class of transactions separate and by providing clearer, more specific and precise descriptions.

The auditor should give the taxpayer sufficient information to reconcile the summary of audit findings appearing under the "Analysis of Measure of Tax" with the taxpayer's records. This information should be in the form of copies of audit working papers, which will include all lead schedules necessary to reconcile with Form BOE-414-A. In some cases, a discussion of the results of audit findings may be sufficient, particularly when the audit is not too complex and only one or two classes of transactions may be involved. Even in these instances, however, a condensed summary of the audit findings should be included and would be appropriate, if for no other reason than to refresh the taxpayer's memory concerning the "Report of Field Audit."

ADJUSTMENTS BY CATEGORIES

0204.06

A system-generated audit report itemizes each item of adjustment. Therefore, the auditor need not make adjustments by category, such as Taxable Measure Understated/Overstated or Total Sales Understated/Overstated. The auditor should merely list all the items of adjustment found in the audit in numeric sequence (see exhibit 1, page 2).

Where taxpayer's records are inadequate or nonexistent and a deficiency is recommended, an adequate explanation of each item should be made in accordance with the list of categories created by the auditor.

CLASSIFICATION OF TRANSACTIONS**0204.09**

The auditor will provide a sufficient explanation of the detailed adjustments in numeric order on the form. Analysis of the differences for all taxes should be similar in form as the following example:

1. Omission in reporting sales of equipment — Actual	\$ 50,836
2. Sales of scrap metal not reported — Actual	2,820
3. September 19XX cash sales not reported	16,095
4. Equipment purchased ex-tax from out-of-state retailers — Actual	80,325
5. Self-consumed supplies purchased for resale subject to use tax based on test of August 19XX	32,090
6. Channel iron withdrawn from resale stock used for plant additions subject to use tax — Actual	13,925
7. Disallowed claimed resales developed by test of July 19XX	84,659
8. Errors in compiling returns from records — Actual	5,295
9. Sale to State of California claimed in error as U.S. Government sale — Actual	3,500
10. Sale to Department of Agriculture not claimed as U.S. Government sales — Actual	-3,050
11. Discounts claimed on sales for resale disallowed based on test of 3 rd Quarter 19YY	4,080
12. Error in compiling taxable cash discounts based on test of 2 nd Quarter 19ZZ	-1,550
13. Disallowed claimed returned merchandise deduction — Actual	<u>8,500</u>
Total	<u>\$297,525</u>

Whenever the measure of tax is different for State, Local, County, STTI, or District, the auditor will list the applicable measure of each tax, where different, in a separate column, with a heading at the top of each column, indicating the type of tax. (See exhibit 1, page 2.)

SPECIAL INSTRUCTIONS AND INFORMATION**0204.12**

Below are typical notations that appear on the bottom of the front of the system-generated report. However, these notations are entered on page 3 of Form BOE-414-A under "Special Instructions" (see AM section 205.62 and exhibit 1, page 3).

- (a) A list of related accounts audited or examined in conjunction with the current account (AM section 0205.46).
- (b) A notation that security is available, especially in bankruptcy audits (AM section 0203.15).
- (c) In case of closed - out partnership accounts, a statement indicating that there are general partners listed in the "General Audit

Comments” of Form BOE-414-A (AM section 0202.50).

- (d) A special notation when separate determinations have been issued for expiring periods, such as phone billing and FBO (AM section 0215.30).
- (e) When a dual determination is involved, a notation regarding the following:
 - Predecessor’s liability
 - Successor’s liability or
 - Collection thereof
- (f) “Urgent” or “Attention” Notices, such as:
 - Urgent waiver expires (date).
 - Attention: A 10% finality penalty of \$XX will be added by Headquarters.
- (g) Notation to Headquarters, such as:
 - For tax deficiencies disclosed by audit but reported by taxpayer on a subsequent return, a comment that an amended return was obtained from the taxpayer for the period in which the amounts were reported and a notation that a copy is attached.
 - Status of account, such as Escrow pending, or if a legal audit, such as Bankruptcy, Assignment, or Probate, is involved.
- (h) A notation that surety bond exoneration is involved.
- (i) If a Fraud Penalty or Jeopardy Determination is involved, notations, such as:
 - Fraud Penalty Recommended — Written in red at the top of Headquarters’ audit report
 - Jeopardy Determination (AM section 0204.15) Recommended — Same as above, but also include a letter that contains all facts and circumstances that support the recommendation signed by the District Administrator.
- (j) A statement regarding copy instructions.
- (k) A notation if a “Subpoena” is issued for taxpayer’s records.

Below are notations that are posted at top of Form BOE-414-A. These notations are written in red as a flag for special Headquarters handling.

- (a) “LEGAL” if bankruptcy, assignment, or probate is involved.
- (b) “JEOPARDY” if a jeopardy determination is recommended.
- (c) “STATUTE” if a report contains recommendations for additional liability for periods which are about to expire.
- (d) “MISUSE R/S” if a misuse of resale certificate penalty is recommended.
- (e) “N/P” if a penalty for operating without a permit is recommended.

RECOMMENDATIONS REQUIRING ADMINISTRATOR'S APPROVAL

0204.14

Whenever a fraud or intent to evade penalty or jeopardy determination (AM section 0204.15) is recommended, a memorandum from the District Administrator to the Chief, Headquarters Operations Division is required, with a copy to the Chief, Field Operations Division or Chief, Collections and Third District Operations Division, and Special Procedures Section.

The memorandum will include all of the facts and circumstances which support the recommendations. The district administrator or someone acting on his or her behalf during his or her absence must sign the memorandum. After execution of the memorandum by the district administrator, attach the completed memorandum to the audit report and forward it to the Chief, Headquarters Operations Division for approval. The Chief, Headquarters Operations Division's approval will be obtained after the district review process is completed (AM section 0507.75).

JEOPARDY DETERMINATIONS

0204.15

The purpose of a jeopardy determination is to provide a means of protecting the State's interest when there is substantial evidence that any further delay in collection activity would seriously impair or jeopardize the Board's ability to obtain taxes due. Jeopardy determinations are a notice to the taxpayer that tax is immediately due. (RTC section 6536 .) Taxpayers must post a security deposit with the Board in order to file a petition for redetermination on jeopardy determinations. (RTC section 6538.)

As a guide in determining whether a jeopardy determination should be recommended, the following are some examples of instances when a jeopardy determination is warranted:

1. Taxpayer is dissipating assets.
2. Evidence exists that the taxpayer is placing assets in the names of other persons for purposes of concealment.
3. Taxpayer's assets are being attached by creditors, or are in imminent danger of attachment.
4. There is a pending sale of property that represents the last remaining asset and, without the funds from such sale, collection is doubtful.
5. There is evidence that the taxpayer intends to file a petition in bankruptcy or make an assignment for the benefit of creditors.
6. There is evidence that creditors intend to file an involuntary petition in bankruptcy against the taxpayer.

A recommendation for a jeopardy determination should be well documented and fully supported (see AM section 0204.14). The recommendation will set forth the specific evidence that indicates a jeopardy determination is warranted and will include:

1. Information as to the county or counties where liens are to be filed.
2. Whether or not a lien is to be recorded with the Secretary of State.
3. Whether or not a warrant is required at the time of issuance.
4. If a warrant is required, to whom it is to be directed, along with

information regarding the asset or assets to be levied upon and the amount of advance fees that may be required.

Attach the completed memorandum to the audit report or field billing order. Then add a notation, "Jeopardy Determination — see memo attached," on page 3 of Form BOE-414-A under the "Special Instructions" caption (AM section 0204.12).

For more information, see CPPM sections 742.000, *Warrants and Levies* and 760.000, *Notices of State Tax Liens, Abstracts of Judgment and Liens*.

DUAL DETERMINATIONS

0204.16

Dual determinations may be issued against a corporation and its corporate officers, shareholders or other responsible persons or entities for any periods which have not expired under the provisions of RTC section 6487 and similar sections for other tax laws. When billings or liens result in an extension of the statute of limitations for a corporation, the statute is not extended for issuing a dual determination against an officer or other person in control. Accordingly, separate waivers of the statute of limitations are obtained from those individuals determined to be responsible for the tax liability in accordance with RTC section 6488. If waivers can not be obtained from the individuals, separate determinations can be issued for the expiring quarters against those individuals.

Dual determinations may be issued as follows:

1. Predecessor (Dual with the successor) — When a predecessor fails to notify the Board that he or she discontinued, sold or transferred his or her business, the predecessor may be held liable for tax, interest and penalty (except for fraud or intent to evade) incurred by the successor/transferee, if the predecessor had actual or constructive knowledge that the successor/transferee was using his or her permit in any manner. The predecessor's liability, however, is limited to the quarter in which the business was transferred, and the three subsequent quarters. However, the limitation on liability does not apply in cases where, after the transfer, 80 percent or more of the real or ultimate ownership of the business is still owned or held by the predecessor. (See RTC section 6071.1, subsections (a)-(b) and Regulation 1699 (f).)
2. Successor (Dual with the predecessor) — When a successor or a purchaser of a stock of goods fails to withhold a sufficient amount of the purchase price to cover the tax liability of the seller, the successor may be held liable for tax, interest and penalty. The liability of the successor or purchaser of a stock of goods extends to amounts incurred from the operation of the business by the predecessor or any former owner, including the sale thereof, even though not then determined against him or her. The successor's liability can include taxes, interest and penalties, including penalties for nonpayment of taxes, penalties determined and unpaid at the time of sale for negligence or intentional disregard of the law or authorized rules and regulations, and for fraud or intent to evade the law or authorized rules and regulations. However, the amount of the successor's liability is limited to the purchase price of the business. The requirement that a successor or

purchaser of a business or stock of goods withhold sufficient of the purchase price to cover the tax liability of the seller arises only in the case of the purchase and sale of a business or stock of goods under a contract and does not arise in connection with other transfers of a business, such as assignments for the benefit of creditors, foreclosures of mortgages, or sales by trustees in bankruptcy. (See RTC sections 6811 - 6814 and Regulation 1702.)

3. Partner (Dual with partnership) — General partners are jointly and severally liable for all the debts and obligations incurred by the partnership. (See California Corporations Code section 16306.)
4. Dissociated Partner (Dual with partnership) — When a partner withdraws or otherwise dissociates from the partnership during the audit period, the dissociated partner may continue to be liable for all or a portion of the taxes due. In cases where notification of the partner's dissociation is actually given to the Board (actual notice), the liability is limited to the time preceding the date actual notice was given. (See California Corporation Code section 16703(a).) In those cases where the partner fails to notify the Board of his or her dissociation from the partnership, the (Revised) Uniform Partnership Act (RUPA) provides that the dissociated partner's liability for the ongoing partnership debts extends for two years from the date of separation. (See California Corporations Code section 16702.) If the dissociating partner files a Statement of Dissociation with the Secretary of State, but fails to notify the Board, liability is limited to 90 days from the date the notice was filed with the Secretary of State. (See California Corporations Code section 16704.)
5. Responsible Person (Dual with corporation, partnership, limited liability partnership or limited liability company) — Any officer, member, manager, partner, or other person (responsible person) having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of tax, or who is under a duty to act for a corporation, partnership, limited liability partnership, or limited liability company (the business) in complying with any requirement of the taxation laws, shall become personally liable for any unpaid taxes, interest and penalties that became due during the period that the responsible person had the control, supervision, responsibility or duty to act for the business if the responsible person willfully fails to pay or to cause to be paid any taxes due from the business upon termination, dissolution, or abandonment of the business. (See RTC section 6829 (a)-(b) and Regulation 1702.5.)
6. Unincorporated Entity — If it is determined that a company which holds itself out as being incorporated is not incorporated, tax will apply against the company as if it was a sole proprietorship, partnership, joint venture or other entity.
7. Corporate Officer, Shareholder, or Responsible Person (Dual with Corporation) — A corporate officer or shareholder with control over operations or management of a closely held corporation during a time in which the corporation's powers, rights, and privileges are suspended, or any responsible person who fails to pay or to cause to be paid any taxes due

from a closely held corporation during a time in which the corporation's powers, rights, and privileges are suspended, shall be personally liable under the circumstances set forth in Regulation 1702.6 for taxes, interest and penalties.

8. Ownership of Business Unknown — When it is impossible to determine the precise ownership of the business, determinations may be made against all possible or probable owners who may be liable for the tax. See AM section 0202.45 for procedures.

A permit number is required for all parties that are listed on a dual determination. Since a dual determination cannot be issued without a permit number, it is the auditor's responsibility to ensure permit numbers are obtained.

See AM section 0206.49 for general comments on dual determination.

(N-A) NAME-ADDRESS

0204.18

Place a check mark in this box when a mailing address other than the address of record is used or if the owner's name is not properly registered and the change does not involve a different legal entity. To have the registration changed, the auditor must notify District Compliance (AM sections 0202.81 and 0219.03).

INTEREST CALC. DATE — BATCH

0204.21

These spaces are reserved for Headquarters' use.

NAME OF AUDITOR

0204.22

Enter the name of the auditor in charge of the actual field work.

**FORM BOE-414-A (PAGE 3)
MISCELLANEOUS INFORMATION**

0205.00

GENERAL

0205.03

Page 3 of Form BOE-414-A (exhibit 1, page 3) provides a place to record information that may be required by reviewers and Headquarters. In some instances, the information is a summation of information contained in the working papers. Completion of the form is accomplished by checking boxes, answering questions, completing statements and/or making general comments as required. Care should be taken in entering the correct information on the audit report since this information is used as control in ensuring that appropriate audit forms are attached.

LEGAL

0205.04

Place an "x" in this box if the audit involves a bankruptcy, assignment or probate case. Also make a special notation in red on the top of the front of Form BOE-414-A to ensure prompt handling of the case at all levels (see AM section 0204.12 for notations).

TAX CLEARANCE

0205.05

Place an "x" in this box if a tax clearance has been requested.

OFFICE MAKING AUDIT CODE

0205.06

Enter the alphabetical office code of the district/branch office making the audit. The office making audit (OMA) code of the district controlling the audit is entered when inter-district cooperative audits are involved.

CELL

0205.07

The cell number is transcribed from the system screen AUD MC.

RECOVERY GROUP YEAR

0205.08

The recovery code and year are transcribed from the system screen AUD MC.

ID — CLASS — AUDIT MADE BY — HOURS

0205.10

Enter the participating auditor's first and middle initials, last name, identification number, class code, and hours. The class code numbers are as follows:

Auditor Trainee — 9; Tax Auditor Range A — 1; Tax Auditor Range B — 2;
Associate Tax Auditor — 3; Business Taxes Specialist I — 4.

For example:

John D. Nichols, who is a Tax Auditor Range B, will enter "2 J. D. Nichols."

The number of hours is the direct audit time spent by auditors in making the audit or reaudit prior to the time it is transmitted to Headquarters. Audit hours are in whole or fractional numbers and should agree with the hours shown on Form BOE-610, *Auditor's Monthly Report*.

When more than four auditors from the same OMA are involved, the auditor's

ID number, class code, name, and hours will be listed in the lower left-hand corner.

When auditors from more than one office within a district provide assistance in an audit, each auditor's office code OMA will be noted preceding the auditor's hours. When auditors from more than one district participated in an audit, enter "Form BOE-197." The auditor in charge will prepare the final Form BOE-197, *Allocation of Tax Change of Cooperative Audit Report*.

TOTAL HOURS 0205.12

Enter the total audit hours. This number does not include reviewer's and field supervisor's time. If the supervisor actually performed audit work, the field supervisor's time should be shown in the same manner as an auditor working on the audit assignment.

SUPERVISOR 0205.15

The supervising auditor who performs the initial cursory review of the report signs the report in this space.

REVIEWED BY — DATE OF REVIEW 0205.18

The reviewer signs his or her name and enters his or her service classification and the date of review.

REPORTED MEASURE OF STATE TAX 0205.19

Enter the reported measure of tax for the entire audit period as shown on Form BOE-414, *Transcript of Returns Filed*.

NAME, TITLE AND PHONE OF TAXPAYER'S REP 0205.25

If the audit results were discussed with the taxpayer's representative, enter the representative's name, title and telephone number in the space provided. See AM section 0222.40, *Correspondence with Taxpayer's Representative*.

DID TAXPAYER CONCUR? 0205.27

Space is provided for either a "yes" or "no" answer on page 3 of Form BOE-414-A. Enter "no" if the taxpayer is not in agreement, non-committal, or if a personal discussion with the taxpayer could not be arranged. The auditor must comment upon each of the disputed items included in the audit, explain why the taxpayer is non-committal or why there was no discussion. See AM sections 0207.00 – 0207.12, *Exit Conference*.

The field supervisor will review the report of discussion and approve the auditor's explanation of the non-concurrence. Whenever appropriate, the field supervisor will contact the taxpayer for further discussion.

A COPY OF THIS REPORT WAS _____ LETTER ? 0205.33

The auditor or the supervisor will indicate in the space provided whether a copy of the audit report was "mailed" or "furnished" to the taxpayer, followed by the appropriate type of transmittal letter (Form BOE-79 letter or a special transmittal letter). See AM sections 0205.36 and 0205.38.

TRANSMITTAL FORM LETTERS—FORM BOE-79 LETTERS

0205.36

Transmittal form letters are sent to the taxpayer along with the audit report. The various transmittal form letters and their respective appropriate use are contained below and in exhibit 24:

- Form BOE-79-A when the taxpayer does not concur with the audit recommendation and it is anticipated that an office discussion will be held. This form is also mailed when a bankrupt account is involved.
- Form BOE-79-AP when the taxpayer does not concur with the audit recommendation and has been issued a previous partial telephone billing/determination. This letter informs the taxpayer how to protect their rights to appeal both determinations.
- Form BOE-79-B when the taxpayer does not concur with the audit recommendations and the audit will be transmitted to Headquarters without further discussion with the taxpayer.
- Form BOE-79-B1 when the taxpayer is not available for discussion of the audit or is noncommittal, and the audit will be transmitted to Headquarters.
- Form BOE-79-C when the taxpayer concurs with the recommended determination. If the discussion is with someone other than the taxpayer, an asterisk (*) will be entered in the last sentence of the first paragraph, and the name of the person with whom the audit results were discussed will be shown in the lower portion of the letter.
- Form BOE-79-C1 when the taxpayer concurs or disagrees with the recommended revised determination which resulted from additional information or documentation that was made available. This report replaces the Report of Field Audit that was previously sent.
- Form BOE-79-D when the taxpayer concurs with the recommended refund.
- Form BOE-79-E when the audit results in a “no change” recommendation.
- Form BOE-79-F when the audit is waived.

SPECIAL TRANSMITTAL LETTERS

0205.38

When the situation requires, a special transmittal letter is prepared. A special transmittal letter to a taxpayer explains that if the taxpayer believes the audit or field billing order is in error, the taxpayer may communicate with the district principal auditor to arrange for a meeting to discuss the areas in question. The auditor should enter “See General Comments” on the line provided and make a notation in the “General Comment” section that a special transmittal letter has been sent. (District Audit Control will enter “SEE_GEN_CMNT” on the “Letter Code” line of the AUD CH screen to process the audit in IRIS.) In addition, the following statement should be included in any special transmittal letters:

“If upon receipt of the official Notice of Determination you believe the report to be in error, you may file a petition for redetermination. Instructions as to form and content of petitions are printed on the Notice of Determination.”

LOCAL TAX ALLOCATION WORKSHEET ATTACHED?

0205.40

Where there is a local tax allocation involving two or more taxing jurisdictions, enter "Y" in the space provided. Otherwise, enter "N." Prepare Form BOE-414-L, *Auditor's Worksheet - Local Sales and Use Tax Allocation* (AM sections 0209.00 - 0209.27). Care should be taken in entering the correct information on the audit report because this information is used as a control in ensuring the BOE-414-L is attached. Questions regarding local sales and use tax allocation should be directed to the ADRS - Allocation Group.

DISTRICT REALLOCATION SCHEDULE ATTACHED?

0205.41

Where district tax reallocation is involved, enter "Y" and prepare a District Tax Reallocation Schedule. Otherwise, enter "N." Questions regarding district tax reallocation should be directed to the Local Revenue Allocation Section.

PROFESSIONAL TAX PREPARER?

0205.42

Enter "Y" or "N" to indicate whether or not the Sales and Use Tax Returns filed by the taxpayer were prepared by a professional person (i.e., a CPA).

CREDIT INVOLVED? CLAIM SECURED FROM TAXPAYER? CLAIM PREVIOUSLY SUBMITTED TO HQ?

0205.43

If a credit or claim for refund is involved, enter "Y" as to the first question and answer the two questions that follow with either a "Y" or an "N" as applicable. If a credit or a claim for refund is not involved, enter "N."

When an overpayment is noted during the course of an audit, the auditor should secure from the taxpayer a signed claim for refund for the reporting period(s) where overpayments occurred. The taxpayer may not file a claim for refund for periods that have expired under the statute. The claim for refund should clearly indicate the date received by means of received date stamp, post office cancellation date or other device. The claim for refund must be transmitted to Headquarters within thirty days of receipt, by itself or attached to the audit (see AM sections 0207.12, 0216.00 - 0216.21).

BOE-502 (SUGGESTED LEGISLATIVE CHANGES) ATTACHED?

0205.44

As part of the routine audit procedures, an auditor is encouraged to look for areas of the law that appear to be inequitable and/or cause confusion and/or errors in interpretation by taxpayers. When such items are disclosed in the course of an audit, the auditor should prepare Form BOE-502, *Suggested Legislative Changes*, (exhibit 26) outlining the problem and suggested changes. Space is provided on page 3 of Forms BOE-414-A & BOE-414-B, and on the back of BOE-414-C for either a "yes" or "no" answer regarding the preparation of Form BOE-502. The original BOE-502 should be included in the "Headquarters packet," with no copy retained in the "audit packet" (AM section 0213.03). ADRS will ensure the form is forwarded to the Business Taxes Committee and Training Section.

RELATED ACCOUNTS?

0205.46

A related account may result when a retailer has separate seller's permits for different places of business. Enter "Y" in the space provided if related accounts exist. Otherwise, enter "N."

If related accounts exist, list all related accounts in the "Special Instructions" box, including those accounts that did not warrant an audit or where examination resulted in a "no change" audit. Include a brief explanation for the omission of audit reports of related accounts under the "General Comments" section, if applicable.

AM sections 0214.00 – 0214.15 explain the audit procedure for related accounts.

PUBLICATIONS 17, 70 & 76

0205.49

RTC sections 6593.5, 6832, 6964, 7080 through 7099.1, and 7156 provide for the Taxpayers' Bill of Rights. Publication 70, *Understanding Your Rights as a California Taxpayer*, explains the rights guaranteed to all taxpayers. At the beginning of every audit, auditors are required to provide Publication 70 to all taxpayers when making the initial audit appointment to inform taxpayers of their rights.

Additionally, RTC section 7086 requires that the taxpayers be informed of their appeal rights at the start of an audit. RTC section 7086 also requires the Board to prepare and publish brief but comprehensive statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of the Board and taxpayers. These statements are provided to the taxpayers with the initial notice of audit, and are also provided to the taxpayers upon notice of proposed additional taxes, any subsequent notice of tax due or with other substantive notices.

Publication 17, *Appeals Procedures: Sales and Use Tax and Special Taxes*, explains the Board's appeals procedures. Publication 76, *Audits*, explains what a taxpayer can expect during an audit and how to prepare for an audit. This information is valuable to all taxpayers and will assist auditors in explaining the audit and appeals process. Therefore, in addition to Publication 70, all auditors are required to provide taxpayers with Publications 17 and 76 when making the initial audit appointment.

These publications should be mailed to taxpayers immediately after setting up an audit appointment by telephone, or should be included with a written audit appointment request. Enter "Y" on the space provided for each of these Publications. Auditors will indicate the date that the publications were furnished to the taxpayers on Form BOE-414-Z. (See AM section 0205.59.)

UNDERGROUND STORAGE TANK?

0205.51

Enter "N" if an underground storage tank (UST) is not present on the property owned, leased or operated by the taxpayer. Otherwise, enter "Y" and include the following information in the "General Audit Comments" section of Form BOE-414-A and "General Comments" section of Form BOE-414-B:

- UST Maintenance Storage Fee account number(s) of the tank owner.²
- Address where the tank is located.
- Tank owner's name, address and phone number.
- Other information that may identify or locate tank owners.

If the taxpayer was requested but did not provide the above information, the auditor should comment to that effect. The information entered on Form BOE-414-A and Form BOE-414-B is forwarded to the Fuel Industry Section, Fuel Taxes Division (MIC 30) on an IRIS report.

Owners of UST must pay a fee based on the number of gallons of petroleum products placed into the tank. For more information, see Publication 88, *Underground Storage Tank Fee*.

CORPORATION WITH 50 OR MORE EMPLOYEES?

0205.53

Enter "Y" if the taxpayer is a corporation with 50 or more employees who are employed more than 500 hours (per employee) during a calendar year. Otherwise, enter "N." "Y" responses on Form BOE-414-A and Form BOE-414-B are forwarded to Environmental Fees, Excise Taxes and Fees Division (MIC:57) on an IRIS report.

The Environmental Fee applies to corporations with 50 or more employees who are employed more than 500 hours (per employee) during a calendar year. For more information, see Publication 90, *Environmental Fee*.

SELLER OF TIRES?

0205.55

Enter "Y" if the taxpayer sells new tires. Otherwise, enter "N." "Y" responses on Form BOE-414-A and Form BOE-414-B are forwarded to the Excise Taxes and Fees Division (MIC 56) on an IRIS report.

Sellers must pay a fee for each new tire sold. For more information, see Publication 91, *The Recycling Fee*.

WHOLESALE / IMPORTER OF TOBACCO?

0205.57

Enter "Y" if the taxpayer imports cigarettes or tobacco products into California, or if the taxpayer sells cigarettes or tobacco products wholesale in California. Otherwise, enter "N." "Y" responses on Form BOE-414-A and Form BOE-414-B are forwarded to the Excise Taxes and Fees Division (MIC 56) on an IRIS report.

All cigarette and tobacco product importers, distributors and wholesalers in California are required to register with the Board. Tobacco products include cigars, smoking tobacco, snuff and any other article or product containing at least 50 percent tobacco. For more information, see Publication 15, *California Cigarette and tobacco Products Tax* and Publication 93, *Cigarette and Tobacco Products Taxes*.

PUBLICATIONS PROVIDED

0205.59

In addition to the publications mentioned in AM section 0205.49, auditors will often mail or hand deliver other pamphlets, regulations, law sections or other information pertinent to the taxpayer's business and transactions. These

² Provide no more than five account numbers and addresses (principal locations only).

publications help taxpayers understand their sales and use tax reporting requirements and application of sales and use tax laws.

List all publications and other printed material furnished to taxpayers (e.g., Publications 70, 76, Regulation 1668, etc.) on page 3 of Form BOE-414-A and on Form BOE-414-Z.

CIGARETTE TAX INDICIA INSPECTION

0205.60

The auditor must inspect the taxpayer's stock of cigarettes in open cartons and loose packages by random sampling to determine whether proper tax stamps have been affixed to the cigarette packages. A comment stating whether the cigarette packages inspected bear the proper tax indicia should be entered. If the taxpayer does not sell cigarettes, a statement to that effect should be made.

When checking purchase records, the auditor should be alert to detect any purchases of cigarettes from persons who are not licensed distributors or wholesalers. Any unusual distribution/sales by a retailer of cigarette should be thoroughly examined.

During a field audit or investigation, auditors will also inspect the cigarettes sold through vending machines owned and serviced by the taxpayer under audit. Form BOE-1321, *Cigarette Vending Machine Inspection Report*, will be completed showing all relevant information.

If the Board's files disclose an inspection was performed within the prior six months, the current inspection may be waived.

SPECIAL INSTRUCTIONS

0205.62

Enter in this section the notations that need to appear on the bottom of the front of the system-generated audit report. See AM section 0204.12 for a list of common notations.

WAIVER ATTACHED? – WAIVER PERIOD – EXPIRES

0205.66

If Form BOE-122, Waiver of Limitation, is attached, enter "Y," the period covered, and the expiration date. Otherwise, enter "N."

When the statute of limitations is not involved because the account is on an annual basis, add a comment in the "General Audit Comments" section on the back of Form BOE-414-A (i.e., STATUTE OF LIMITATIONS: 2005 on an annual basis). This allows Headquarters to easily determine that all periods covered in the report are within the statute of limitations.

The statute of limitations is considered "involved" if any period covered by the audit will outlaw within ninety days from the date of the report.

Care must be taken to enter the correct statute of limitations information on the audit report since this information is critical and used to control audits during statute periods. For additional discussion on the purpose, Board policy, and preparation of waivers, see AM sections 0215.00 – 0215.30.

FORM BOE-414-A, GENERAL AUDIT COMMENTS

0206.00

GENERAL

0206.03

The space under the "General Audit Comments" heading should be on matters of interest other than details of the actual verification work performed. The comments are placed under appropriate captions that are underlined in lieu of caps used on the system-generated Form BOE-414-E. In general, a comment should be made on any point that will be of value in connection with making a determination, making decisions regarding future audits, requiring new permits, correcting Headquarters' records, enforcing collection, etc. For example, in describing a construction contractor's business activities, it is not only helpful to Headquarters' staff to know if the taxpayer also makes retail over-the-counter sales, but it is equally important to give the degree of such activity ("substantial" or "rarely"). This information assists Headquarters' staff in determining if audit and local tax returns are accurate.

Auditors should avoid comments regarding the taxpayer's personal affairs, political connections or other matters which have no bearing on the foregoing points. Such comments serve no useful purpose and merely waste the time of auditors, reviewers, and others who may be required to read audit reports.

CONFIDENTIALITY OF COMMENTS

0206.06

An auditor must at all times take precautions against the disclosure, intentional or otherwise, of audit comments of a confidential nature. If the audit is based upon records of a successor or some other confidential source, care must be taken not to disclose confidential information without first consulting a supervisor.

EXTENT OF COMMENTS

0206.09

The extent of the comments will depend upon the importance of the subject matter and whether the comments are regarding some change in the status of the account. Comments should be brief yet still give complete information. The following four types of general audit comments and their acronyms, which always appear in audit reports, are as follows:

- a. Type of Business Organization — (TBO)
- b. Class of Business — (COB)
- c. Books and Records — (B&R)
- d. Franchise Tax Board — (FTB)

In addition to the above list, there are certain other comments that may be applicable:

- a. Regulation 1595 (AM section 0206.42) — (COR)
- b. Successor's Liability (AM section 0206.60) — (SCL)
- c. Discussion with Taxpayer (AM section 0207.10) — (DWT)
- d. Answers to Headquarters' Questions
- e. Statute of Limitations (AM section 0205.66) — (SOL)
- f. Overpayment (AM section 0206.48) — (OVR)
- g. Credit Interest (AM section 0206.43) — (CRD)
- h. Penalty (AM section 0206.45) — (PEN)

- i. Dual Determination (AM section 0206.49) — (DUA)
- j. Error in Transcript of Returns Filed (AM section 0208.63)
- k. RUPA Compliance (AM section 0206.55)
- l. Amnesty (AM section 0206.52) — (MS1)
- m. Tax Error (AM section 0206.58) — (TER)

TYPE OF BUSINESS ORGANIZATION

0206.12

Enter the type of entity operating the business, i.e., individual, partnership, limited liability company, corporation, or other entity. Enter the names of all owners (AM sections 0202.48 & 0202.49), partners, including their designations in the case of a limited partnership (AM sections 0202.51 & 0202.54), principal corporate officers and their titles (AM section 0202.57), and members, managers and officers of a limited liability company (0202.56).

If there is a change of ownership during the audit period and the Board has no record of such change (i.e., the incorporation of a sole proprietorship), the auditor must prepare Form BOE-406, *Notice of Close-Out*, and immediately forward the completed Form BOE-406 to District Compliance. Form BOE-406 is not normally prepared just for the addition or deletion of partners since RUPA allows for the continuation of a partnership entity in most circumstances. However, if the partnership agreement stipulates dissolution of the partnership when a partner is added or dropped, then Form BOE-406 should be prepared. See Compliance Policy and Procedures Manual, Chapter 6, “*Closeouts and Clearances*,” for instructions on how to prepare this form.

AM section 0202.00 describes the procedure and importance of obtaining accurate entity and ownership information, including addresses. When conducting an audit, the auditor is responsible for verifying the address and documenting the type of ownership in the audit report, and for ensuring that the Board’s records on the account are updated (AM section 0219.03).

NO ADDITIONAL LIABILITY DISCLOSED

0206.15

Where a field audit discloses no additional liability but indicates that changes of ownership have occurred in the operation of a continuing business, field auditors will complete the audit on Form BOE-414-C:

- (a) Under the original permit number if the business is no longer operating, or
- (b) Under the ownership currently operating the business.

The auditor will make a descriptive comment in the “General Audit Comments” section of Form BOE-414-C in a similar manner as the following example:

This audit includes the operations of the following ownerships:

- John Doe, Single Proprietorship Period 3/1/xxxx to 2/28/xxxx
- John Doe and Robert Doe, Partners Period 3/1/xxxx to 2/28/xxxx
- X Corporation Period 3/1/xxxx to 1/31/xxxx

Issuance of permits on an “issue and cancel” basis is not warranted. Close-out forms are not prepared except for Permit John Doe, Single Proprietorship (originally issued). Application taken for X Corporation, current owner.

ADDITIONAL LIABILITY DISCLOSED

0206.18

If the audit discloses additional liability for any one of the ownerships, it will be necessary to prepare a separate Form BOE-414-A for each entity liable for the additional tax, although one Form BOE-414 will suffice. Appropriate cross-references should be made on all reports. Each audit report should also include comments regarding the operations of any entities audited which did not obtain permits but have no additional liability. Where a taxpayer operates a business after filing a bankruptcy petition, two audit reports (BOE-414-A) are required, one for the period prior to bankruptcy and one for the period when the business operated under the jurisdiction of the court. The same applies in the case of a deceased taxpayer whose business is operated after the taxpayer's death.

CLASS OF BUSINESS

0206.21

Business Code

Since the compliance staff depends upon the "class of business" comments to determine the correctness of the business code of record, the auditor will write a concise but adequate description of the taxpayer's business, with emphasis on the major or predominant activity. As a standard procedure, the auditor should verify that the business is coded correctly (Business Taxes Code Book section 203.000).

Special comments are required for the following types of business:

- Grocery Store — Beer, wine, liquor, meat, or produce departments (see AM Chapter 9, *Grocers*).
- Restaurant — Beer, wine, liquor, drive-in, and extent and type of take-outs (see AM Chapter 8, *Bars and Restaurants*).
- Construction Contractor — Lump-sum/time and material/cost plus contracts, subcontracts, and over-the-counter sales (see AM Chapter 12, *Construction Contractors*).

When a significant change in the business activity of an active account has occurred before or during the audit period or, if the business was coded incorrectly when the permit was issued, the auditor must notify District Compliance as discussed in AM section 0219.03.

NAICS Code

On March 6, 2006, the Board implemented the use of codes identified in the North American Industrial Classification System (NAICS) in registering new Sales and Use Tax accounts. The six-digit NAICS codes will be phased-in to replace the existing two-digit Business Code. When conversion to the NAICS codes is complete, the auditor will verify that the taxpayer's business is coded correctly using the NAICS Code Generator.

BOOKS AND RECORDS

0206.36

Comments regarding books and records should be limited to the records or lack of records which have a bearing on the audit procedure or the reliability of the taxpayer's figures. Comments should describe (exhibit 1, page 4):

1. The bookkeeping system in specific terms. Less detail is required if the

records are complete double entry or single entry rather than if the records are disorganized or incomplete. A comment should include any notations regarding the type of computerized systems used by the taxpayer and whether the records are maintained in-house.

2. The supporting records, unless all necessary documentation is available in which case the comment should reflect this fact.
3. The adequacy of the records for tax purposes. This information is important for application of a negligence penalty. Adequate records are the type of records maintained by a reasonable and prudent businessperson, engaged in a similar kind and size of business, used for accurate tax preparation. The records only need to be adequate for tax purposes (not other purposes, such as balance sheet preparation, profit and loss statements).
4. Whether sales tax reimbursement is included or added to the selling price of items sold.
5. If anyone other than the taxpayer prepares the records. If so, note that person's name or firm name (e.g., CPA firm, bookkeeper, etc.).
6. If the taxpayer is uncooperative in providing requested records. All actions taken should be documented, including any actions taken or not taken towards a subpoena.

FTB — FRANCHISE TAX BOARD

0206.40

Sales and use tax audit reports will be forwarded to FTB when the audit includes \$20,000 or more of additional gross receipts (total sales). For the purpose of this section, additional gross receipts are defined as sales included in the audit assessment but not reported on line 1 (total sales) of the sales and use tax returns. Field Billing Orders will not be forwarded to FTB.

In addition, the following types of audits will be sent to FTB even though the \$20,000 or more of additional gross receipt criteria is not met:

- Jeopardy Assessments — All audits with jeopardy recommendations will be sent to FTB regardless of the type of tax change and extent of the understatement.
- No Returns Filed Accounts — Audits where the auditor had to obtain a seller's permit for the taxpayer and a failure to file penalty was assessed, will be sent to FTB regardless of the type of tax change and extent of the understatement.

Audits in this category that do not include \$20,000 or more of additional gross receipts should be transmitted with one additional copy of the front and page 2 of the system-generated *Report of Field Audit*. However, it will not be necessary to attach a copy of the *Transcript of Returns Filed* (Form BOE-414), a *Gross Receipts Audit Schedule* or a *Sales Tax Summary Calculation*. See AM section 0213.03.

When the auditor recommends that an audit report be sent to FTB, the auditor must include the following information in the FTB comment:

1. Taxpayer identification number. For sole proprietors, provide the

taxpayer's Social Security Number (SSN). For corporations, provide the CA Corporation number or the Federal Employer Identification Number (FEIN) or the State Employer Identification Number (SEIN). For partnerships or limited liability companies, provide, if available, each partner's or member's SSN. In the event that none of the partners' or members' SSN is available, provide the partnership's or limited liability company's FEIN or SEIN.

The above mentioned identification numbers may be found on income tax returns, Form BOE-400, *Application for Sellers Permit and Registration as a Retailer*, and in the registration system (TAR AI), as well as other documentation. If the auditor is unable to obtain the taxpayer's identification number, then the phrase "Unable to obtain I.D. Number" should be entered in the FTB comment.

2. Identification of which tax change item(s) included in the audit represent additional gross receipts. In order to identify which tax change item(s) represent additional gross receipts, the auditor should reference the letter(s) used to identify the tax change item in the "Analysis of Measure of Tax by Class of Transaction" section of the audit report.

Example: Analysis of Measure of Tax by Class of Transaction

1. Disallowed Sales for Resale \$30,000
2. Unreported Sales of Equipment \$50,000
3. Ex-Tax Purchases of Supplies \$10,000

If the auditor determines that the "Unreported Sales of Equipment" represents additional gross receipts, then the auditor would enter "Item 2 represents additional gross receipts" in the FTB comment.

In situations where the audit report will not be sent to FTB, enter the words "Not Applicable" or the notation "N/A" in the FTB comment section. The FTB comment should always be the last comment in the "General Comment" section of the audit report. See exhibit 1, page 4, for an example of a completed FTB comment.

See AM section 0213.03 for the list of documents included in the "FTB Packet."

ADRS will forward the FTB packet to FTB after the audit has been billed. Audits that involve jeopardy determination or bankruptcy proceedings should be forwarded to FTB no later than the first working day after the audit is billed. If a reaudit changes a previously submitted FTB package, an updated FTB package should be prepared.

REGULATION 1595 COMMENTS — SALES TAX

0206.42

In the case of a close-out audit, show the additional measure of tax established as a result of the final sale of assets as a separate item in the analysis section on the face of Form BOE-414-A. When this is done, a Regulation 1595 comment will not be required in the "General Audit Comments" section of Form BOE-414-A.

In all other cases, include a brief comment explaining the disposition of fixed assets and ex-tax inventory at close-out in the "General Audit Comments" section of Form BOE-414-A under the caption "Regulation 1595." If the

taxpayer reported the sale as taxable, the comments should detail the taxpayer's method of determining the taxable measure and the reasonableness of the amount reported. This verification and comment of the correct reporting should be made even though the fixed assets were paid through escrow. If the asset disposition is exempt, the comments should include the reason for the exemption (e.g., occasional sale, resale, interstate sale, etc.)

It is important for auditors to work with District Compliance to ensure all aspects of close-out audits are performed accurately and efficiently (i.e., fixed assets and equipment, final return, disposition of inventory, and payment of liability).

CREDIT INTEREST COMMENTS

0206.43

If the auditor recommends that credit interest be allowed or denied, he or she should enter a comment regarding the recommendation. This statement applies to both refund audits and deficiency audits with credits in one or more quarters. If the credits were caused by different circumstances, the auditor may recommend that interest be allowed for some quarters and denied for others. Credit interest is not allowed for periods where a negligence or fraud penalty is asserted (see AM sections 0217.12 – 0217.20).

PENALTY COMMENTS

0206.45

The auditor must enter a penalty comment in the "General Audit Comments" section of either Form BOE-414-A or Form BOE-414-B under the heading "Penalty" when penalty is recommended or when the tax liability is \$2,500 or more and no penalty is recommended. Comments should be clear and concise, explaining the rationale for the auditor's recommendation (penalty recommended and no penalty recommended). Canned comments, such as "Negligence not noted" or "No penalty recommended," should be avoided. Supervisor's comments are required for penalty comments when the tax liability is greater than \$25,000. For a tax liability greater than \$50,000, District Principal Auditor's comments are required.

See AM Chapter 5, *Penalties*, for general guidelines and procedures on penalties.

OVERPAYMENT COMMENTS

0206.48

If the taxpayer filed a claim for refund, the auditor must verify the claim for refund (AM sections 0216.00 – 0216.21) and include a comment in the "General Audit Comments" section of Form BOE-414-A. The comment must clearly explain why the refund should be granted or denied and must include the following information:

- The amount of tax to be refunded as established by the taxpayer.
- The amount of tax to be refunded as recommended by the auditor.
- The hours spent in verifying the claim for refund.

Below is an example of a Claim for Refund comment:

The taxpayer filed a claim for refund for bad debts not claimed on returns. The claim as filed was for \$1 or more. The documentation submitted for verification disclosed an actual claim amount of

\$2,135. This amount was too high because it included sales for resale.

Taxpayer's Claim: \$2,135 in tax.
Audited Claim: \$1,100 in tax.
Hours Spent
in Verifying Claim: 2

DUAL DETERMINATION COMMENTS

0206.49

When a predecessor fails to notify the Board that its business was discontinued, transferred, or sold, the predecessor may be held liable for tax, interest and penalty (except for fraud or intent to evade) incurred by the successor/transferee, if the predecessor had actual or constructive knowledge that the successor/transferee was using the predecessor's permit in any way. This includes displaying the permit at the transferee's place of business, issuing resale certificates using the permit number of the predecessor, or filing returns using the permit number and name of the predecessor or the predecessor's business name. (See AM section 0204.16, subsection 1.)

Except in cases where, after the transfer, 80 percent or more of the real or ultimate ownership of the business is still owned or held by the predecessor, the liability is limited to the quarter when the business was transferred, and the three (3) subsequent quarters. (See Regulation 1699(f) and AM section 0204.16, subsection 1.)

General partners are jointly and severally liable for all the debts and obligations incurred by the partnership. However, to assert personal liability, a dual determination must be issued to each partner, including against a general partner that dissociated from the partnership without notifying the Board. In cases where the partner fails to notify the Board of his or her dissociation from the partnership, RUPA provides that the dissociated partner's liability for the ongoing partnership debts extends for two years from the date of separation. If the dissociating partner filed a Statement of Dissociation with the Secretary of State, but failed to notify the Board, liability is limited to 90 days from the date the notice was filed. In those cases where notification of the partner's dissociation is actually given to the Board (actual notice), the liability is limited to the time preceding the date actual notice was given. (See AM section 0204.16, subsection 4.)

Dual determinations are also applicable in cases where a successor or a purchaser of a stock of goods fails to withhold a sufficient amount of the purchase price to cover the tax liability of the seller. The liability of the successor or purchaser of a stock of goods extends to amounts incurred from the operation of the business by the predecessor or any former owner, even though not yet determined against the predecessor or any former owner. The successor's liability can include amounts for tax, interest and penalties, including penalties for negligence, intentional disregard for the law or regulations, fraud or intent to evade the law or regulations determined against the predecessor and unpaid at the time of the business or stock of goods was sold. However, the amount of the successor's liability is limited to the purchase price of the business (see RTC section 6812 and Regulation 1702).

In cases where the precise ownership of the business is unknown, see AM section 0202.45 for further information.

Note, where the dual determination period differs from the audit period, a separate tax, interest and penalty computation is required for the dual and the respective amounts included in the comments.

In cases of predecessor liability, the auditor's comments should include the following:

- The reason for the dual determination.
- The name, address, and permit number of the predecessor against whom the dual determination is to be issued.
- The period of the predecessor's liability.
- A discussion of the evidence showing that the predecessor discontinued, transferred or sold the business or stock of goods to the successor. If available, include a copy of the contract or other documentation of the transfer of the business in the audit.
- A discussion of the evidence showing that the predecessor had actual or constructive knowledge that the successor was using the predecessor's permit or permit number (include a copy if available).

In the case of a dissociated partner, the auditor's comments should include:

- The reason for the dual determination.
- The name and address of the partner who withdrew or dissociated from the partnership. (Note: the Special Procedures Section will issue the arbitrary number to dual the dissociated partner.)
- The date the partner withdrew from the partnership. Examples of acceptable evidence supporting the date of withdrawal can include, but is not limited to, a Statement of Dissociation filed with the Secretary of State, an addendum to the partnership agreement signed by the partners, a signed affidavit from the partnership, a copy of a letter of withdrawal from the dissociating partner to the partnership, or a copy of a letter of withdrawal from the ongoing partnership to the dissociating partner.
- The period of the dual determination.

In the case of a successor's liability, the auditor should describe the evidence that demonstrates the transfer of the business or stock of goods and the basis of the successor's liability, including how the purchase price was determined.

AMNESTY

0206.52

If an audit includes reporting periods eligible for amnesty, audit staff must make a comment on the audit report indicating whether or not the taxpayer participated in the amnesty program. If the taxpayer participated in the program, additional details regarding such participation should be provided, including:

- a) Whether or not the taxpayer filed amnesty tax returns, and if so for which reporting periods.

- b) Whether or not amounts reported on the amnesty returns were the same, less than, or greater than the amounts included in the audit.
- c) Whether or not periods included in the audit go beyond the normal three-year audit cycle.
- d) Whether or not periods were covered by a waiver that has expired.

For Notices of Determination issued on or after April 1, 2005, the amnesty penalties will apply to underreporting of tax amounts. If a taxpayer participated in amnesty, but reported less than the liability later determined, the amnesty penalties will apply to the amount of tax not reported. Audit staff must apply the double amnesty penalties on the front of the audit report. In addition, the amount of the 50 percent interest penalty should be identified in a comment made on page 3 (under "Special Instructions") or in the "General Audit Comments" section of Form BOE-414-A. (The AUD CA screen is used to calculate the amount of the 50 percent interest penalty.) Audit staff must disclose to the taxpayer information regarding the amnesty penalties applied to the audit liability.

RUPA COMPLIANCE

0206.55

When auditing a partnership, the auditor should provide a comment noting that the auditor has checked for a change in partners. Any changes should be reported to District Compliance as explained in AM section 0219.03.

When a partner has withdrawn from the partnership before or during the audit period, the auditor must document all evidence supporting the date of the partner's withdrawal.

For closed-out partnership accounts, the name and address of all known partners must be listed under this caption (see AM section 0202.50).

TAX ERROR ON TRANSCRIPTS OF RETURNS

0206.58

Tax errors represent the difference between the tax computed and the tax reported (AM section 0208.14), and should not be included in the audited taxable measure. For all errors greater than \$50 in tax per quarter, the auditor should make a comment in the "General Audit Comments" section of Form BOE-414-A. The comment should state the period, the tax amount involved, and the auditor's recommendation for handling the error (AM section 0305.30).

SUCCESSOR'S LIABILITY

0206.60

If the account is closed out and there is a successor within the meaning of Regulation 1702, include a general comment providing the successor's name and account number. If an account number is not yet assigned, enter the comment "permit in process." If there is a subsequent operator at the same location who is not a successor within the meaning of Regulation 1702, provide an explanation in the "General Audit Comments" section of Form BOE-414-A. If the liability of the subsequent owner as successor is questionable, provide an explanatory comment.

EXIT CONFERENCE

0207.00

DISCUSSION OF AUDIT RESULTS

0207.02

After completion of the audit, the auditor will arrange an exit conference with the taxpayer and/or taxpayer's representative. It is strongly recommended that the auditor's field supervisor be present at every exit conference where the audit recommendation includes a fraud penalty, a tax liability in excess of \$25,000 or when it is likely that the taxpayer or representative will not agree with the audit findings. With respect to field supervisors located in the out-of-state district, in lieu of making a special trip, they should discuss the audit recommendations with the taxpayer by telephone and document the results of that discussion.

When a taxpayer's representative is involved during the audit process and is representing the taxpayer at the exit conference, the auditor should encourage the taxpayer to also attend the exit conference whether or not an adjustment is necessary. This allows the taxpayer the opportunity to review the audit working papers and raise any questions about the audit at that time. It is essential that the auditor provide the taxpayer with a full explanation for all recommended differences, even though the taxpayer may have agreed to certain differences at an earlier time. The auditor should also fully discuss any penalty recommendations with the taxpayer at the exit conference. By making the taxpayer aware of all differences at the time of the exit conference, it is hoped that the number of concurred audits that are subsequently petitioned will diminish.

In special circumstances, such as receiverships, bankruptcies, assignment or probate cases, the auditor should discuss the results with the receiver, trustee, assignee, administrator, executor, etc. Enter the name, title and telephone number of the person with whom the discussion was held in the space provided on page 3 of Form BOE-414-A.

PREPAYMENT OF AUDIT LIABILITY

0207.04

As part of the routine audit discussion, the auditor should inform the taxpayer of the option to pay the audit liability, in part or in full, prior to the issuance of the Notice of Determination, regardless of whether the taxpayer agrees or disagrees with the audit findings. It is important that the taxpayer understands that the Notice of Determination is the official billing notice and that a prepayment of the audit liability is an advance payment on an audit not yet billed. Additionally, the auditor should inform the taxpayer regarding the statute of limitations on the filing of a claim for refund.

Since the purpose of an advance payment is to avoid additional interest charges, the taxpayer should be given accurate information regarding the normal time lapse between completion of the audit and the issuance of the Notice of Determination, and the amount of additional interest that will accrue during that period. The taxpayer should also be advised that, when payment is mailed, interest is computed through the last day of the month in which the payment is postmarked.

Auditors should caution the taxpayer that the tax liability, as of the exit conference, is the auditor's proposed recommendation for determination and

should not be relied upon as representing the actual billing. In addition, auditors should inform the taxpayer of the review process and the possibility that the results may increase or decrease.³ Auditors should never accept a payment directly from the taxpayer. Advance payments must be sent to the district office or Headquarters using Audit Payment Information Forms BOE-1 or BOE-1P (published on the Board's Web site) if a partial telephone billing/determination has been issued. Payments sent to Headquarters should be sent to the following address: Board of Equalization, P.O. Box 942879, Sacramento, CA 94279-0001. It is important that taxpayers do not include advance payments with their regular returns or prepayments.

Auditors should advise the taxpayer that all payments should be accompanied by an appropriate explanation of the reason for the payment. The explanation should include the taxpayer's account number, the period covered by audit, and a statement that the payment is for an audit deficiency not yet billed.

FURNISHING COPIES OF AUDIT WORKING PAPERS (AWP)

0207.05

During the discussion, the auditor must provide to the taxpayer or the taxpayer's representative a copy of all AWP. The AWP include all schedules and documentation containing the facts, information, and computations upon which any additional liability, refund, or "no change" to reported liability is based. The taxpayer's copy of the AWP include Form BOE-495, *Index To Audit Working Papers* and all schedules that follow, including general audit comments (see exhibit 27).

With respect to audit assignments where an evasion penalty is recommended, after the evasion penalty is approved by the Chief, Headquarters Operations Division and returned to the District Office, the taxpayer or the taxpayer's representative will be provided with a copy of the memorandum requesting that an evasion penalty be imposed (see AM section 0507.75).

If a copy of the field audit report and determination is to be mailed to the representative, the auditor will enter the representative's Taxpayer Identification Number (TIN) on the face of Form BOE-414-A (exhibit 1, page 1).

In the case of a "no change" audit, the taxpayer should be provided a copy of Form BOE-414-C, *Report of Examination of Records*, together with copies of all schedules and comments that will become part of the audit file (see exhibit 27). Additional schedules should not be created for the sole reason of providing something to the taxpayer.

Documents that are not to be released under the Information Practices Act or the Public Records Act should be excluded from the taxpayer's copy of the AWP. These documents include memos from the Legal Division marked "Attorney — Client Privilege," Confidential Operations Memos, Form BOE-1164s, Form BOE-1032s, and any annotated letters (unless confidential data is redacted).

If at the time of the discussion the AWP are not complete, the auditor may leave with the taxpayer all schedules that were used in the discussion. Once the AWP are completed, the auditor should either mail or deliver to the taxpayer and the

³ Should the results change after the exit conference, the auditor should explain any differences, regardless of materiality, between the auditor's initial recommendation and the amount to be billed.

taxpayer's representative a copy of the complete set of the AWP (including any previously left with the taxpayer) along with any other releasable documents listed on Form BOE-495 unless the taxpayer has specifically asked the auditor not to send certain portions of the AWP. Auditors must ensure that Form BOE-495 accurately reflects the documents sent to the taxpayer. The auditor must also record accurately on Form BOE-414-Z, *Assignment Contact History*, the date in which AWP was sent to the taxpayer, the name of the taxpayer to whom the documents were delivered, and the method of delivery of the AWP.

Original or copies of information obtained or generated during an audit that do not become a part of the AWP ("bone files") should not be retained but should either be returned to the taxpayer or destroyed.

COMPLETE DISCUSSION NECESSARY

0207.08

It is essential that the taxpayer and/or the representative be fully and accurately informed by personal discussion of the audit findings. This is required for three reasons:

- 1) The taxpayer must be afforded every reasonable opportunity to present all evidence which might result in a change or modification of audit recommendations;
- 2) More accurate returns for future periods may be expected if taxpayers are properly advised of the provisions of the laws and regulations; and
- 3) A clear understanding by the taxpayer of audit adjustments will minimize petition cases.

RESULTS OF DISCUSSION OF AUDIT FINDINGS

0207.10

When a taxpayer disagrees with any portion of the audit findings, a "Discussion with Taxpayer" comment must be entered in the "General Audit Comments" section of Form BOE-414-A. The "Discussion with Taxpayer" comment will list and explain in clear, complete, and concise detail each item and dollar amount in the audit with which the taxpayer disagrees and agrees. Each item is numerically keyed to the analysis of measure section of the audit report. The report will clearly detail the reasons or facts that the taxpayer contends supports the taxpayer's position, the reasons or facts that the auditor believes supports his/her position, and any additional comments added by the supervisors. Comments should not deal in generalities or suppositions, but should be a clear presentation of opposing viewpoints, leaving no doubt as to the basis for disagreement. The field supervisor will review the report of discussion and approve the auditor's explanation of the non-concurrence. Whenever appropriate, the field supervisor will contact the taxpayer for further discussion. Taxpayers will be provided a copy of the "Discussion with Taxpayer" comments. (See exhibit 1, page 5.)

This report will be prepared in the same manner for Field Billing Orders, titled "Results of Discussion of Field Billing Orders."

COPY OF REPORT OF FIELD AUDIT TO BE FURNISHED TO TAXPAYER**0207.12**

In all instances where an audit report recommends a tax change, a system-generated, audit report will be furnished to the taxpayer.

The front side of the report provided to the taxpayer should be completed, and will include an analysis and description of items comprising the change in the measure of tax. When necessary, supplemental pages should be attached.

When a field audit discloses that tax liability has been reported in excess of the correct amount, the taxpayer should be informed in the same manner as in the case of a deficiency. A claim for refund (Form BOE-101) should be secured from the taxpayer (AM section 0205.43) for consideration by the Board whenever an overpayment has occurred.

FORM BOE-414, TRANSCRIPT OF RETURNS FILED

0208.00

GENERAL

0208.03

Form BOE-414, *Transcript of Returns Filed — Sales and Use Tax* (exhibit 4), serves as a starting point of the sales tax audit. The district audit staff prints this form from IRIS (AUD TR). The periods on a system-generated Form BOE-414 are dependent on the audit period. If periods have expired or the audit period on the system is incorrect, as identified on AUD MC, the period will have to be modified prior to printing Form BOE-414.

VALIDATION OF FORM BOE-414

0208.04

The district audit staff will validate returns on the system with information available in the file primarily for recovery group code A and B. Once the returns are validated, the audit staff will place a comment in the Audit Subsystem (AUD MC) indicating that the returns were validated. The audit staff may also add any special comments, such as “could not validate return for 4th quarter.” Whether a return needs to be validated (other than A and B) is entirely dependent on the judgment of the audit staff.

Not all returns need validation. Examples of returns that may not require validation are as follows: (1) where the taxpayer’s returns do not appear to have any problems or errors; (2) where the taxpayer has not made any refund claims; (3) where no additional determination has been issued for the period under audit; or (4) where no modified returns have been filed.

ELECTRONIC DOWNLOAD

0208.05

After a transcript is printed from IRIS, an auditor may download an electronic version of the transcript by going into the Board of Equalization File Transfer Protocol Program (BOE FTP). Step-by-step instructions for the download of the transcript and conversion into Excel format are available. Questions regarding the conversion process should be directed to the district PC coordinator or the audit IRIS trainer.

The principal advantage of an electronic download of returns is that figures can be directly linked to the audit worksheets without having to manually transcribe them from a hardcopy. There are obvious benefits for using the electronic version for large audits, audits with several deductions, multiple transit districts, and local tax (see exhibit 6).

AUDIT MADE BY

0208.06

Enter the name of the field auditor making the audit in this section. If more than one auditor is working on the audit, it is only necessary to show the name of the auditor in charge of the audit since the names of the other auditors will appear on page 3 of Form BOE- 414-A.

TOTAL SALES, EXTAX PURCHASES, AND DEDUCTIONS

0208.08

The figures shown on Form BOE-414 are reported amounts, adjusted to reflect any subsequent tax increase or decrease as a result of billings or refunds, errors on returns, and amended returns. Adjusted figures will be keyed to an appropriate explanation below the totals on the front side of Form BOE-414.

SCHEDULE OF DEDUCTIONS	0208.09
The schedule of deduction prints on a page titled "Schedule of Deductions." Only the summary of the total deductions will be shown on Form BOE-414, page 1.	
DISTRICT TAX SCHEDULE	0208.10
The district tax schedule prints on a "Transit Tax Schedule." Only the summary of the district taxes reported will be shown on Form BOE-414, page 1.	
SCHEDULE "G" FOR GASOLINE SELLERS	0208.12
For accounts where the taxpayer makes retail sales of gasoline, a schedule G will print out with Form BOE- 414. This schedule is a summary of the amounts on schedule G of the sales and use tax return.	
The amount appearing on this schedule under the column headed "TAX PD ON FUEL — G3" is shown in total only. If a detailed listing of the vendors used by the taxpayer is needed, the auditor can print an SG Reconciliation Adhoc Report from IRIS (REV FR). This report is a reconciliation schedule between the tax prepaid to vendors and the prepaid tax claimed by the taxpayer. Gasoline and diesel fuel sales tax prepay rates are listed in exhibit 22.	
NET TAXABLE AMOUNT	0208.13
The amounts shown as "Net Taxable Amount" will always be the computed amount based on the reported or adjusted figures entered in the preceding columns.	
TAX ERROR	0208.14
Tax errors (differences) result when the tax computed by applying the applicable tax rate to the "Net Taxable Amount" differs from the amount of tax reported (AM section 0206.58).	
CREDIT FOR TAX PAID TO OTHER JURISDICTIONS (RTC SECTION 6406 CREDIT)	0208.15
A credit for sales and use tax paid to other states or political subdivisions is available under RTC section 6406. Form BOE-414 will show the credit claimed as a footnote using the caption "RTC Section 6406 Tax Credit." See AM section 0203.16 for treatment of RTC section 6406 tax credit differences on the audit report.	
WHOLE-DOLLAR AMOUNTS	0208.21
Each item on a return, except for the tax amount, will be entered on Form BOE-414 at the nearest whole-dollar amount. Resultant variances in the amount of tax so computed and the amount actually paid will be ignored unless the difference is 50¢ or more. A difference of 50¢ or more will indicate an error in preparing the return not associated with use of whole-dollar amounts. Such differences in tax will be shown in the "Tax Error" column (AM section 0206.58).	

**EXCESS OF DEDUCTIONS OVER GROSS SALES AND PURCHASES
SUBJECT TO USE TAX**

0208.24

Occasionally, returns are filed where the total deductions exceed the total sales, resulting in a negative net taxable amount, as for example, where large deductions are taken for returned merchandise sold in a prior period. Form BOE-414 will show credit amounts in the "Net Taxable Amount" and "Tax Due" columns reflecting entries on the return as shown in the following example:

TOTAL SALES	EXTAX PURCHASES	RETURNED MERCHANDISE	NET TAXABLE AMOUNT	TAX DUE
500	50	1000	-450	-22.50

If a refund has not been issued for the return filed, the auditor should treat the return as if \$0 was filed and include any and all debits and/or credits in the audit.

**WHERE RETURNS ARE NOT AVAILABLE, INCOMPLETE OR
UNDECIPHERABLE**

0208.33

If any return is not available, incomplete, or undecipherable at the time Form BOE-414 is prepared, enter the amount of tax paid as disclosed by the return or the return payment record in the "Tax Due" column of Form BOE-414. Calculate "Total Sales" and "Net Taxable Amount" based on the amount of tax paid. Place an appropriate symbol in red pencil in front of the calculated measure and key it to an explanation. The amount of tax paid as disclosed by the return payment record may include delinquency charges. The payment of delinquency charges results in Headquarters overstating the "net taxable amount" and "tax due." In such cases, the auditor should ascertain the amounts reported and tax paid from the taxpayer's records.

ACCOUNTS ON MONTHLY REPORTING BASIS

0208.39

When Form BOE-414 is prepared for a sales tax account on a monthly reporting basis, the detail will be shown by month with subtotals for each quarter.

RETURN OF FORM BOE-414 ON OUT-OF-STATE ACCOUNTS

208.42

If an investigation discloses that the principal accounting office is not located in California, the district office will not attempt to conduct the audit, secure the records from out-of-state, or correspond with out-of-state representatives of the taxpayer regarding the audit unless requested to do so by Headquarters. The audit will be transferred to the out-of-state office. Once the OMA is changed on the AUD MC screen, the out-of-state office will be able to print a transcript of the return.

ERRORS**0208.57**

If errors are noted in Form BOE-414, the field auditor should line out the incorrect figures and insert the correct ones. If it is not practical to use the form as corrected, the auditor should prepare a new one. The original Form BOE-414 should be marked "superseded" and retained with the audit work papers. Auditors can have corrections made on the system and download a corrected Form BOE-414. The correction and its source must be clearly identified.

WHERE ERRORS ARE CORRECTED**0208.60**

In certain other cases, where it is necessary to correct an obvious error that does not affect the amount of tax reported, a symbol in red pencil should be placed in front of the item itself with an appropriate explanation.

CHANGES BY DISTRICT OFFICES**0208.63**

District offices will never erase any figures on Form BOE-414. However, auditors can line out the incorrect figures on Form BOE-414 and write in the correct figures. When the auditor uploads the report, the correct figures will be entered in the system. (Note: this will not delete the incorrect figures, but it will provide the correct figures for audit purposes.) Auditors should place a comment in the "General Audit Comments" section of Form BOE-414-A, under the caption "Error on Transcript of Return Filed" as follows:

Auditor examined actual returns and noted errors on BOE-414. Errors were corrected on Form BOE-414. See Form BOE-414 and AUD MC comments for specific changes to the Transcript of Return Filed.

Auditors should make a detailed comment for each change made on Form BOE-414 in the Audit Subsystem (AUD MC). This comment in the Audit Subsystem will assist people that review this account information as Form BOE-414 stays with the audit.

EXPIRED PERIODS**0208.66**

There should be no expired periods since the audit period will be modified to reflect the current audit period prior to printing the return in the system.

WRONG CLASSIFICATIONS OF DEDUCTIONS**0208.69**

If a taxpayer has erroneously classified a deduction on a return, the amount should be crossed out (not erased) and inserted in the proper column.

UNAPPLIED SALES TAX PREPAYMENTS**0208.83**

Taxpayers who make prepayments may fail to take a credit for the prepayment on the regular quarterly return. Once each quarter, the revenue system matches the prepayments on an account to the quarterly return and prepares a list of unmatched items. Return Analysis Unit reviews these unmatched prepayments and takes action to clear them. See AM section 0203.15 on how to handle unmatched prepayments in audits.

LOCAL SALES AND USE TAX AUDITS **0209.00**

GENERAL **0209.03**

The Board has entered into contracts with counties and the incorporated cities therein to administer the Bradley-Burns Uniform Local Sales and Use Tax Law. Permittees in conforming taxing jurisdictions will file combined state and local tax returns with the Board.

FORM BOE-414-L AUDITOR'S WORK SHEET
LOCAL TAX ALLOCATION **209.06**

Auditors will prepare Form BOE-414-L (exhibit 5), when required, in conjunction with Form BOE-414-A. Form BOE-414-L will print along with BOE-414 if the taxpayer's return shows that the local tax has been allocated to two or more jurisdictions. The field auditor will prepare Form BOE-414-L, when needed, in connection with audits initiated in the field.

LOCAL TAXING JURISDICTIONS **0209.09**

List the local taxing jurisdictions horizontally across the top of the form using one column for each jurisdiction. The name of the jurisdiction may be abbreviated if necessary. Also list the first five digits of the area code for each jurisdiction as well as the symbols UA (Unincorporated Area — code 98) and CW (County Wide — code 99), where applicable.

If a redevelopment agency is involved, list the four-digit "In-Lieu" code along with the appropriate abbreviation.

The form on the system provides space for five taxing jurisdictions.

LOCAL TAX REPORTED **0209.12**

List by period the amounts reported by the taxpayer, in whole dollars, under the appropriate taxing jurisdictions. Normally, the entire audit period will be listed on the transcript. However, reallocations are usually restricted to three quarters to conform to the limitation provisions of the law (see AM section 0209.18 and RTC section 7209). If Headquarters has prior knowledge of an improper distribution, the ADRS — Allocation Group or the Local Revenue Allocation Section will contact the district office with information regarding the periods to be reallocated. Transcripts of earlier returns will be furnished upon request when districts have prior knowledge of erroneous distribution.

AREA CODE **0209.15**

In either a reallocation or an assessment, the tax area code(s) must reflect the period(s) of the audit, taking into account city incorporations, annexations and/or taxpayer location moves during the audit period. For example, the tax area code for the City of Elk Grove (34013) is effective for periods after and including October 1, 2000. Prior to October 1, 2000, the area now incorporated as Elk Grove was in the unincorporated area of Sacramento County (tax area code 34998). Therefore, any reallocations or assessments for periods prior to October 1, 2000, in what is now within the city limits of Elk Grove, should be allocated to the unincorporated area of Sacramento County.

The effective date of a local tax area code can be found on the FUN FD screen. Enter "LOC" in the Fund Type field and the tax area code in question in the Fund Code field.

DATES DETERMINING REALLOCATION

0209.18

Enter the commencing date of the reallocation, the date that first knowledge of improper distribution was obtained, and the source of that knowledge into the appropriate spaces. The dates will be determined in accordance with RTC section 7209. Therefore, if the knowledge of improper distribution is obtained when an audit is started, the auditor will reallocate the tax for the two preceding funding periods, which usually includes the preceding three quarterly periods, but can extend to periods before that time, based on when the local tax funded to the jurisdiction(s). For example, if the first knowledge of improper distribution is obtained 10/06/2006 (4Q-2006), the auditor would commence reallocation from 01/01/2006 (1Q-2006) through the end of the audit period.

REASONS FOR REALLOCATION

0209.20

Provide a complete explanation of the basis for any reallocation adjustments in the space provided (see exhibit 5). Since the ADRS — Allocation Group must monitor and make corrections to subsequent returns, it is important to have a complete explanation of the original errors disclosed in the audit. This explanation provides the ADRS — Allocation Group with the information necessary to advise the taxpayer how to revise subsequent incorrect returns and how to properly report in the future.

REALLOCATION OF REPORTED LOCAL TAX

0209.21

Errors made by a taxpayer in local tax allocation will be adjusted only if the amount involved is sufficient to justify the audit time required to do so. Such adjustments will cover the period from the commencing date of the reallocation, referred to in AM section 0209.18, through the last period covered by the audit. In the interest of good tax administration, the auditor should provide to the taxpayer proper allocation instructions for future reporting.

To maintain an accurate return allocation history, it is necessary to segregate any allocation adjustments by quarter. The "Analysis of Adjustments" section (Part II) of Form BOE-414-L has a separate line for each quarter being adjusted. Provide only the correct allocation for each jurisdiction (see exhibit 7).

When there is a material reallocation that may significantly delay the completion of the audit, ADRS — Allocation Group should be contacted for instructions regarding possible early transmittal of Form BOE-414-L. If ADRS — Allocation Group requests Form BOE-414-L to be sent to Headquarters before the audit is completed, the auditor will send a photocopy of the form with the reallocation of the reported amounts to the ADRS— Allocation Group. Upon completion of the audit, the original Form BOE-414-L will be transmitted to Headquarters along with the audit report with the following notation at the bottom of the face of Form BOE-414-L:

"Copy of Form BOE-414-L sent to Audit Determination and Refund Section — Allocation Group ... (Date) ... with reallocation of reported amounts."

Where a "no change" audit discloses an understatement of state tax and an

overpayment of local tax, or vice versa, resulting in a net change of over \$25, place a notation of this fact on the front of Form BOE-414-C. Then, prepare Form BOE-414-L and attach it to the report to reallocate local tax between jurisdictions as appropriate.

ALLOCATION OF TAX CHANGE RECOMMENDED BY AUDIT

0209.24

The general rule for allocating tax change recommended by audit is to prorate it to local jurisdictions in the same ratios as reported by the taxpayer for the twelve quarter summary provided on Form BOE-414-L, section I. It is not necessary to update Form BOE-414-L to reflect the last three quarters of the audit period. If, however, the date of knowledge is such that the commencing date of reallocation is for earlier periods, all periods subsequent to that date will be used to compute the ratios to prorate. Form BOE-414-L, prepared in the field, will continue to reflect the last twelve quarters of the audit period.

Allocation on an actual basis is required in those instances, such as transactions of a non-recurrent nature, where the jurisdiction in which the taxable event occurred can be readily and definitely ascertained.

The field auditor should enter the local tax that is to be allocated on a percentage basis in the vertical "total" column only. Tax to be allocated on an actual basis will be entered in the "total" column and also in the columns set up for particular jurisdictions. Headquarters will complete the processing from this point.

Allocation guidelines covering various transactions involving special in-state and out-of-state accounts are set out in the two decision tables contained in exhibits 19 and 20.

REALLOCATION OF TAX REPORTED TO WRONG TAX FUNDING PROGRAMS OR DISTRICT TAXING JURISDICTIONS

0209.27

When audits disclose differences in the same quarter that are simply errors in allocating reported tax between various tax funding programs (i.e., state, local, county, districts, and state add-ons), or different districts within the same tax funding program (i.e., BART, SMCT, LACT, etc.), those errors should be netted from the audit.

The auditor should then prepare a separate memo, addressed to the Local Revenue Allocation Section along with a reallocation schedule. Next, the auditor should attach the memo, schedule, and a copy of Form BOE-414 to the audit report explaining and showing the necessary reallocations. Also, the auditor should place a notation on the front of the audit report as follows: "Attention Local Revenue Allocation Section, Reallocation Schedule Attached."

This procedure will be implemented for all audits and FBO's when the reallocated tax exceeds \$100 and the reallocations are in the same quarter. No changes in procedure are necessary for local tax reallocations on Form BOE-414-L.

FORM BOE-414-B, FIELD BILLING ORDER**0210.00****FORM BOE-414-B ILLUSTRATED****0210.03**

Exhibits 8 and 9 illustrate a completed Form BOE-414-B. Whenever Form BOE-414-B is used, a minimum of three copies will be printed in the system. One copy is distributed to Headquarters. The front page of the other copies is distributed to the taxpayer and the district file.

TRANSMITTAL FORM LETTERS**0210.04**

In all instances where a copy of the field billing order is mailed to the taxpayer, the auditor will use one of the forms listed below as a letter of transmittal except when the auditor may need to draft a special letter (AM section 0205.38) to meet the situation. The various transmittal form letters for use in field billing orders are listed below and in exhibit 24. Always enter the appropriate form number in the space provided on page 3 of Form BOE-414-B.

- Form BOE-235-A when the taxpayer does not concur with the report of field billing order and it is anticipated that an office discussion will be held.
- Form BOE-235-B when the taxpayer does not concur with the report.
- Form BOE-235-B1 when the taxpayer is noncommittal or unavailable, and when the field billing order will be transmitted to Headquarters without further discussion with the taxpayer.
- Form BOE-235-C when the taxpayer concurs with the recommended determination. If the discussion is with someone other than the taxpayer, enter an asterisk in the last sentence of the first paragraph, and enter the name of the taxpayer's representative in the lower portion of the letter.
- Form BOE-235-D when the taxpayer concurs with the recommended refund.

EXAMPLES OF USE OF FIELD BILLING ORDERS**0210.06**

Field billing orders are used as follows:

- (a) In lieu of tax returns, where liability is disclosed for a period(s) prior to the taxpayer's application for a permit or license and it is impossible or impractical to secure returns.
- (b) To recommend additional liability or refund disclosed as the result of investigation.
- (c) To recommend use tax liability owed by a person not registered with the Board.
- (d) When a survey of the account indicates an audit is not warranted, but liability is disclosed.

PREPARATION OF FORM BOE-414-B

0210.09

Form BOE-414-B is similar, in part, to Form BOE-414-A. The instructions given for the preparation of Forms BOE-414-A are to be used when applicable to similar items on Form BOE-414-B.

FURNISHING OF COPY OF FIELD BILLING ORDER TO DISTRICT OF ACCOUNT

0210.10

Ordinarily, a field billing order is prepared only by the district of control for audit purposes. If the district of control for audit purposes is different than the district of account, a copy of the field billing order must be forwarded to the district of account at the same time the field billing order is forwarded to the taxpayer.

GENERAL COMMENTS

0210.12

Comments covering the following should be entered in the "General Comments" section:

- (a) Description of the business.
- (b) Explanation of the tax change.

COMPUTATION OF TAX, INTEREST, PENALTY

0210.18

Use the Board's computer system to compute tax, interest, and/or penalties. Attach the Summary by Period schedule to all copies of Form BOE-414-B except the copy sent to the taxpayer (AM sections 0217.00 – 0217.20).

FORM BOE-414-C, REPORT OF EXAMINATION OF RECORDS 0211.00

GENERAL

0211.03

Every audit, active or closed out, made of a taxpayer's records which results in a "no change" recommendation must be submitted on Form BOE-414-C. This is true no matter how large or complex the audit may be. Audits that originally resulted in a tax change but were revised to a "no change" prior to issuance of a determination or refund will also be submitted on this form. Reaudits resulting in a "no change" recommendation, however, must be submitted on Form BOE-414-A. Only a single report need be transmitted to cover a "no change" recommendation for both state and local taxes.

USE OF WORKING PAPERS

0211.06

In many "no change" audits, the need for working papers will be minimized where a limited amount of audit work convinces the auditor that tax liability has been reported with substantial accuracy. Supporting working papers should avoid duplication of data. However, they should be prepared to the extent necessary to support the auditor's findings and to permit intelligent review of the completed reports. All working papers are to be included, numbered and indexed in the customary manner. It is very important that all comments supporting exempt transactions be accurate and fully supported as this information may be used by the taxpayer at a later date to seek relief from liability for the payment of sales and use taxes, including any penalties and interest added to those taxes, if it is determined that the taxpayer reasonably relied upon the auditor's comments pursuant to RTC section 6596 and Regulation 1705.

BACK OF BOE-414-C, COMMENTS

0211.09

Form BOE-414-C is designed in a fashion to permit recording of an auditor's findings with a minimum of written comments. It is not to be used indiscriminately or superficially, but as a medium for an orderly report of the auditor's conclusions and recommendations after examination of all pertinent records. There may be times when summary schedules are not prepared in which case brief verification comments covering total sales and ex-tax purchases should be placed on the back of Form BOE-414-C. Additional comments on deductions, etc., are to be made to the extent necessary or pertinent to supplement comments made on the front of Form BOE-414-C.

The following items, if applicable, should be placed on the back of Form BOE-414-C on all "no change" audit reports:

- (a) A list of all partners, in the case a partnership.
- (b) Regulation 1595 Comments — Sale of a Business.
- (c) Answers to questions asked by Headquarters.
- (d) Bankruptcy, assignment or probate involved.
- (e) Escrow pending.
- (f) Overpayment Comment — verification comments on the disposition of a claim for refund filed by the taxpayer (AM section 0206.48).

Information under (a), (d), and (e) should be underlined in red as a flag for special Headquarters' handling. For item (f), the auditor should also check the box next to the "Refund Claim Involved" block.

USE OF FORM BOE-414-C IN TAX CHANGE AUDITS

0211.12

The shortcut Form BOE-414-C procedures may be used when an audit results in a tax change recommendation. However, the auditor must also make a report using Form BOE-414-A. Frequently, the shortcut Form BOE-414-C procedures are fully utilized for the "no change" parts of an audit. When this procedure is used, the partially completed form should be included as a working paper schedule. Exhibit 12 illustrates such use.

FRONT OF FORM BOE-414-C

0211.18

The captions of items in each of the six sections (A through F) of Form BOE-414-C are extremely brief but are in no way intended to shortcut the verification procedures expected in tax auditing (see exhibits 10 & 11). The auditor should enter the reported measure of state tax to the nearest thousand in the space provided.

Except when Form BOE-414-C is used in tax change audits, the auditor is required to answer the following questions in section F of the form:

- **Corporation with 50 or more employees?** — See AM section 0205.53 and mark the appropriate box. If the response is "Yes," the auditor will forward a copy of Form BOE-414-C to Environmental Fees, Excise Taxes and Fees Division (MIC 57).
- **Seller of Tobacco Products?** — See AM section 0205.57 and mark the appropriate box. If the response is "Yes," the auditor will forward a copy of Form BOE-414-C to the Excise Taxes and Fees Division (MIC 56).
- **Underground Storage Tank?** — Mark the appropriate box and enter the information outlined in AM section 0205.51 in the General Comment section of Form BOE-414-C. If the response is "Yes," the auditor will forward a copy of the form to the Fuel Industry Section, Fuel Taxes Division (MIC 30).
- **Seller of Tires?** — See AM section 0205.55 and mark the appropriate box. If the response is "Yes," the auditor will forward a copy of Form BOE-414-C to the Excise Taxes and Fees Division (MIC 56).

It is not contemplated that the remaining captions in sections B through F will be checked during an examination of records of any single taxpayer. Auditors are to verify and check their findings only with respect to those items which are meaningful and have a bearing upon the basic objective of determining whether the taxpayer reported the sales and use tax correctly. If an item is not checked, it will be assumed that no verification was made and that the auditor considered it not pertinent (see exhibits 10 & 11).

FORM BOE-596
REPORT ON ACCOUNT BEING WAIVED FOR AUDIT **0212.00**

USE OF FORM BOE-596 **0212.03**

Form BOE-596 is a disclaimer of opinion which provides a method of reporting a conclusion that an audit is not warranted and the assignment is being closed.

FORM BOE-596, OFFICE WAIVERS **0212.06**

Preparation of office waivers (where no field investigation is involved) will only be prepared in the following situations:

- (a) To “office waive” audits of accounts in Cells 1 through 6.
- (b) When Form BOE-414, *Transcript of Returns*, is on hand and a decision is made to waive the audit of the account.
- (c) In all cases of bankruptcy, assignment and probate, when a decision is made that an audit is not warranted.
- (d) For all related accounts on which an “audit not warranted” decision is made. (This will keep all related accounts on a consistent basis for audit selection purposes.)

The District Principal Auditor or a designated supervisor must approve all Form BOE-596s when prepared to “office waive” accounts in Cells 1 through 5. Supervisor’s approval is not required for office waivers prepared for accounts in cells other than 1 through 5.

When Form BOE-596 is prepared as a result of an office review, the auditor should insert information applicable to Items 1 and 5b only (see exhibit 13). Time expended for office waivers will be charged to Audit Selection, Work Code 3104; however, do not record the time on Form BOE-596.

Form BOE-596 will not be prepared when a cursory examination (office review) of records is performed as part of routine close-out procedures and when time expended is less than one hour. Time expended for this purpose should be accumulated and charged to the appropriate audit selection work code.

FORM BOE-596, FIELD WAIVERS **0212.09**

The District Principal Auditor must approve any Form BOE-596s when initiated after a limited examination (field investigation) of taxpayer’s records on accounts in Cells 1 through 5. The auditor’s supervisor will approve all field waivers for accounts in cells other than 1 through 5. Complete all items except Item 5b on Form BOE-596 when a field initiated waiver is prepared (see exhibit 14).

Under Item 6 on Form BOE-596, the auditor should adequately but briefly describe the cursory verification performed to arrive at the conclusion that an audit is not warranted. The comments should only draw the conclusion that an audit is not warranted, and should not attest to the accuracy of claimed exemptions or acceptance of returns filed. Auditors should not prepare any formal audit work papers. The preparation of audit work papers is inconsistent with the conclusion an audit is not warranted. Any informal worksheets

prepared (e.g., summary of reported and recorded total sales, etc.) should not be provided to the taxpayer and should not be attached to Form BOE-596. If the auditor performed detailed verification, even in a short amount of time, then he or she has completed an audit and should prepare the appropriate audit report.

The auditor is required to answer the following questions in 8a – 8d of Form BOE-596:

- 8a. Underground Storage Tank?** – See AM section 0205.51 and mark the appropriate box. If the response is “Yes,” the auditor will forward a copy of the Form BOE-596 to the Fuel Industry Section, Fuel Taxes Division (MIC 30).
- 8b. Seller of Tires?** – See AM section 0205.55 and mark the appropriate box. If the response is “Yes,” the auditor will forward a copy of Form BOE-596 to the Excise Taxes and Fees Division (MIC 56).
- 8c. Seller of Tobacco Products?** – See AM section 0205.57 and mark the appropriate box. If the response is “Yes,” the auditor will forward a copy of Form BOE-596 to the Excise Taxes and Fees Division (MIC 56).
- 8d. Corporation with 50 or more employees?** – See AM section 0205.53 and mark the appropriate box. If the response is “Yes,” the auditor will forward a copy of Form BOE-596 to Environmental Fees, Excise Taxes and Fees Division (MIC 57).

An eight-hour maximum, including travel time, may be recorded as time expended on all field waivers. To maintain the integrity of the audit selection system, only the actual time spent should be recorded on Form BOE-596 and charged to the appropriate Direct Audit, Work Code 3103.

When the time limitation of eight hours is exceeded, the auditor will prepare Form BOE-414-C, *Report of Examination of Records*.

Form BOE-596 will be prepared if, after a limited examination (field investigation) of a taxpayer’s records, a decision is made to waive a closed out account for audit. Time expended will be charged to the appropriate direct audit work code.

Form BOE-596 should not be prepared to waive periods already expired by the statute of limitations.

Once Form BOE-596 has been processed, a transmittal letter (BOE-79-F) will be sent to the taxpayer explaining a field audit is not currently warranted. The transmittal letter also explains that the taxpayer should not rely upon either Forms BOE-596 or BOE-79-F as written advice, as these forms do not generally qualify for relief of tax, interest and penalty under RTC section 6596.

ARRANGEMENT OF COMPLETED AUDIT REPORT

0213.00

FORMS AND WORKING PAPERS

0213.03

Upon completion of the audit assignment, the auditor will arrange the documents constituting the field audit report according to Form BOE-1161, *Audit Arrangement Sheet* (exhibit 27), and will fasten the documents together at the upper left-hand corner of the documents. The auditor will then submit the completed field audit report to the auditor's supervisor. The pre-review of audit reports by the supervising auditor is limited to: (a) over-all check for completeness and proper arrangement of audit working papers and (b) sufficient review of pertinent working papers to insure that the field auditor has followed instructions regarding special or unusual problems in the audit and (c) review of the audit comments to ensure that the comments adequately describe the situations involved in the audit.

Once the report has been approved by the supervisor, the district Audit Control staff will perform the upload process and verification of mathematical accuracy of the working papers. The field audit report will then be reviewed by a district audit reviewer. Audit working papers superseded prior to submitting the audit for review will be included at the back of the audit packet. Working papers superseded as a result of a go-back from review will be included behind the go-back sheet.

After approval by the reviewer, the District Audit Control staff will break down the report into three basic components:

1. "Taxpayer Packet," which contains the forms and documents that will be mailed to the taxpayer.
2. "Headquarters Packet," which contains the forms and documents to be sent to the Audit Determination and Refund Section (ADRS) in Headquarters for appropriate processing and distribution. This packet must contain the original documents (when available).
3. "Audit Packet," which will be retained in the district.

The arrangement of the documents for each of these packets will be as follows:

AUDIT CONTROL
Audit Arrangement for Audit, Reaudit and FBO

Form #	Form Name	Taxpayer Packet	Headquarters Packet	Audit Packet
***	Printed Audit Report from IRIS	X	X	X
BOE-414A/B	Report of Field Audit/Field Billing Order			X
BOE-414C	Report of Examination of Records	X	X	X
BOE-197	Allocation of Tax Change of Cooperative Audit Report		X	X
N/A	Go-Back Sheet with schedules superseded after the review attached			X
BOE-1161	Audit Cover Sheet			X
79_/89_/235_ ***	Letter to Taxpayer	X		X
N/A	Sales Tax Calculation Summary	X	X	X
BOE-767	Tax, Penalty, and Interest Calculation			X
BOE-502	Suggested Legislative Changes		X	
N/A	Fraud/Jeopardy Letter (Signed by the Chief, HQ Operations)	X	X	X
414A p2	Results of Discussion of Audit Findings	X	X	X
BOE-122	Waiver of Limitation		X	X
BOE-392	Power of Attorney	X	X	X
BOE-101	Claim for Refund or Credit		X	X
R-414-A2	Reconciliation and Explanation of Reaudit/Revised Adjustments	X	X	X
N/A	Decision & Recommendation		X	X
BOE-836A	Report of Discussion of Audit Findings	X	X	X
N/A	Taxpayer's Letter of Protest/Petition		X	X
N/A	Petition Audit Summary Schedules			X
BOE-416	Petition for Redetermination			X
BOE-414L	Auditor's Worksheet- Local Sales and Use Tax Allocation		X	X
N/A	Reallocation Schedules		X	X
Schedule 20-G3	Sales Tax Prepaid on MVF Program	X	X	X
BOE-526	Managed Audit Program Participation Agreement	X	X	X
N/A	FTB Packet		X	
BOE-1151	Audit Assessment Summary		X	X
BOE-495	Index to Audit Working Papers (BLUE)			X
	Remainder of the Auditor prepared audit package			

***= To be prepared by Audit Control

For audits and field billing orders with a recommended refund of \$50,000 or more, the audit working papers must be sent to Headquarters with the HQ packet.

Forms BOE 1164 and BOE-1032 are normally distributed after the district reviewer has completed the review of the audit. Therefore, these forms must be attached to the audit when the audit is submitted to the supervisor and must remain with the audit until the district review of the audit is completed. In cases where Forms BOE-1164 and BOE-1032 need to be processed before the audit is completed, the auditor will attach a copy of these forms to the audit when the audit is submitted to the supervisor. The copy of the forms must be clearly labeled "COPY" so that the forms will not be distributed after the audit is reviewed by the district reviewer.

When the auditor recommends sending an audit report to the FTB, an "FTB Packet" must be prepared. The documents to be included in the FTB Packet are listed in the table below.

FTB PACKET		
Form:	Description:	Comments:
No Report Form Number	System Generated Report of Field Audit	Include a copy of both sides of the report. Do not include a copy of the report that contains only District taxes.
BOE-414	Transcript of Returns	Include a copy the first page that contains total sales and the computed State & County taxes. Do not include page(s) containing only deductions and computed District & Local taxes.
Schedule 1 or 12	Lead schedule of quarterly additional gross receipts subject to State, Local and County taxes.	Do not include the lead schedule that contains only the quarterly gross receipts subject to District taxes.

SPECIAL EXHIBITS AND SCHEDULES

0213.06

Any special exhibits or schedules that support comments or explanations on summary or subsidiary schedules should be numbered consecutively following the schedules to which they pertain.

RELATED ACCOUNT AUDITS

0214.00

AUDITS OF MORE THAN ONE LOCATION

0214.03

The auditor must print out Form BOE-414, *Transcript of Returns Filed*, for each related account. When a previously unknown related account is disclosed during an audit, the auditor must notify the audit supervisor so the district can maintain control of the related account(s).

In order to keep all related accounts on a consistent basis for audit selection purposes, all related sales and use tax accounts are generally audited simultaneously for the same period. However, transmittal of a completed audit should not be delayed while audits of related accounts are in process.

All related accounts must be listed in the "Special Instruction" section on page 3 of Form BOE-414-A (exhibit 1, page 3). The auditor will describe, under the "General Audit Comments" section, the action taken on these accounts, including whether Forms BOE-414-C, *Report of Examination of Records - Sales and Use Taxes* (AM section 0211.00) or BOE-596, *Report on Account Being Waived For Audit* (AM section 0212.00) were prepared. Form BOE-596 should be prepared for all related accounts that do not warrant an audit.

An error caused by reporting tax under the wrong account number should not be included in the audit reports. Instead, the error should be shown as a contra item to the related account. The auditor will also prepare Form BOE-523, *Tax Return and/or Account Adjustment Notice* (AM sections 0219.06 - 0219.12).

CONSOLIDATED AUDIT REPORTS AND SUMMARIES

0214.06

The system (TAR AI) lists all Sub-Permits that the taxpayer has registered with the Board. In conducting audits of consolidated accounts, the auditor should verify whether the taxpayer's Sub-Permits are correct and whether they are still active. The auditor should notify District Compliance of any changes (additions or close-outs) to the taxpayer's Sub-Permits. See AM section 0219.03 for proper procedures in notifying District Compliance of these changes.

Audits of separate related accounts that have been placed under a consolidated permit (SR X, SR Y or SR Z) prior to the transmittal will be submitted as separate audit reports.

AUDIT HOURS

0214.15

The auditor will itemize the number of audit hours expended on each account included in the consolidated audit report in the "General Audit Comments" section of Form BOE- 414-A (AM section 0205.10).

FORM BOE-122, WAIVER OF LIMITATION

0215.00

SIGNIFICANCE OF THE WAIVER FORM

0215.03

A Waiver of Limitation that is signed by the taxpayer prior to the statute expiration date extends the three-year statute of limitations (or eight years in cases where no return was filed), for the period indicated on Form BOE-122. The form requests, but does not require, the signature of a Board employee to be considered valid. A Waiver of Limitation duly signed by only the taxpayer is still a valid waiver.

If the taxpayer signs a Waiver of Limitation prior to the statute expiration date, such waiver allows the Board to examine the taxpayer's records, and possibly assess additional tax, for the periods which otherwise would expire under the statute of limitations. In addition, a signed waiver allows any credits in the period indicated on Form BOE-122 to be offset against any tax liability and it extends the period within which a taxpayer may file a timely Claim for Refund.

FORM BOE-122 ILLUSTRATED

0215.06

Exhibit 15 illustrates the proper preparation of an original waiver form. Exhibit 16 illustrates a completed waiver form extending an original waiver. It should be noted that any extension must be executed within the time limits covered by the expiring waiver form. Exhibits 17 and 18 illustrate the proper preparation of waivers for a taxpayer on an irregular reporting basis, whereas exhibits 15 and 16 illustrate the preparation of waivers for a taxpayer on a regular reporting basis.

BENEFITS GAINED FOR SIGNING A WAIVER

0215.09

A taxpayer may benefit from signing a Waiver of Limitation as follows:

- The waiver avoids the Board's immediate issuance of a Notice of Determination in cases where the statute of limitation will expire.
- The waiver holds the period(s) in question open for filing a Claim for Refund or for offsetting any overpayment of tax against an existing tax liability. However, the signing of a Waiver of Limitation for an eight-year audit period does not hold all periods covered open for filing of claims for refund. The claim for refund period remains at three years (Regulation 6902).
- A waiver provides the taxpayer and the Board with the ability to adapt to both foreseen and unforeseen time constraints. The waiver gives the taxpayer and the Board the time necessary to thoroughly address difficult audit issues before those issues result in a billing.
- The waiver can at times expedite the audit process by allowing time to resolve audit issues "up front," rather than during the appeals process. This may even eliminate the need to appeal the audit findings.
- The waiver may eliminate needless "red tape" which may result from a billing issued with good intentions, but possibly incorrect, due to time constraints that did not allow the detailed review necessary to reach a fair and equitable conclusion.

TAXPAYER SIGNATURE

0215.13

To preclude any question about the validity of a waiver, all copies must be signed by (1) the taxpayer in the case of a sole proprietorship, (2) a partner in the case of a partnership, (3) a corporate officer in the case of a corporation, or (4) someone holding a written power of attorney from one of those persons.

The essential elements of a valid written power of attorney are:

1. The document must be dated and identified as a “power of attorney.”
2. The document must clearly authorize the agent (controller, assistant controller, or some other person) to act in a manner consistent with the signing of a waiver. Ideally, the power of attorney will authorize the agent to act in “sales and use tax matters.” However, a less specific description may be acceptable if it can reasonably be interpreted to impose upon the agent the right to execute Form BOE-122, *Waiver of Limitation*.
3. The person granting the power of attorney must be the owner, partner, or a corporate officer of the company being audited.

With respect to corporations, if the title of the person signing the waiver is other than the chairman of the board, president, secretary, or chief financial officer, the auditor must verify, by examining the corporate documents (e.g., articles, bylaws, minutes, etc.) whether the titled position constitutes a corporate officer.

With respect to partnerships, if the person signing the waiver is not listed as a partner on TAR AI, the auditor will verify the validity of the person's status as a partner by reviewing the partnership agreement. Any changes in partners must be reported to District Compliance as provided in AM section 0219.03.

A copy of the written power of attorney must be secured and attached to the copy of the waiver(s), Form BOE-122, which will be transmitted to Headquarters with the audit report if the waiver signatory is other than a corporate officer, partner or owner.

WHEN TO REQUEST A WAIVER OF LIMITATION

0215.15

A Waiver of Limitation should be requested in cases where there is a sufficiently documented understatement or overstatement that can be billed/refunded without additional examination for the period(s) in question, and there is insufficient time to make an audit to be used as a basis for a determination before the expiration of the three-year period. A waiver should also be requested when a taxpayer requests a postponement while an audit is in process or when there has been excessive taxpayer delay right before an audit is about to commence. If the taxpayer refuses to execute a waiver in these cases, determinations will be made on an estimated basis if information is available which supports an understatement of reported tax.

DOCUMENTING THE NECESSITY FOR A WAIVER OF LIMITATION

0215.16

When the auditor determines that it is necessary to request a Waiver of Limitation from the taxpayer, the auditor will enter the basis for the request on the audit's *Assignment Contact History*, BOE-414-Z (see AM section 0221.06, regarding the use of Form BOE-414-Z). The auditor will specifically indicate the circumstances on the *Assignment Contact History*, as outlined in this section,

which necessitated the request for a waiver. Supervisory approval of the circumstances which necessitated the request for a Waiver of Limitation will be entered on the audit's Assignment Contact History before presenting the waiver to the taxpayer for signature. In addition, audit supervisors are to review and initial all waivers before they are presented to the taxpayer.

PREPARATION OF WAIVERS

0215.17

The auditor will prepare a minimum of three copies of the waiver. The copies are distributed as follows: the original to Headquarters with the audit report; one copy remains with the audit working papers, and one copy is sent to the taxpayer.

The auditor will provide a copy of the AUD MP screen with each waiver and waiver extension. The auditor should present the printout to the audit supervisor when requesting the supervisor to review and initial the waiver. The auditor should highlight the audit period on the printout and include the printout in the audit working papers. The audit supervisor should review the Waiver of Limitation form for accuracy and completeness before presenting the form to the taxpayer for signature. The supervisor should initial the form indicating such review.

Waivers normally will be obtained for a minimum of two calendar quarters and will be dated through one of the following expiration dates: January 31, April 30, July 31, or October 31. The same procedure is followed if the taxpayer is on an irregular reporting basis. For taxpayers in an irregular reporting basis, the waiver and/or an extension must be signed by the taxpayer prior to the expiration date of the irregular reporting period (see exhibits 17 & 18).

If an extension of more than six months is needed, the request and extension will be by full calendar quarters instead of by month.

The auditor will note the period covered by the waiver and the expiration date of the waiver on page 3 of Form BOE-414-A in the space provided (see AM section 0205.66).

WHERE MORE THAN ONE PLACE OF BUSINESS IS OPERATED

0215.18

Where the taxpayer operates more than one place of business, but does not have a consolidated permit, the waiver should specifically cover all locations for which the audit is being made. All permit numbers should be noted in the waiver. However, if the waiver form does not provide adequate space for description of all permit numbers and periods involved, then a separate waiver should be taken for each permit.

WAIVER MAY BE TAKEN IN LEGAL CASES

0215.21

Taxpayers should not be allowed to cause undue delay in the completion of a bankruptcy, assignment, or probate audit. This is important because of the following final dates for filing claims.

Bankruptcy: six months from the date first set for the first meeting of creditors.

Assignment: four months from the date of assignment.

Probate: four months from the date of publication of notice to creditors.

A waiver may be taken in legal cases where there appears to be good reason, provided that the agreed upon extension date in the waiver is not beyond the final date for filing claims as noted above.

WAIVERS ON AUDITS RECOMMENDING PENALTY FOR FRAUD 0215.24

Whenever a penalty for fraud or intentional evasion has been recommended on the audit, the three-year statute of limitation period does not apply. However, it is recommended that a waiver be secured for expiring periods if necessary as the fraud penalty recommendation may later be deemed unwarranted.

YEARLY REPORTING PERIOD 0215.25

Waivers for accounts reporting on a yearly basis must be obtained within three years after the last day of the calendar month following the one-year period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period expires later.

EXPIRING LIABILITY WITH NO WAIVER 0215.27

Audit reports containing recommendations for additional liability for periods that are about to expire and where no waiver has been secured should be transmitted to Headquarters at least 30 calendar days prior to the date on which such liability will expire. If it is not possible to do so, the district will “phone bill” the audit in the system and contact ADRS to recommend “phone billing” for the expiring period(s). Only under extraordinary circumstances should telephone billings be requested by a district within five (5) days of the expiration of the statute of limitations.

The recommendation should include the following comments added on the AUD RC screen under “Rsn Comment:”

1. Reason for phone billing--waiver, bankruptcy, etc.
2. When there is no penalty assessed on a “phone bill,” the reason for no penalty is required.
3. Analysis of measure of tax by class of transaction. Fax copy or e-mail is acceptable.
4. For dual determination, reason for the dual is required.
5. For “phone bill” with fraud, a letter from the District Administrator is required before processing.
6. Identify all offsets so that appropriate bill note can be added by ADRS.
7. If audit is a go-back, comments must show if the required changes have been made or not.

When the exact amount of additional measure of tax is not known, a reasonable estimate should be made. The procedure of making a separate determination for expiring periods should be followed only when a delay in submission of a completed audit report is directly attributable to actions of a taxpayer who refused to sign a Waiver of Limitation (AM section 0215.15).

WHEN SEPARATE DETERMINATION LEVIED FOR EXPIRING PERIOD

0215.30

Make a notation under the "Special Instructions" section on page 3 of Form BOE-414-A (AM section 0205.62) whenever a separate determination is issued for an expiring period prior to the completion or transmittal of the audit report to ADRS. When a separate determination for expired period(s) was levied for a tax liability, enter an appropriate comment, explaining the reason for the downward, upward, or no adjustment, in the "General Audit Comments" section of Form BOE-414-A. In addition, insert the appropriate notation on page 3 of Form BOE-414-A, under the "Special Instructions" caption (see below).

Note: The measure of the determination dated (show date) for (show period) was overstated by (show measure of overstatement).

Note: The measure of the determination dated (show date) for (show period) was understated by (show measure of understatement).

Note: The liability for (show period) was determined on (show date) and totaled \$ (show amount).⁴

⁴ Applies when the separate determination for the expired period was made for the same liability as disclosed by audit.

OVERPAYMENTS

0216.00

AUDITOR'S COMMENTS

0216.03

An audit report recommending approval or denial of a claim for refund must contain specific information as to the nature of the overpayment, the amount to be refunded as established by the taxpayer, the amount of tax to be refunded as recommended by the auditor, and the hours spent in verifying the claim for refund. These comments are entered under the caption "Overpayments" in the "General Audit Comments" section of Form BOE-414-A (AM section 0206.48).

CLAIMS FOR REFUND

0216.06

Refunds may be made or credits granted provided approval by the Board is given within the periods specified in the applicable business tax law. Exceptions are noted in AM sections 0216.12 and 0216.15. Claims for refund should be secured when overpayments are noted. This policy will protect the taxpayer's interest for any item in an audit or quarter that resulted in a net credit.

FORM AND CONTENT OF CLAIM

0216.09

With respect to claims for refund or credit, RTC section 6904 states:

"Every such claim must be in writing and must state the specific grounds upon which the claim is founded."

No special form of claim is necessary to comply with this requirement of the law; however, Form BOE-101 may be used for this purpose.

When advising the taxpayer on the content of the claim, it should be stressed that the statute requires the claim to identify the specific grounds on which the claim is being filed. The auditor should advise the taxpayer to avoid generic language where possible, such as "unclaimed sales for resale for the fourth quarter." Rather, the taxpayer should identify the specific transactions for which the claim for refund is being filed.

SUBSEQUENT REFUND CLAIMS

0216.10

A subsequent refund claim based on the same transaction(s) and theory as an original refund claim is treated as an amendment to the original claim. For example, a taxpayer files a claim for refund on the theory that a sale of tangible personal property to Customer A was a sale for resale of \$50. Thereafter, the taxpayer files a second claim for refund for the same period asserting that the sale of property to Customer A was a sale for resale but in the amount of \$75 rather than \$50. The second claim is considered an amendment to the original claim because it is based on the same transaction and theory but for a different dollar amount.

When the subsequent refund claim is based upon the same transaction(s) but a different theory as the original refund claim, this claim is also treated as an amendment to the original claim. For example, a taxpayer files a claim for refund on the theory that a sale of property to Customer B was a sale for resale in the amount of \$50. Thereafter, the taxpayer files a second claim for refund in the same period asserting that the sale of property to Customer B was an exempt sale in interstate commerce in the amount of \$50. Again, the second

claim is considered an amendment to the original claim because it is based on the same transaction but a different theory.

A second claim that is based upon a different transaction is considered a new claim for refund. To do otherwise would allow a particular period to potentially remain open indefinitely as long as one claim for refund had been filed for that period. For example, a taxpayer files a claim for refund on the theory that a sale of property to Customer C was a sale for resale. Thereafter, the taxpayer files a second claim for refund for the same period asserting that a sale to Customer D was also a sale for resale. The second claim is not an amendment to the first claim even though based on the same theory. It is a new claim because it is based on a different transaction. The new claim must be filed within the period specified by statute to be considered valid.

WHEN DEFICIENCIES CAN BE OFFSET AFTER THE STATUTE OF LIMITATIONS

0216.11

The Board may reduce amounts awarded under timely claims for refund by deficiencies that occur during the periods covered by the claim for refund, even though the deficiencies are offset after the expiration of both the statute of limitations and any agreements extending the time for addressing such deficiencies.

Under the doctrine of “equitable setoff,” a claim for refund opens the taxpayer’s entire tax liability for the period in question. Thus, even though the Board is barred by the statute of limitations from issuing a deficiency assessment attributable to one reporting period, it is proper for the Board to apply that underpayment against an overpayment in a different reporting period, provided both periods are covered by the claim for refund.

While the Board can offset debit liabilities against overpayments within the claim period, such offset cannot exceed a zero balance. A Notice of Determination cannot be issued for any liability remaining in periods that have expired because of the statute of limitations. This interpretation of RTC sections 6487 and 6901 was upheld in *Sprint Communications Company v. State Board of Equalization* (1995) 40 Cal.App.4th 1254 (see *Business Tax Law Guide, Sales and Use Tax Court Decisions*).

WHEN OVERPAYMENTS MAY BE ALLOWED

0216.12

Credit for overpayment of tax for one or more reporting periods covered by the waiver may be allowed as an offset against the total amount of net underpayments established for any period, or periods, covered by the audit, regardless of whether the audit discloses a net overpayment or underpayment for the entire audit period.

A WAIVER DOES NOT PERMIT A REFUND IN THE ABSENCE OF A CLAIM FOR REFUND

0216.15

If the overpayment of tax for the period(s) covered by the waiver exceeds the total amount of net underpayments established for any quarterly period(s) covered by audit, no refund of the excess can be made unless a timely claim for refund has been filed. A claim for refund filed within the period for which a waiver has been given will be considered a timely claim. If, however, the

overpayment is not in excess of the net underpayments, the entire amount thereof may be applied as a credit.

When the last day for filing a timely claim for refund falls on a Saturday, Sunday or holiday, the claim for refund may be filed on the next business day with the same effect as if it had been performed upon the day appointed.

PETITION FOR REDETERMINATION CASES

0216.18

A timely claim for refund should be obtained if there are credit items included in an audit which recommends additional liability and the taxpayer is not in agreement with the audit report. Without a timely claim for refund, any excess of credits remaining for any period(s) would be barred by the statute of limitations.

SAMPLING FOR REFUND CLAIMS

0216.21

Sampling and projection techniques may be used by taxpayers to determine the amount of overpayment of tax liability using criteria similar to the techniques used by auditors (see AM sections 0405.20 and 1302.05). If sampling and projection techniques are not appropriate for some or all of the transactions, the amount of the refund will be determined on an actual basis. Once the taxpayer has filed a claim for refund and has requested or suggested determining the amount of refund by means of sampling, an auditor should contact the taxpayer to determine if sampling is feasible, and if so, develop a mutually agreeable sampling plan. The auditor may choose to consult a Computer Audit Specialist (CAS) on the sampling plan. Taxpayer requests for CAS consultation are subject to the procedures outlined in AM section 1302.25(h). The preferred method of sampling is statistical sampling as described in AM Chapter 13. Claims for refund using statistical sampling need to meet the same evaluation requirements of any statistical sample. If statistical sampling is not feasible, nonstatistical sampling procedures, as discussed in AM Chapter 4, will be considered.

INTEREST COMPUTATIONS

0217.00

FORM BOE-767, TAX, PENALTY AND INTEREST CALCULATION

0217.01

The Auditor prepares Form BOE-767, *Tax, Penalty and Interest Calculation* (exhibit 3), along with Forms BOE-414-A and BOE-414-B. It is important that auditors provide accurate information on Form BOE-767 because such information is used to calculate penalty and interest on the measure of tax shown on Schedule 414-A2 (exhibit 2) or as shown on the lead schedule which contains all of the differences disclosed by audit. The total tax liability (tax, penalty and interest) is recapped on a Sales Tax Calculation Summary report that is printed with the audit report on IRIS.

CALCULATION OF INTEREST

0217.03

The applicable rate of interest to be used on overstatements and understatements of tax liability can be found on the Board's Web site (www.boe.ca.gov/sutax/interates.htm).

IRIS accrues monthly simple interest on unpaid tax beginning the 1st day of the month after the due date of the sales and use tax return, until the tax liability is paid in full.

To facilitate the processing of billings on the accounts receivable system, interest on sales and use tax accounts should be calculated through the last day of the month except those accounts with irregular reporting periods and due dates.

Sales and use tax audit reports that are to be transmitted before the twentieth of the month should have interest computed only to the end of the month in which they are transmitted. For example:

TYPE OF TAX	TRANSMITTAL DATE	ACCRUE INTEREST TO
Sales and Use Tax	October 19, xxxx	October 31, xxxx
	October 20, xxxx	November 30, xxxx

One additional month's interest should be added when the net overstatement is more than \$50,000 and the audit is transmitted to Headquarters in accordance with the above interest date schedule. For example:

TYPE OF TAX	TRANSMITTAL DATE	ACCRUE INTEREST TO
Sales and Use Tax	October 19, xxxx	November 30, xxxx
	October 20, xxxx	December 31, xxxx

CREDIT INTEREST

0217.04

Where an audit report includes both debits and credits, and interest is allowed on the credits, interest will be computed based on the "running balance" method of computing interest. The effective date of overpayment will be the latter of the due date of the return, the date the return was received, or the date

payment(s) on the return were received.

DELINQUENCY INTEREST

0217.06

Interest will be computed as indicated herein on all cases, even if the return was filed late or remains unpaid as of the date of the audit. Headquarters will bill separately all delinquency interest due as a result of late payment of returns.

CLOSE-OUTS

0217.09

All sales tax audits, other than accounts reported on a yearly basis, are made on a quarterly basis regardless of the taxpayer's reporting basis. Interest on a closing period will always be computed from the last day of the month following the end of the quarter in which the close-out occurred, except accounts with a regular due date other than the last day of the month.

URGENT CLOSE-OUTS

0217.10

The Board is authorized to make determinations on close-outs prior to the due date of the returns, but determinations should not be made in lieu of obtaining closing returns. Final returns should be secured from the taxpayer whenever possible. Penalties, because of failure to file, do not apply on tax determined before the due date of the return, even if no return was filed. However, penalties for negligence or fraud may apply, and if asserted, will apply to tax determined on the report.

The "finality" penalty applies in the usual manner if the determination is not paid before it becomes final. (See RTC section 6565.)

Form BOE-414-B and system-generated report BOE-414-A, which include tax billed for the final return, will not include interest on tax determined before the due date. When tax for other periods is included, no interest on tax for the current period will be shown in the "interest to" column of the Sales Tax Calculation Summary or Form BOE-414-B.

When the audit report is prepared and the taxpayer files a return and makes payment, processing is as follows:

- (a) After determination is made, the remittance is considered a payment on account.
- (b) Before determination is made, if it is subsequently discovered that a return was filed by the taxpayer and paid in full or in part prior to the date of the determination, such return will be deemed a return to the extent of the amount paid. The determination will be reduced accordingly.

Penalties for negligence or intentional disregard of the Sales and Use Tax Law or authorized rules and regulation (RTC section 6484 penalties) may be asserted for the closing period even though the determination is made before the return is due. Penalties for fraud or intent to evade (RTC section 6485 penalties) will apply in the same manner.

WHEN INTEREST ON OVERPAYMENTS IS NOT ALLOWED

0217.12

Interest on overpayments (credit interest) is not allowed when statutorily prohibited or in cases of intentional overpayment, fraud, negligence, or carelessness. The following examples illustrate situations in which credit interest would not normally be recommended:

- The taxpayer knowingly overpaid the tax liability.
- There are recurring overpayments caused by clerical or computational errors, such as inclusion of receipts for periods other than which the return is intended, omission of allowable deductions, use of incorrect tax rate, or errors of addition or subtraction committed on the face of the tax return or made on supporting schedules submitted with the tax return, and the taxpayer has been notified in writing of such errors.
- Audit situations where it is determined the taxpayer has overpaid the tax liability, but a negligence penalty would have been assessed had the audit resulted in a net deficiency.
- There are tax overpayments caused by repeated errors in similar transactions, when the taxpayer has been notified in writing, including comments in the audit working papers that such transactions are either non-taxable or are tax exempt.

WHEN INTEREST ON OVERPAYMENTS IS ALLOWED

0217.13

The following situations illustrate when credit interest on overpayments is allowed:

- Clerical or math errors made in filing returns resulting in overpayments
- Inclusion of prior period receipts in current period
- Omission of allowable deductions
- Over-reported purchases subject to use tax
- Refunds of unapplied payments
- Overpayments of tax resulting from excess tax reimbursement
- Refunds as a result of Appeals process
- Refunds of erroneous billings
- Misinterpretation of the law resulting in overpayment
- Net credit returns
- Timing differences
- Excess or duplicate prepayments involving a claim for refund

CREDIT INTEREST ON UNJUST ENRICHMENT

0217.20

A refund of excess tax reimbursement paid by the retailer to the Board will not be made unless the retailer submits proof that the tax has been or will be returned to the customer. (See Regulation 1700 (b).).

PROCEDURES FOR CHANGING ACCOUNT RECORDS

0219.00

ACCOUNT INFORMATION

0219.03

District Compliance will make necessary changes to a taxpayer's account. It is the auditor's responsibility to verify the taxpayer's information and notify District Compliance of any changes or discrepancies in the taxpayer's account information, such as:

- Changes to the taxpayer's mailing or business address
- Change in business code
- Change in DBA or use of a DBA
- Change in partners
- Any other discrepancies found in TAR AI

To notify District Compliance, auditors will print the taxpayer's account information (TAR AI) and make the necessary notations on the printout, including the following:

- Circle incorrect information and write the correct information in red.
- Provide a short explanation regarding the change(s) along with the effective date of the change(s).
- Insert the auditor's name and telephone number.

In the case of a change in partners, the auditor will attach evidence supporting the date of the change (e.g., addendum to the partnership agreement, letter of withdrawal, Statement of Dissociation, etc.).

After the auditor makes the above notations, the auditor will submit the corrected TAR AI to his or her supervisor for review. The auditor's supervisor will forward the changes to District Compliance. A copy of the proposed changes will be retained in the audit as a memo schedule.

FORM BOE-523, TAX RETURN AND/OR ACCOUNT DJUSTMENT NOTICE

0219.06

Form BOE-523 (exhibit 21) is a multi-purpose form used to clear or establish delinquencies, to adjust returns or tax between accounts and/or reporting period, and to transfer information between accounts. Due to some compliance functions now being completed on-line, Form BOE-523 is normally sent to District Compliance. However, in some instances, Form BOE-523 should be sent to Return Analysis Unit as discussed in AM section 0219.09.

REASONS FOR PREPARING FORM BOE-523

0219.09

There are many situations that may require the preparation of Form BOE-523. The list below provides illustrative examples of some of the type of situations that may require the preparation of Form BOE-523. The list is not meant to be all inclusive, but merely illustrates the common types of situations encountered by an auditor, requiring preparation of the form.

The following changes reported on Form BOE-523 will be sent to District

Compliance:

- (a) Change of start or close-out dates.
- (b) Requests for "Did Not Operate" (DNO) clearances.
- (c) Requests to apply payments to audit periods.

The following changes reported on Form BOE-523 will be sent to the Return Analysis Unit.

- (a) All requests to transfer revenue between periods and/or accounts.
- (b) Requests to apply a payment to a specific period.
- (c) Requests to apply a partial payment or revenue to a specific period/account.
- (d) Requests to split revenue between a specific period/account.

INFORMATION FOR PREPARATION OF FORM BOE-523

0219.12

The auditor will prepare two copies of Form BOE-523 for each account. When two or more accounts are involved, the originals that will be sent to Headquarters or District Compliance (as discussed in AM section 0219.09) should be stapled to present a "package" of the transaction. These forms should be sent to Headquarters or District Compliance as soon as possible to expedite the required change. Do not use photocopies.

If only section 1 is to be completed, enter the full account number, the taxpayer's name and reporting basis.

Depending on each case, the "C.O." box may be checked and notations made on either "change of closeout date" or "change of starting date" lines.

If sections 1 and 2 are to be completed, both sections must contain the business and area codes. See AM section 0206.21 for information on business codes.

Following are general instructions for each section:

- SECTIONS 1 & 2: When two accounts are involved, section 1 is used for the account from which a transfer or adjustment is made. Section 2 is used for the account to which a transfer or adjustment is made.
- SECTION 3: This section is used to transfer entire returns or EFT payments from one account to another.
- SECTION 4: Not used by field auditors.
- SECTION 5: Not used by field auditors.
- SECTION 6: This section is used to transfer a fractional period erroneously included in a return or EFT payment from one account to the correct account.
- SECTION 7 & 7B: For Headquarters' use only.
- SECTION 8: This section is for explanations of adjustments made in sections 1 to 7B.

For more information on Form BOE-523, refer to the CPPM Chapter 3, *Account Maintenance*, section 335.000, *Tax Return/or Account Adjustment Notice – BOE-523*.

PREPAYMENT OF SALES TAX ON MOTOR VEHICLE FUEL PROGRAM

0220.00

GENERAL

0220.03

All routine audits of sellers of motor vehicle fuel (MVF) must include verification of any prepayments made and claimed under both the sales and use tax and "SG" programs. Since a separate accountability of funds is maintained between these two programs, it is critical that audit differences affecting the "SG" account be separately identified. (See exhibit 22 for prepayment rates.)

SPECIAL PROCEDURES FOR GASOLINE RETAILERS

0220.06

All retailers of MVF subject to the provisions of the "Prepayment of Sales Tax on Motor Vehicle Fuel Program" will use a modified sales and use tax return (BOE-401-GS). This return includes a Schedule G which allows the retailer to:

- Claim credit for prepayments made on purchases of MVF, and
- Claim credit for tax paid to other states.

When preparing the audit report, any differences in the sales tax prepayment amounts reported on Schedule G must be identified separately in the audit working papers and in the audit report. The following special guidelines should be followed when preparing audit reports on gasoline retailers:

A. Errors in Claiming Sales Tax Paid to Suppliers and Wholesalers

Credit and debit adjustments to amounts claimed on returns for prepayment of sales taxes on motor vehicle fuel will be reflected on the upload disk.

When adjustments are made to prepaid sales tax claimed, a copy of audit working paper schedule, 20 G3, *Total Sales Tax Paid*, must accompany the audit report transmitted to Headquarters. Because these errors require an adjustment to the "SG" fund, a notation must be made in the "Special Instruction" section (see AM section 0205.62) as follows: "Adjustment to 'SG' Fund Required."

B. Errors in Claiming Credit for Tax-Paid to Other States

Adjustments for errors in claiming credit for tax-paid to other states will be reflected on the upload disk. Because these errors do not require adjustment to the "SG" fund, a notation is not required in the "Special Instruction" section and copies of the audit working paper schedules are not required to be transmitted to Headquarters.

The auditor will not make any notations regarding the adjustments to the sales tax prepayment amounts claimed in the "Analysis of Measure of Tax" section. Audit reports, except as noted above, should be prepared following the general guidelines of this chapter for sales and use tax audits.

When preparing reaudits and adjusted FBO's, the auditor should provide a complete explanation of "SG" fund additions or reductions in the "General Audit Comments" section of Form BOE-414-A.

SPECIAL PROCEDURES FOR GASOLINE SUPPLIERS AND WHOLESALERS

0220.12

Suppliers and wholesalers of MVF are assigned an "SG" account number in addition to their regular sales and use tax account number. Such suppliers and wholesalers are required to report pre-collection sales tax on the "SG" return (BOE-410-DB).

All taxpayers holding an "SG" account will have the "SG" account investigated in conjunction with their related sales and use tax account, even though only one or two quarters may be involved. This procedure will facilitate alignment of the "SG" accounts with their related sales and use tax account and ensure that amounts are being reported properly. The related sales and use tax account number should be noted on the back of the audit report.

Form BOE-414-B may be prepared when a complete audit is not warranted. When this is done, Form BOE-414-B should be completed following the same guidelines as outlined above for the audit report.

A penalty of 10 percent of the amount of any prepayment due but not paid shall be added for any supplier or wholesaler who fails to make a timely remittance to the Board of the prepayment amounts, plus interest at the modified adjusted rate per month, or a fraction thereof, from the date the prepayment became due and payable until the date of payment.

A 25 percent penalty, rather than the 10 percent penalty mentioned above, shall be added if such failure to timely remit the prepayments was done knowingly or intentionally by the supplier or wholesaler. (RTC section 6480.4.) This penalty is applied in addition to any other applicable penalties recommended.

**FORM BOE-414-Z, ASSIGNMENT CONTACT HISTORY
FORM BOE-414-Z1, ASSIGNMENT STATUS SUMMARY**

0221.00

GENERAL

0221.03

The assignment contact history provides a history of taxpayer contact and significant events that occur during the course of an assignment (Form BOE-414-Z, exhibit 25). When needed, the assignment status report may be used to provide a written record summarizing what procedures have been completed and what procedures remain to be completed (Form BOE-414-Z1, exhibit 25A).

USE OF FORM BOE-414-Z

0221.06

A record of contacts and requests is essential to develop a history of staff actions and taxpayer responses. Completion of Form BOE-414-Z is mandatory for all audit assignments. Form BOE-414-Z should be a permanent part of all working papers, and as such, is subject to the Public Records Act. The form should also be used when working petitions or claims for refund.

The following list of items is intended to provide some examples of activities or events that require an entry on Form BOE-414-Z, *Assignment Contact History*:

- **Phone Contacts:** Include the number called if not already recorded on the contact history, who was contacted, that person's title and/or position with the taxpayer, what was discussed, what was agreed to, etc. When indicating the person contacted, the term "taxpayer," "TP," or his/her title alone should not be used. Instead, indicate the person's name and title on the history report.
- **Appointments Made:** Record date, location, and time of appointment.
- **Cancelled or Postponed Appointments:** Record the name of the person requesting cancellation or postponement and the reasons for all requests.
- **Correspondence:** Record all letters, memorandums, publications, etc. received or sent. Include the author's name, date, and the subject matter of the correspondence.
- **Testing Procedures:** Record the date, the agreed upon testing procedures and the person's name agreeing to the procedures.
- **Information Requests:** Record all requests given to the taxpayer, such as requests for partnership agreements, corporate minutes, XYZ letters or other supporting documentation. Also include deadlines given to the taxpayer for providing the information.
- **Waiver of Limitations:** When an auditor believes it is necessary to request a Waiver of Limitation (Form BOE-122) (see AM sections 0215.00 -- 0215.30) from the taxpayer, record the reason for such request, the date Form BOE-122 was approved by the audit supervisor (see AM section 0215.16), the date the waiver was mailed or hand delivered to the taxpayer, the date the taxpayer signed the form, and the date when the taxpayer returned a copy of the signed waiver form.
- **Managed Audit Program (AM sections 0435.00 -- 0435.20):** Record the

date the participation agreement (Form BOE-526) was provided to, and signed by, the taxpayer, the agreed procedures and deadlines, date(s) of reviews, etc.

- Computer audit specialist: record contacts and procedures performed by the board's computer audit specialists.

USE OF FORM BOE-414-Z1

0221.09

Certain circumstances may warrant a written record of the status of an assignment at some point in time. This may be particularly true of training assignments, long term complex audits, or cases involving sensitive issues. Supervisors may use their discretion in requesting the auditor to complete Form BOE-414-Z1, *Assignment Status Summary*. The use of the status report should be limited to those situations where it adds value to the decision making process. See AM sections 0222.10 — 0222.20 for examples of sensitive issues that may be recorded on Form BOE-414-Z1.

MISCELLANEOUS

0222.00

REVENUE AND TAXATION CODE SECTION 7091—IF AN AUDIT IS UNREASONABLE OR NOT SUBSTANTIALLY JUSTIFIED

0222.10

RTC section 7091 provides that a taxpayer may be entitled to reimbursement for fees and expenses related to a hearing before the Board if the Board finds that the action taken by the board staff was unreasonable or not substantially justified. It is anticipated that some taxpayers may seek reimbursement for the fees and expenses which they incur during the course of an audit on the basis that the staff made unreasonable demands, had no justifiable basis for asserting tax, or conducted the audit in an arbitrary or unprofessional manner. Consequently, it is very important that staff document their actions. Such documentation should be included on Form BOE-414-Z and Form BOE-414-Z1 (see AM sections 0221.06 & 0221.09). This documentation should include all requests made to a taxpayer and the reason for such requests. It should also include any demands or obstructions to the audit process presented by a taxpayer and any conflicts that may arise between staff and the taxpayer. It is important to keep in mind that the staff may be required to justify their actions before the Board at a later date, and, therefore, the staff must have documentary evidence to support the reasonableness of their actions.

ERROR OR DELAY BY BOARD OR DMV EMPLOYEE

0222.20

Pursuant to Regulation 1703, subsection (b)(1)(E), the Board, in its discretion, may relieve all or any part of the interest imposed on a person by RTC sections 6480.4, 6480.8, 6513, 6591 and 6592.5 for tax liabilities arising during taxable periods on or after July 1, 1999. Effective January 1, 2002, the Board, may, in its discretion, relieve all or any part of interest imposed by any provision of the Sales and Use Tax Law. Such relief may be granted under either of the following circumstances:

- 1) Where the failure to pay tax is due in whole or in part to an unreasonable error or delay by an employee of the Board acting in his or her official capacity.
- 2) Where failure to pay use tax on a vehicle or vessel registered with the DMV was the direct result of an error by the DMV in calculating the use tax.

An error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act by, the taxpayer.

Any person seeking relief under Regulation 1703, subsection (b)(1)(E), shall file with the Board a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information that the Board may require. For this reason, it is very important to document the cause for any delays occurring during the course of the audit. Such documentation should be included on Form BOE-414-Z and Form BOE-414-Z1 (see AM sections 0221.06 & 0221.09).

AGED AUDITS AND OTHER PERFORMANCE MEASURES

0222.30

Board management may, from time to time, set or adjust audit program-level performance measurements. These performance measurements are only for internal evaluation purposes. For example, aged audits (how many months and/or hours an audit is in process) is one of the performance measurements the Board uses to evaluate district offices. These performance and evaluation measurements are not designed, intended, or suitable for decision factors to close an audit in process. Districts must not use these performance measurements as the criteria to close an audit in process.

CORRESPONDENCE WITH TAXPAYER'S REPRESENTATIVES

0222.40

When requested by the taxpayer, copies of all correspondence with the taxpayer should be sent to the representative. When a representative is involved with an audit, petition, or claim for refund, there is an expectation that the representative will receive copies of correspondence sent to the taxpayer even though a specific request has not been made. When in doubt, staff should confirm with the taxpayer and/or the taxpayer's representative whether or not copies should be sent to the respective representative.

When correspondence is sent to taxpayers regarding regular audits, reaudits, petitions, appeals, refunds, compliance issues, collection cases or other correspondence, staff should review the taxpayer files for taxpayer representative authorizations and ensure that the representative is copied accordingly on all correspondence. All IRIS and non-IRIS correspondence, notices, statements or reports, must also be copied to the taxpayer's representative. IRIS generated letters provide additional fields within the letters to manually enter taxpayer's representative's information.

In IRIS, staff can check for a specific representative or listing of representatives by going to the "APL MH" screen and following these directions:

In IRIS, input the taxpayer's account number after the "APL PR" jump code. This brings up a screen "Browse Case Preliminary Review." From this screen, look up the appeals' case number.

Next, place a "V" (for View) in the field next to the appropriate case with "PED RED" or "REF REF" in the "Case Type" and "Sub Type" columns and press "Enter." This brings up "APL MH", "Maintain/Inquire Case Header" screen.

When viewing the "APL MH" screen, directly below the "TP Name" field is the "TP Agent" field. If there are no representatives on record, this field will be blank. If there is at least one taxpayer representative, the representative's name will be displayed here. Place an "M" in the "TP Agent" field to bring up a list of all taxpayer representatives.

PREPARATION OF FIELD AUDIT REPORTS
Table of Exhibits

Form BOE-414A — Report of Field Audit	Exhibit 1
Schedule 414-A2 — Summary of Differences	Exhibit 2
Form BOE-767 — Tax, Penalty and Interest Calculation	Exhibit 3
Form BOE-414 — Transcript of Returns	Exhibit 4
Form BOE-414-L — Local Tax Worksheet	Exhibit 5
Electronic Transcript of Returns	Exhibit 6
Auditor's Worksheet — Local Tax Allocation	Exhibit 7
Front of Form BOE-414-B	Exhibit 8
Back of Form BOE-414-B	Exhibit 9
Front of "No Change" Audit Report	Exhibit 10
Back of "No Change" Audit Report	Exhibit 11
"No Change" Phase of a Tax Change Audit	Exhibit 12
Form BOE-596 — Office Waiver	Exhibit 13
Form BOE-596 — Field Waiver	Exhibit 14
Original Waiver — Regular Reporting Basis	Exhibit 15
Waiver Continuation — Regular Reporting Basis	Exhibit 16
Original Waiver — Irregular Reporting Basis	Exhibit 17
Waiver Continuation — Irregular Reporting Basis	Exhibit 18
Allocation of Local Sales & Use Tax — Special In-State Accounts	Exhibit 19
Allocation of Local Sales & Use Tax — Special Out-of-State Accounts	Exhibit 20
Form BOE-523 — Transferring Returns From One Account to Another	Exhibit 21
Prepayment of Sales Tax on Gasoline and Diesel Fuel	Exhibit 22
Form BOE-1296 — Account Update Information	Exhibit 23
Audit Transmittal Letters	Exhibit 24
Form BOE-414-Z — Assignment Contact History	Exhibit 25
Form BOE-414-Z1 — Assignment Status Summary	Exhibit 25A
Form BOE-502 — Suggested Legislative Changes	Exhibit 26
Form BOE-1161 — Audit Arrangement Sheet	Exhibit 27

FORM BOE-414-A — REPORT OF FIELD AUDIT

AUDIT MANUAL

EXHIBIT 1
Page 1 of 5

STATE BOARD OF EQUALIZATION

REPORT OF FIELD AUDIT Sales and Use Taxes

SOURCE 1	ACCOUNT NUMBER SR Y AC 012-345678	CASE ID 29945	STATUS <input type="checkbox"/> Active <input checked="" type="checkbox"/> C.O.	0-01 1-01
B.A. Same	DATE OF REPORT 9/21/2005	AREA CODE 99999-997-0000	BUS. CODE 18	
FIRM NAME NS Technology Company	EXTRA COPIES		STANDARD BILL NOTES	
OWNER Thomas Frederick Smith	JURIS. STATE LOCAL COUNTY	AMOUNT	JURIS.	AMOUNT
M.A. 680 W. Van Nuys Blvd. Los Angeles, CA 90017				

LIABILITY (OR CREDIT) DISCLOSED BY AUDIT

PERIOD TO	TAX	INTEREST TO -	PENALTY	TOTAL
7/1/2002 TO 6/30/2005		10/31/2005	**	
TOTAL	82,082.69			0.00
CREDITS/DEBITS:				
PAYMENTS				0.00
				0.00
				0.00
BALANCE				0.00

** Penalty of 10% has been added for negligence.

ANALYSIS OF MEASURE OF TAX BY CLASS OF TRANSACTION

COPY TO TAXPAYERS

Jack Chan, CPA TIN 123456789
9000 Wilshire Blvd., Suite #1400
Los Angeles, CA 90017

(SEE 414A ATTACHMENT)

N-A	VAR. BLURB	SCHED	J. C. Conlon NAME OF AUDITOR	APPROVED BY	APPROVAL DATE	INTEREST CALC. DATE	BATCH
-----	------------	-------	---------------------------------	-------------	---------------	---------------------	-------

FORM BOE-414-A — REPORT OF FIELD AUDIT

EXHIBIT 1
Page 2 OF 5

Analysis of Measure of Tax by Class of Transaction

414-A Page 2
SR AC 012-345678
J. C. ConLon
9/7/2005

A	B	C	D	E	F	G	H
ERROR DESCRIPTION	ERROR CODE	SLCST	LACT	LATC	ACTA	BART	STAT
1 Sales of used office equipment to employees not reported – actual	0104	\$ 40,700	\$ 40,700	\$ 40,700			
2 Taxable sales of canned software not reported for June 2005	0302	11,248	11,248	11,248			
3 Capital assets purchased extax from out-of-state vendors – actual	0201	544,500	350,000	350,000	182,000	182,000	12,500
4 Supplies purchased ex-tax from out of state vendors - test of 2004	0201	145,282	.65,377	65,377	50,849	50,849	29,056
5 Disallowed claimed or netted sales for resale - statistical sample	0403	258,868	121,668	121,668	85,426	85,426	51,774
Total:		\$1,000,598	\$588,993	\$588,993	\$318,275	\$318,275	\$93,330

Copy to Taxpayer
Date: _____

date

FORM BOE-414-A – REPORT OF FIELD AUDIT

State Board of Equalization - Sales and Use Tax Department

Acct: 123456789 Case ID: 29945 LEGAL TAX CLEARANCE

I.D.	CLASS	AUDIT MADE BY	HOURS
1111	3	J.C. Conlon	112

Office Making Audit Code AC

Cell 2 Recovery Group Year A2002

Supervisor _____

Reviewed By _____

112 Date of Review _____

TOTAL HOURS

Reported Measure of State Tax? \$5,847,246

Name Of Taxpayer Rep? Thomas Smith

Title of Taxpayer Rep? Owner

Taxpayer Reps Phone? (818) 555-1212

Did Taxpayer Concur? N A copy of this report was mailed with BOE-0079-A letter? If not, explain below

Local Tax Worksheet Attached? N Transit Reallocation Attached? N

Professional Tax Preparer? N Tax Clearance requested? N

Credit Involved? N Claim Previously submitted to HQ? N

Claim secured from taxpayer? N

BOE-502 Attached? N Related Accounts ? (If 'Y', Add GC) N

Publications 17, 70 & 76 Given To Taxpayer? 17 Y 70 Y 76 Y

Underground Storage Tank? (If 'Y' add GC) N Corporation with 50 or more employees? N

Seller Of Tires? N Wholesaler/Importer of Tobacco? N

Publications provided _____ Publications 17, 70 & 76

Cigarette Indicia Inspection _____

Special Instructions

Cash deposit of \$3,500 is available as of 6/30/2002.

Date BOE-523 was prepared clearing delinquencies for returns not filed _____

Waiver Attached? Y

Waiver Period 7/1/2002 To 12/31/2002 Expires 4/30/2006

General Audit Comments

414-A-P4
SRAC 012-345678
J. C. Conlon
09/07/2005

TYPE OF BUSINESS ORGANIZATION (TBO)

Sole proprietorship with prior audit through 06/30/02.

CLASS OF BUSINESS (COB)

Wholesaler and retailer of computers and software. Taxpayer operated out of three locations, Fremont, Los Angeles and Sacramento.

BOOKS AND RECORDS (BR)

A double entry set of records supported by documents of original entry prepared by the taxpayer. Income tax returns for 2002, 2003 and 2004 were prepared by the CPA firm of Highland and Morikowa, 596 Wave St., Santa Monica, CA 99999. Books and records were complete for the entire audit period.

FRANCHISE TAX BOARD (FTB)

SS# 999-99-9999
Item 1 and 2 represent additional gross receipts.

PENALTY (PEN)

A penalty for negligence is recommended since the errors in resales and use tax are similar to errors found in the prior audit. The taxpayer has made no attempt to report purchases subject to use tax and the amount is substantial in relation to reported taxable measure.

REGULATION 1595 (COR)

Sales of furniture and equipment at closeout was included on the return for the final reporting period. Taxpayer reported the selling price of furniture and equipment per sales contract. The amount reported was accepted based on the examination of the general accounts for these assets.

AMNESTY(MS1)

The taxpayer did not file for amnesty.

date

General Audit Comments

414-A-P6
SRAC 012-345678
J. C. Conlon
09/07/2005

DISCUSSION WITH TAXPAYER (DWT)

Results of discussion of audit findings with Mr. Thomas Smith, owner, are summarized as follows:

Item	Taxpayer	
	Agrees	Disagrees
1	40,700	
2	11,248	
3	544,500	
4	145,281	
5		258,865
Penalty	8,208.27	

Taxpayer’s Position

Item #5: Mr. Smith is of the opinion that disallowed resales are valid resales despite the fact that XYZ letters were obtained identifying questioned transactions as taxable. He also objects to the use of sampling as a basis for establishing the liability.

Auditor’s Position

Disallowed claimed resales are based on a statistical sample test of sales invoices. Evaluation of the sample results indicates that it was representative of the resales population. Also, sample selection methodology was discussed with Mr. Smith and he had agreed with it. Additional time was allowed to secure all XYZ letter responses.

Supervisor’s Comment

Disallowed claimed resales are typical of the transactions made by the taxpayer throughout the audit period. Amounts disallowed are consistent in value and do not include items of a nonrecurring nature.

SUMMARY OF DIFFERENCES

SCHEDULE 414-A2
SRAC 12-345678
J. C. Conlon
09/07/05

	A	B	C	D	E	F	G	H
	< 1 >	< 2 >	< 4 >	(B+C+D)				
REF	Period	Total Sales	Purchases Subject to Use Tax	Sales for Resale	Measure for SLCST			
1	3Q 02	2,000	18,841	11,298	32,139			
2	4Q 02	2,300	7,418	13,217	22,935			
3	1Q 03	2,500	8,611	15,344	26,455			
4	2Q 03	2,767	9,727	17,332	29,826			
5	3Q 03	3,017	140,862	19,355	163,234			
6	4Q 03	3,267	11,998	21,378	36,643			
7	1Q 04	3,517	13,133	23,401	40,051			
8	2Q 04	3,767	364,268	25,423	393,458			
9	3Q 04	4,017	15,403	27,446	46,866			
10	4Q 04	4,267	16,538	29,468	50,273			
11	1Q 05	4,517	17,674	31,492	53,683			
12	2Q 05	16,015	65,309	23,714	105,038			
13								
14	Total:	51,951	689,782	258,868	1,000,601			
15								
16								
17								
18								
19								
20								
21								
22								
23								
24								
25								
26								
27								
28								
29								
30								

Note:

Schedule 414-A2 will be a "Summary of Difference" prepared for "Total Sales Basis" audit on the basis of the result of audit findings. It is not expected to be a schedule which will be uniform in all respects, but it should be set out in a manner that clearly depicts the source and amount of the difference disclosed by audit. A summary of difference schedule will not be prepared when one lead schedule contains all the differences disclosed by the audit, whether it be a schedule 1, 5 or 12.

The schedule should be free of comments.

FORM BOE-414-TRANSCRIPT OF RETURNS

AUURVIF1 BOE-414 Rev. 9 (9-98) State Board of Equalization 09/10/05 Page: I
 Transcript of Returns Filed --- Sales and Use Tax Partners/Officers: None

Owner: **THOMAS FREDRICK SMITH** Account No: **SR YAC 012-345678**
 Owner Phone: Case Id: **29945**
 Doc: **0**
 Audit Made By:

Period	Total Sales	Total Exemptions	Net Taxable Amount	S, C, STTI Tax Due	Local Tax Due	Total Transit Tax	Computed Tax Due	Difference Cmp vs Rpt
3Q02	503571	82694	420877	26304	4209	4208	34721	0
4Q02	600358	57268	543090	33943	5431	5430	44804	0
1Q03	570806	51851	518955	32434	5190	5189	42814	0
2Q03	566335	86675	479660	29978	4797	4796	39571	0
3Q03	495100	69638	425462	26591	4255	4254	35100	0
4Q03	603618	67074	536544	33534	5365	5365	44265	0
1Q04	579351	68651	510700	31920	5107	5107	42135	0
2Q04	525008	54842	470166	29385	4702	4701	38789	0
3Q04	460603	37324	423279	26454	4233	4232	34919	0
4Q04	568458	43324	525134	32822	5251	5251	43325	0
1Q05	505715	38542	467173	29199	4672	4672	38543	0
2Q05	570161	43955	526206	32889	5262	5262	43413	0
TOTAL	6549084	701838	5847246	365453	58474	58477	482399	0

FORM BOE-414-TRANSCRIPT OF RETURNS

09/10/05
Page: 2

State Board of Equalization

AUDIT

Schedule of Deductions

Account No: SR Y AC 012345678

AUDRPF2

Owner: THOMAS FREDRICK SMITH
Case Id: 29945

February 2002

Period	Resale	Int. Comm.	Sales Tax	Total
3Q02	47972	0	34722	82694
4Q02	0	12463	44805	57268
1Q03	7037	2000	42814	51851
2Q03	47103	0	39572	86675
3Q03	32537	2000	35101	69638
4Q03	22810	0	44264	67074
1Q04	26518	42133	0	68651
2Q04	16053	0	38789	54842
3Q04	2403	0	34921	37324
4Q04	0	0	43324	43324
1Q05	0	0	38542	38542
2Q05	544	0	43411	43955
TOTAL	202977	58596	440265	701838

FORM BOE-414-TRANSCRIPT OF RETURNS

09/10/05
Page: 3

State Board of Equalization
AUDIT
Transit Tax Schedule

Owner: THOMAS FREDRICK SMITH Account No: SR Y AC 0123345678 Case Id: 29945

AUDRPF2

Period	005 LACT	010 ACTA	020 BARTA	023 STAT	035 LATC	Total
3002	2500000	1058000	1058000	1300000	2500000	8416000
4002	2350000	1330000	1330000	3500000	2350000	10860000
1003	1650000	1039000	1039000	5000000	1650000	10378000
2003	2200000	846000	846000	3500000	2200000	9592000
3003	3150000	604000	604000	1000000	3150000	8508000
4003	4200000	515000	515000	1300000	4200000	10730000
1004	2600000	1307000	1307000	2400000	2600000	10214000
2004	4500000	101000	101000	2000000	4500000	9402000
3004	3300000	582000	582000	700000	3300000	8464000
4004	1650000	1801000	1801000	3600000	1650000	10502000
1005	4250000	222000	222000	400000	4250000	9344000
2005	4250000	162000	162000	1700000	4250000	10524000
TOTAL	36600000	9567000	9567000	24600000	36600000	116934000

09/10/05
Page: 4

State Board of Equalization
AUDIT
Transit Tax Schedule

Owner: THOMAS FREDRICK SMITH Account No: SR Y AC 012345678 Case Id: 29945

Download File Name: Q1.IRSM3.AC.0029945.Do91099.T1024187

UDH412

FORM BOE-414-TRANSCRIPT OF RETURNS

09/10/05
Page: 1

State Board of Equalization
AUDIT

Local Tax Allocation

Account No: SR Y AC 012345678 Case Id: 29945

Owner: THOMAS FREDRICK SMITH
Audit made by:

Periods Reported	Total Period	Taxing Jurisdiction and related area code			998 = Unincorporated Area of County 999 = Countywide
		010090000 FREMONT	190500000 LOS ANGELES	340600000 SACRAMENTO	
3Q02	4209	1058	2500	650	
4Q02	5431	1330	2350	1750	
1Q03	5190	1039	1650	2500	
2Q03	4797	846	2200	1750	
3Q03	4255	604	3150	500	
4Q03	5365	515	4200	650	
1Q04	5107	1307	2600	1200	
2Q04	4702	101	4500	100	
3Q04	4233	582	3300	350	
4Q04	5251	1801	1650	1800	
1Q05	4672	222	4250	200	
2Q05	5262	162	4250	850	
Total	58474	9567	36600	12300	

BOE-414 Sales and Use Tax

SCHEDULE BOE-414
PERMIT SR Y AC 12-345678
AUDITOR J. C. Conlon
DATE 09/08/05

	A	B	C	D	E	F	G	H	I	J	K	L
REF	PERIOD	START DATE	END DATE	GSALE	CNTTX	LCLTX	RPTTX	NONTX	TXTRN	DISTX	STATX	TOTTX
1	3Q 02	07/01/02	09/30/02	503,571	1,051	4,209	34,721	82,694	420,877	4,209	25,252	34,721
2	4Q 02	10/01/02	12/31/02	600,358	1,357	5,431	44,804	57,268	543,090	5,431	32,585	44,804
3	1Q 03	01/01/03	03/31/03	570,806	1,297	5,190	42,814	51,851	518,955	5,190	31,137	42,814
4	2Q 03	04/01/03	06/30/03	566,335	1,198	4,797	39,571	86,675	479,660	4,797	28,779	39,571
5	3Q 03	07/01/03	09/30/03	495,100	1,063	4,255	35,100	69,638	425,462	4,255	25,527	35,100
6	4Q 03	10/01/03	12/31/03	603,618	1,343	5,365	44,265	67,074	536,544	5,365	32,192	44,265
7	1Q 04	01/01/04	03/31/04	579,351	1,279	5,107	42,135	68,651	510,700	5,107	30,642	42,135
8	2Q 04	04/01/04	06/30/04	525,008	1,176	4,702	38,789	54,842	470,166	4,702	28,209	38,789
9	3Q 04	07/01/04	09/30/04	460,603	1,057	4,233	34,919	37,324	423,279	4,233	25,396	34,919
10	4Q 04	10/01/04	12/31/04	568,458	1,314	5,251	43,325	43,324	525,134	5,251	31,509	43,325
11	1Q 05	01/01/05	03/31/05	505,715	1,168	4,672	38,543	38,542	467,173	4,672	28,031	38,543
12	2Q 05	04/01/05	06/30/05	570,161	1,316	5,262	43,413	43,955	526,206	5,262	31,573	43,413
13												
14				Total:								
15												

Note:

The acronyms for deductions listed above, such as SLSRT, SLSTX and SLSIN, can be identified by comparing to the hardcopy printout of the transcript. SLSRT refers to Resale, SLSTX is Sales Tax and SLSIN is Interstate Commerce. The advantage of procuring an electronic download, especially on large audits, is it saves time from transcribing figures from the hard copy to Excel.

Electronic Transcript of Returns

BOE-414 Schedule Of Deductions

SCHEDULE BOE-414
PERMIT SR Y AC 12-34568
AUDITOR J. C. Conlon
DATE 09/08/05

A	B	C	D	E	F	G
---	---	---	---	---	---	---

REF	PERIOD	START DATE	END DATE	SLSRT	SLSTX	SLSIN
1	3Q 02	07/01/02	09/30/02	47,972	34,722	
2	4Q 02	10/01/02	12/31/02		44,805	12,463
3	1Q 03	01/01/03	03/31/03	7,037	42,814	2,000
4	2Q 03	04/01/03	06/30/03	47,103	39,572	
5	3Q 03	07/01/03	09/30/03	32,537	35,101	2,000
6	4Q 03	10/01/03	12/31/03	22,810	44,264	
7	1Q 04	01/01/04	03/31/04	26,518		42,133
8	2Q 04	04/01/04	06/30/04	16,053	38,789	
9	3Q 04	07/01/04	09/30/04	2,403	34,921	
10	4Q 04	10/01/04	12/31/04		43,324	
11	1Q 05	01/01/05	03/31/05		38,542	
12	2Q 05	04/01/05	06/30/05	544	43,411	
13						
14			Total:	<u>202,977</u>	<u>440,265</u>	<u>58,596</u>
15						

Electronic Transcript of Returns

BOE-414 Transit Tax Schedules

SCHEDULE BOE-414
PERMIT SR Y AC 12-345678
AUDITOR J. C. Conlon
DATE 09/08/05

A	B	C	D				E
---	---	---	---	--	--	--	---

REF	PERIOD	START DATE	END DATE	LACT	ACTA	BARTA	STAT	LATC
1	3Q 02	07/01/02	09/30/02	250,000	105,800	105,800	130,000	250,000
2	4Q 02	10/01/02	12/31/02	235,000	133,000	133,000	350,000	235,000
3	1Q 03	01/01/03	03/31/03	165,000	103,900	103,900	500,000	165,000
4	2Q 03	04/01/03	06/30/03	220,000	84,600	84,600	350,000	220,000
5	3Q 03	07/01/03	09/30/03	315,000	60,400	60,400	100,000	315,000
6	4Q 03	10/01/03	12/31/03	420,000	51,500	51,500	130,000	420,000
7	1Q 04	01/01/04	03/31/04	260,000	130,700	130,700	240,000	260,000
8	2Q 04	04/01/04	06/30/04	450,000	10,100	10,100	20,000	450,000
9	3Q 04	07/01/04	09/30/04	330,000	58,200	58,200	70,000	330,000
10	4Q 04	10/01/04	12/31/04	165,000	180,100	180,100	360,000	165,000
11	1Q 05	01/01/05	03/31/05	425,000	22,200	22,200	40,000	425,000
12	2Q 05	04/01/05	06/30/05	425,000	16,200	16,200	170,000	425,000
13								
14			Total:	<u>3,660,000</u>	<u>956,700</u>	<u>956,700</u>	<u>2,460,000</u>	<u>3,660,000</u>
15								
16								

**STATE BOARD OF EQUALIZATION
AUDITOR'S WORKSHEET — LOCAL TAX ALLOCATION**

OWNER THOMAS FREDRICK SMITH
AUDIT MADE BY J.C. CONLON

ACCOUNT NO: SRY AC 12345678

CASE ID: 00000029945

DATE: September 7, 2005

998 = Unincorporated Area of County
999 = County wide

TAXING JURISDICTION AND RELATED AREA CODES

I. AS REPORTED	TOTAL	010090000 FREMONT	190500000 LOS ANGELES	340600000 SACRAMENTO

TOTAL: 58474 9567 36600 12300 Note — Reallocation of Reported Local Tax

II. CORRECT ALLOCATION FIRST KNOWLEDGE OF IMPROPER DISTRIBUTION OBTAINED ON (DATE) 8/18/05 EXPLAIN SOURCE — AUDIT

(COMMENCING DATE OF REALLOCATION)					
4Q-04	5,251	1,800	1,650	1,801	Errors made by a taxpayer in a local tax allocation should be adjusted for the last three Quarters of the audit period.
1Q-05	4,672	200	4,250	222	
2Q-05	5,262	850	4,250	162	As provided by this example, a complete explanation of the basis for any reallocation Adjustments must be made in the left-hand column of the worksheet.
TAXPAYER REPORTED					
FREMONT LOCAL TAX					Additionally, to maintain an accurate allocation history, the adjustments uses a quarterly reporting basis, therefore the adjustments found in this section should be entered by quarter following the pattern used in Section I.
AS SACRAMENTO LOCAL TAX AND VICE-VERSA					
CORRECT ALLOCATION	15,185	2,850	10,150	2,185	

III. ALLOCATION OF TAX CHANGE PER AUDIT Note — Reallocation of Reported Local Tax:

ACTUAL BASIS — LOCAL	5,964	1,820	4,019	125	Local Tax that is to be allocated on a percentage basis should be entered by the field auditor in the vertical "total" column only. Tax to be allocated on an actual basis will be entered in the total column and also in the columns set up for particular jurisdiction. Further processing will be accomplished by headquarters.
% BASIS — LOCAL	4,042				
TOTAL — LOCAL	10,006				
ACTUAL BASIS — COUNTY	1,491	455	1,005	31	
% BASIS — COUNTY	1,011				
TOTAL — COUNTY	2,502				

BACK OF FORM BOE-414-B

EXHIBIT 9

State Board of Equalization - Sales and Use Tax Department

Acct: SR AB 012-000000 Case ID: 29946 LEGAL TAX CLEARANCE

I.D.	CLASS	AUDIT MADE BY	HOURS
748	3	V.P. GUILLEN	2

Office Making Audit Code AB
 Cell 2 Recovery Group Year A 9900
 Supervisor _____
 Reviewed By _____
2 Date of Review _____
 TOTAL HOURS

Reported Measure of State Tax? \$54,500
 Name Of Taxpayer Rep? William McDonald Title of Taxpayer Rep? President
 Taxpayer Reps Phone? (310) 555-1212

Did Taxpayer Concur? Y A copy of this report was mailed with BOE-0079-C letter? If not, explain below
 Local Tax Worksheet Attached? Y Transit Reallocation Attached? N
 Professional Tax Preparer? N Tax Clearance requested? N
 Credit Involved? N Claim Previously submitted to HQ? N
 Claim secured from taxpayer? N
 BOE-502 Attached? N Related Accounts ? (If 'Y', Add GC) N
 Publications 17, 70 & 76 Given To Taxpayer? 17 Y 70 Y 76 Y
 Underground Storage Tank? (If 'Y' add GC) N Corporation with 50 or more employees? N
 Seller Of Tires? N Wholesaler/Importer of Tobacco? N
 Publications provided Publications 17, 70 & 76

Cigarette Indicia Inspection _____
 Special Instructions

Date BOE-523 was prepared clearing delinquencies for returns not filed _____
 Waiver Attached? N
 Waiver Period _____ To _____ Expires

General Comments:

CLASS OF BUSINESS (COB)

The taxpayer manufactures aircraft components. Start date 8/1/2001.

EXPLANATION OF TAX CHANGE (ETC)

Memo received from CATS indicated the taxpayer had sold a lathe drill press and miscellaneous tools with no tax charged.

Front of "No Change" Audit Report
 BOE-414-C (FRONT) REV. 22 (3-05)
REPORT OF EXAMINATION OF RECORDS - SALES AND USE TAXES

Exhibit 10
 STATE OF CALIFORNIA
 BOARD OF EQUALIZATION

(*BLOCKS ARE FOR HEADQUARTERS USE)

NAME OF TAXPAYER Taxpayer F Company		ACCOUNT NUMBER SR AC 013-000000		CASE ID 29947	
BUSINESS ADDRESS FOR UNREGISTERED ACCOUNTS		<input type="checkbox"/> CHECK IF LEGAL	DATE OF REPORT 05/02/2006	R.G. YEAR 9900	R.G. CODE C
NAME AND TITLE OF REPRESENTATIVE Jack Piper, CPA (818) 555-1212		PERIOD EXAMINED FROM: 04/01/03 TO: 03/31/06			O.M.A. AC
IS TAXPAYER'S PERMIT CORRECT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> SEE COMMENTS	BUS CODE 36	ACTIVE C.O. <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 2	BOE-406 PREPARED <input type="checkbox"/> YES <input type="checkbox"/> NO	ID 007	CLASS 2
CLASS OF BUSINESS Restaurant with on-sale General Liquor License			AUDITOR M. Serio	HOURS 12.0	
REVIEWER			DATE OF REVIEW	CELL 9	
*MO/YR TRANS.			*PROCESSED BY	SUPERVISOR	

VERIFICATION

RECORDS <input checked="" type="checkbox"/> D.E. <input type="checkbox"/> S.E. <input type="checkbox"/> ADEQUATE <input type="checkbox"/> INTERNAL CONTROLS <input type="checkbox"/> SEE COMMENTS	LOCATION (if other than B.A.) 8850 Van Nuys Blvd., Van Nuys
--	---

C	REPORTED MEASURE OF STATE TAX THOUSANDS OF \$ 92	MARK UP TESTS ON <input checked="" type="checkbox"/> GROSS <input type="checkbox"/> EX TAX <input type="checkbox"/> TAXABLE <input checked="" type="checkbox"/> TAX INCLUDED		OTHER ITEMS VERIFIED AS REPORTED OR INAPPLICABLE <input checked="" type="checkbox"/> CAPITAL ASSET SALES <input type="checkbox"/> EXPENSE CREDITS		
	REPORTED SALES CONSISTENT WITH <input checked="" type="checkbox"/> BOOKS <input checked="" type="checkbox"/> INCOME TAX RETURN <input checked="" type="checkbox"/> CASH RECEIPTS	FROM 1/1/2005	TO 12/31/2005	RATE	<input type="checkbox"/> DELIVERY CHARGES	<input type="checkbox"/> FABRICATION LABOR
	<input type="checkbox"/> EXPENSES <input type="checkbox"/> SIZE OF BUSINESS	Restaurant -		162%	<input type="checkbox"/> TRADE-INS	<input type="checkbox"/> REPOSSESSIONS
	<input type="checkbox"/> SALES TAX ACCRUAL ACCOUNT	Bar -		287%	<input type="checkbox"/> TRANSIT TAX	<input type="checkbox"/> SEE COMMENTS

D	<input checked="" type="checkbox"/> CAPITAL ASSET ADDITIONS	<input checked="" type="checkbox"/> CONSUMABLE SUPPLIES	<input type="checkbox"/> RENTAL EQUIPMENT	<input type="checkbox"/> PERSONAL USE
	<input checked="" type="checkbox"/> INVENTORY WITHDRAWALS	<input type="checkbox"/> CHARGES TO EXPENSE	<input type="checkbox"/> ADVERTISING	<input type="checkbox"/> LOCAL USE TAX
ARE REPORTED ITEMS?		<input checked="" type="checkbox"/> ACTUAL	<input type="checkbox"/> ESTIMATED	<input type="checkbox"/> SEE COMMENTS

E	ITEMS	CLAIMED	NETTED	TRACED INTO RECORDS FOR PERIODS	SPOT TESTED	OTHER VERIFICATION
	Food	X		March, 2006		See Gen. Comments
	Sales Tax	X		Audit Period		See Gen. Comments

F	DATE FORM BOE-523 PREPARED TO CLEAR DELINQUENCIES		BOE-502 PREPARED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
	IF LOCAL TAX REALLOCATION IS INVOLVED, IS FORM BOE-414-L ATTACHED? <input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> REFUND CLAIM INVOLVED - SEE COMMENTS		
	LIST ALL OTHER BUSINESS TAX PERMITS HELD BY TAXPAYER ON WHICH CONCURRENT AUDITS HAVE BEEN MADE		CORPORATION WITH 50 OR MORE EMPLOYEES? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
			SELLER OF TOBACCO PRODUCTS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
			UNDERGROUND STORAGE TANK? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
		SELLER OF TIRES? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
<input type="checkbox"/> VERIFY TAX PAYMENTS: IF TAX PAYMENT MADE UNDER DIFFERENT PERMIT, INDICATE NUMBER.					
COMMENTS REGARDING CIGARETTE INDICIA INSPECTION:		DIRECTIVES PROVIDED TO TAXPAYER OR REPRESENTATIVE Publications: 17 Yes 70 Yes 76 Yes			

USE REVERSE SIDE FOR ADDITIONAL COMMENTS

GENERAL COMMENTS

Food Sales

The taxpayer comes under the 80-80 rule with over 80% of sales being food and over 80% of food sales being taxable. Taxpayer did not elect to separately account for the sale of take-out or to go orders of cold food products which are suitable for consumption on the premises. Food sales claimed were for items not suitable for consumption on the taxpayer's premises, i.e., whole pies & gallons of ice cream. Register tapes for March, 2006 were traced to the sales journal with no errors noted. No errors in Food Sales claimed were indicated.

Sales Tax Included

Sales tax is calculated automatically by the taxpayer's cash register. A spot check of the amount of tax computed and collected disclosed no errors and no excess sales tax reimbursement. Register tapes were spot checked to the sales journal entries. Total Sales per register tapes including tax were found to be recorded in the sales journal and included in Gross Receipts on the Sales Tax Returns. Sales Tax Return worksheets were examined for proper calculation of tax included. No errors were found in claimed tax included.

"No Change" Phase of a Tax Change Audit
 BOE-414-C (FRONT) REV. 22 (3-05)
REPORT OF EXAMINATION OF RECORDS - SALES AND USE TAXES

Exhibit 12
 STATE OF CALIFORNIA
 BOARD OF EQUALIZATION

(*BLOCKS ARE FOR HEADQUARTERS USE)

NAME OF TAXPAYER		ACCOUNT NUMBER		CASE ID	
		SR AC 013-000000			
BUSINESS ADDRESS FOR UNREGISTERED ACCOUNTS		<input type="checkbox"/> CHECK IF LEGAL	DATE OF REPORT	R.G. YEAR	R.G. CODE
			05/02/2006		
NAME AND TITLE OF REPRESENTATIVE		PERIOD EXAMINED			O.M.A.
		FROM: TO:			
IS TAXPAYER'S PERMIT CORRECT?		BUS CODE	ACTIVE C.O.	BOE-406 PREPARED	ID CLASS AUDITOR HOURS
<input type="checkbox"/> YES <input type="checkbox"/> SEE COMMENTS			<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> YES <input type="checkbox"/> NO	007 2 S. Grey
CLASS OF BUSINESS		REVIEWER		DATE OF REVIEW	CELL
		*MO/YR TRANS.	*PROCESSED BY	SUPERVISOR	

VERIFICATION

RECORDS	LOCATION (if other than B.A.)
<input type="checkbox"/> D.E. <input type="checkbox"/> S.E. <input type="checkbox"/> ADEQUATE <input type="checkbox"/> INTERNAL CONTROLS <input type="checkbox"/> SEE COMMENTS	

C	GROSS RECEIPTS	REPORTED MEASURE OF STATE TAX	MARK UP TESTS ON		OTHER ITEMS VERIFIED AS REPORTED OR INAPPLICABLE		
		THOUSANDS OF \$	<input type="checkbox"/> GROSS	<input type="checkbox"/> EX TAX	<input type="checkbox"/> CAPITAL ASSET SALES	<input type="checkbox"/> EXPENSE CREDITS	
			<input type="checkbox"/> TAXABLE	<input type="checkbox"/> TAX INCLUDED			
		REPORTED SALES CONSISTENT WITH	FROM	TO	RATE		
	<input type="checkbox"/> BOOKS <input type="checkbox"/> INCOME TAX RETURN <input type="checkbox"/> CASH RECEIPTS				<input type="checkbox"/> DELIVERY CHARGES <input type="checkbox"/> FABRICATION LABOR		
	<input type="checkbox"/> EXPENSES <input type="checkbox"/> SIZE OF BUSINESS				<input type="checkbox"/> TRADE-INS <input type="checkbox"/> REPOSSESSIONS		
	<input type="checkbox"/> SALES TAX ACCRUAL ACCOUNT				<input type="checkbox"/> TRANSIT TAX <input type="checkbox"/> SEE COMMENTS		

D	USE TAX	<input type="checkbox"/> CAPITAL ASSET ADDITIONS	<input type="checkbox"/> CONSUMABLE SUPPLIES	<input type="checkbox"/> RENTAL EQUIPMENT	<input type="checkbox"/> PERSONAL USE
		<input type="checkbox"/> INVENTORY WITHDRAWALS	<input type="checkbox"/> CHARGES TO EXPENSE	<input type="checkbox"/> ADVERTISING	<input type="checkbox"/> LOCAL USE TAX
		ARE REPORTED ITEMS?	<input type="checkbox"/> ACTUAL	<input type="checkbox"/> ESTIMATED	<input type="checkbox"/> SEE COMMENTS

E	DEDUCTIONS	ITEMS	CLAIMED	NETTED	TRACED INTO RECORDS FOR PERIODS	SPOT TESTED	OTHER VERIFICATION
		Resale	X		March, 2006		Resale Certificates
		U.S. Government	X		March, 2006		Purchase Orders
		Cash Discounts	X		March, 2006		See Gen. Comments
		Tax Paid Purchases Resold	X		March, 2006		See Gen. Comments

F	OTHER	DATE FORM BOE-523 PREPARED TO CLEAR DELINQUENCIES	BOE-502 PREPARED? <input type="checkbox"/> YES <input type="checkbox"/> NO
		IF LOCAL TAX REALLOCATION IS INVOLVED, IS FORM BOE-414-L ATTACHED? <input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> REFUND CLAIM INVOLVED - SEE COMMENTS
		LIST ALL OTHER BUSINESS TAX PERMITS HELD BY TAXPAYER ON WHICH CONCURRENT AUDITS HAVE BEEN MADE	CORPORATION WITH 50 OR MORE EMPLOYEES? <input type="checkbox"/> YES <input type="checkbox"/> NO
			SELLER OF TOBACCO PRODUCTS? <input type="checkbox"/> YES <input type="checkbox"/> NO
			UNDERGROUND STORAGE TANK? <input type="checkbox"/> YES <input type="checkbox"/> NO
	SELLER OF TIRES? <input type="checkbox"/> YES <input type="checkbox"/> NO		
	<input type="checkbox"/> VERIFY TAX PAYMENTS: IF TAX PAYMENT MADE UNDER DIFFERENT PERMIT, INDICATE NUMBER.		
COMMENTS REGARDING CIGARETTE INDICIA INSPECTION:	DIRECTIVES PROVIDED TO TAXPAYER OR REPRESENTATIVE		
	Publications: 17	70	
		76	

USE REVERSE SIDE FOR ADDITIONAL COMMENTS

FORM BOE-596 – OFFICE WAIVER

EXHIBIT 13

BOE-596 REV. 20 (8-05)
REPORT ON ACCOUNT BEING WAIVED FOR AUDIT

STATE OF CALIFORNIA
 BOARD OF EQUALIZATION

To: Headquarters – Audit Determination and Refund Section (after IRIS transmittal)

From: Auditing – Sacramento	DATE 09/25/2005	<input type="checkbox"/> Check if C. O.
Re: Taxpayer	ACCOUNT NUMBER SR KH 022-000000	CASE ID 29948
AUDIT BEING WAIVED THROUGH (for annual accounts show last quarter of year) Quarter: 2 - 2005 Year: 9900		OMA K H
1. CELL 5	2. BUSINESS CODE 67	3. IS SELLER'S PERMIT CORRECT? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> See comments
4. NATURE OF BUSINESS		

5a. Field investigation
 (check one or more of the following as applicable)

Bankruptcy, assignment, or probate

Audit waived to keep all related accounts on same basis for audit selection purposes

Key Account Number:

5b.* Audit waived as a result of office review
 (check one or more of the following as applicable)

Waiving audit for account in cell 1-6

Form BOE-414 on hand

Bankruptcy, assignment or probate

Audit waived to keep all related accounts on same basis for audit selection purposes

Key Account Number: SR KH 023-000000

6. BRIEF EXPLANATION OF FIELD RECOMMENDATION

7. CIGARETTE INDICIA INSPECTION COMMENT

8a. UNDERGROUND STORAGE TANK? <input type="checkbox"/> Yes <input type="checkbox"/> No	8b. SELLER OF TIRES? <input type="checkbox"/> Yes <input type="checkbox"/> No	8c. SELLER OF TOBACCO PRODUCTS? <input type="checkbox"/> Yes <input type="checkbox"/> No	8d. CORPORATION WITH 50 OR MORE EMPLOYEES? <input type="checkbox"/> Yes <input type="checkbox"/> No
9. HOURS EXPENDED ON FIELD INVESTIGATION (whole hours only)	10. RECOVERY GROUP YEAR 9900	11. RECOVERY GROUP CODE E	
REPORT MADE BY (ID, class, name) ID: 007 Class: 2 Name: S. Grey			
APPROVED BY (cells 1-5 to be approved by DPA)		PUBLICATIONS PROVIDED TO TAXPAYER OR REPRESENTATIVE Publications: 17: 70: 76:	

*If office waiver – complete 1, 2, 5b, 10 and 11.

Due to limited scope of review, this form does not constitute written advice under section 6596 of the Sales and Use Tax Law.

Date

BOE-596 REV. 20 (8-05)
REPORT ON ACCOUNT BEING WAIVED FOR AUDIT

STATE OF CALIFORNIA
 BOARD OF EQUALIZATION

To: Headquarters – Audit Determination and Refund Section (after IRIS transmittal)

From: Auditing – Sacramento		DATE 09/25/2005	<input type="checkbox"/> Check if C. O.
Re: Taxpayer		ACCOUNT NUMBER SR KH 022-000000	CASE ID 29949
AUDIT BEING WAIVED THROUGH (for annual accounts show last quarter of year) Quarter: 2 Year: 2005			OMA K H
1. CELL 7	2. BUSINESS CODE 36	3. IS SELLER'S PERMIT CORRECT? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> See comments	
4. NATURE OF BUSINESS Restaurant with on-sale distilled spirits			

<p>5a. <input checked="" type="checkbox"/> Field investigation <i>(check one or more of the following as applicable)</i></p> <p><input type="checkbox"/> Bankruptcy, assignment, or probate</p> <p><input type="checkbox"/> Audit waived to keep all related accounts on same basis for audit selection purposes</p> <p>Key Account Number:</p>	<p>5b.* <input type="checkbox"/> Audit waived as a result of office review <i>(check one or more of the following as applicable)</i></p> <p><input type="checkbox"/> Waiving audit for account in cell 1-6</p> <p><input type="checkbox"/> Form BOE-414 on hand</p> <p><input type="checkbox"/> Bankruptcy, assignment or probate</p> <p><input type="checkbox"/> Audit waived to keep all related accounts on same basis for audit selection purposes</p> <p>Key Account Number:</p>
--	--

6. BRIEF EXPLANATION OF FIELD RECOMMENDATION
 A cursory examination of records indicate that an audit is not warranted.

7. CIGARETTE INDICIA INSPECTION COMMENT
 Unable to inspect. Cigarettes are sold only through vending machines owned by H.G. Vending Company.

8a. UNDERGROUND STORAGE TANK? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	8b. SELLER OF TIRES? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	8c. SELLER OF TOBACCO PRODUCTS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	8d. CORPORATION WITH 50 OR MORE EMPLOYEES? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9. HOURS EXPENDED ON FIELD INVESTIGATION (whole hours only) 3	10. RECOVERY GROUP YEAR 2005	11. RECOVERY GROUP CODE E	
REPORT MADE BY (ID, class, name) ID: 009 Class: 3 Name: Harry Chan			
APPROVED BY (cells 1-5 to be approved by DPA)		PUBLICATIONS PROVIDED TO TAXPAYER OR REPRESENTATIVE Publications: 17: 70: 76:	

*If office waiver – complete 1, 2, 5b, 10 and 11.

Due to limited scope of review, this form does not constitute written advice under section 6596 of the Sales and Use Tax Law.

Date

- Original Waiver
- Extension to Original Waiver

Account No. SR Y AC 012-345678

BEFORE SIGNING THE WAIVER OF LIMITATION SEE THE REVERSE (Page 2) FOR INFORMATION

In consideration that the Board of Equalization of the State of California forbear making deficiency determinations within the limitation period prescribed by:

- Section 6487 of the California Sales and Use Tax Law and, where applicable, local ordinances pursuant to the Uniform Local Sales and Use Tax, and Transactions (Sales) and Use Tax.
- Section 38417 of the California Timber Yield Tax Law.
- Other – _____

(Copies of applicable Revenue and Taxation Code sections will be provided upon request)

Until the Board has made further examination of records, the undersigned hereby consents to an extension

through April 30, 2006 of the time within which such determinations may be mailed for the period from July 1, 2002 through December 31, 2002.

If the undersigned has previously granted extensions for period(s) included in the period noted above, those extensions are incorporated herein.

The undersigned further agrees to retain for audit purposes all records and supporting data pertaining to the period to which an extension is granted. The undersigned is aware that this agreement also allows a claim for refund to be filed for overpayments or for offsetting any overpayments made with respect to the agreed period through the extension date.

Dated 7/21/2005

NS Technology Company
FIRM NAME

at Van Nuys CA
CITY STATE

*By _____

THOMAS SMITH
PRINT NAME OF SIGNATORY

Owner
CAPACITY

* Signatory, if not a corporate officer, partner or owner, certifies under penalty of perjury that he or she holds a power of attorney to execute this document.

Accepted: State Board of Equalization

By _____

J C CONLAN
PRINT NAME OF SIGNATORY

Tax Auditor
CAPACITY

FOR BOARD USE ONLY
Case ID No. <u>29945</u>
Supervisor's initials _____

WAIVER OF LIMITATION

- Original Waiver
- Extension to Original Waiver

Account No. SR Y AC 012-345678

BEFORE SIGNING THE WAIVER OF LIMITATION SEE THE REVERSE (Page 2) FOR INFORMATION

In consideration that the Board of Equalization of the State of California forbear making deficiency determinations within the limitation period prescribed by:

- Section 6487 of the California Sales and Use Tax Law and, where applicable, local ordinances pursuant to the Uniform Local Sales and Use Tax, and Transactions (Sales) and Use Tax.
- Section 38417 of the California Timber Yield Tax Law.
- Other – _____

(Copies of applicable Revenue and Taxation Code sections will be provided upon request)

Until the Board has made further examination of records, the undersigned hereby consents to an extension

through July 31, 2006 of the time within which such determinations may be mailed for the period
from July 1, 2002 through March 31, 2003.

If the undersigned has previously granted extensions for period(s) included in the period noted above, those extensions are incorporated herein.

The undersigned further agrees to retain for audit purposes all records and supporting data pertaining to the period to which an extension is granted. The undersigned is aware that this agreement also allows a claim for refund to be filed for overpayments or for offsetting any overpayments made with respect to the agreed period through the extension date.

Dated 4/14/2006

NS Technology Company
FIRM NAME

at Van Nuys CA
CITY STATE

*By _____

THOMAS SMITH
PRINT NAME OF SIGNATORY

Owner
CAPACITY

* Signatory, if not a corporate officer, partner or owner, certifies under penalty of perjury that he or she holds a power of attorney to execute this document.

Accepted: State Board of Equalization

By _____

J C CONLAN
PRINT NAME OF SIGNATORY

Tax Auditor
CAPACITY

FOR BOARD USE ONLY
Case ID No. <u>29945</u>
Supervisor's initials _____

WAIVER OF LIMITATION

BOARD OF EQUALIZATION

- Original Waiver
- Extension to Original Waiver

Account No. SRY DH 123-456789

BEFORE SIGNING THE WAIVER OF LIMITATION SEE THE REVERSE (Page 2) FOR INFORMATION

In consideration that the Board of Equalization of the State of California forbear making deficiency determinations within the limitation period prescribed by:

- Section 6487 of the California Sales and Use Tax Law and, where applicable, local ordinances pursuant to the Uniform Local Sales and Use Tax, and Transactions (Sales) and Use Tax.

- Section 38417 of the California Timber Yield Tax Law

- Other - _____

NOTE: The extension must be through January 31, April 30, July 31, or October 31 even though the taxpayer's reporting period ends on another date.

(Copies of applicable Revenue and Taxation Code sections will be provided upon request)

Until the Board has made further examination of records, the undersigned hereby consents to an extension

through January 31, 2007 of the time within which such determinations may be mailed for the period

from December 24, 2002 through September 21, 2003

If the undersigned has previously granted extensions for period(s) included in the period noted above, those extensions are incorporated herein.

The undersigned further agrees to retain for audit purposes all records and supporting data pertaining to the period to which an extension is granted. The undersigned is aware that this agreement also allows a claim for refund to be filed for overpayments or for offsetting an

NOTE: Although the waiver extends the statute through January 31, 2007, it must be signed by the taxpayer before October 21, 2006, the expiration date of the period ending June 22, 2003.

Dated 10/10/2006

Taxpayer L Company

FIRM NAME

at Fresno CA
CITY STATE

*By _____

Taxpayer L
PRINT NAME OF SIGNATORY

President
CAPACITY

* Signatory, if not a corporate officer, partner or owner, certifies under penalty of perjury that he or she holds a power of attorney to execute this document.

Accepted: State Board of Equalization

By _____

Randolph Rodriguez
PRINT NAME OF SIGNATORY

Tax Auditor
CAPACITY

FOR BOARD USE ONLY
Case ID No. 33621
Supervisor's initials _____

**ALLOCATION OF LOCAL SALES & USE TAX –
SPECIAL IN-STATE ACCOUNTS**

EXHIBIT 19

**Decision Table
Allocation of Local Sales and Use Tax
(Special In-State Accounts)**

Existing Condition	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Construction Contractor	Y	Y	Y														
Auctioneer				Y	Y	Y											
Vending Machine Operator:																	
Generally in Home County							Y										
Substantial Operations in Various Counties								Y									
Section 6015 Retailer									Y	Y	Y						
Traveling Permits												Y					
Out-of-State Seller Close to California Border													Y				
Interstate Sales (Direct Delivery to Customer)														Y			
Interstate Sales (Title Passage Out-of-State)														Y			
Lessor																	
Short term leases of TPP* (30 days or less)															Y		
Long term leases of TPP* (more than 30 days)																Y	
Ex-Tax Purchases:																	
Used at Permanent Place of Business																Y	
Used at Location Not Requiring Permit																	Y
Small Operator (Less than \$600 Local Tax a Year)	Y			Y					Y								
Large Operator (More than \$600 Local Tax a Year)	Y	Y		Y	Y				Y								
Regular Retail Sales from Permanent Business Address			Y			Y					Y						

Allocate Tax To	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Area Code of Permanent Place of Business			X			X					X				X		
Countywide Code (xx999) of:																	
County of Jobsite, Auction, or Vending Machine		X			X			X									
County of Permanent Business Address Location	X			X			X	X									
County From Which Salesman Operates									X								
County of Destination												X	X				
County of Use																X	X
County of Mailing Address												X					

*See AM section 0618.10 for the allocation of local taxes to leases of motor vehicles.

**ALLOCATION OF LOCAL SALES & USE TAX –
SPECIAL OUT-OF-STATE ACCOUNTS**

EXHIBIT 20

**Decision Table
Allocation of Local Sales and Use Tax
(Out-of-State Accounts)**

Existing Condition	1	2	3	4	5	6	7	8	9	10	11	12	13
Construction Contractor Installing Materials & Fixtures						Y							
Construction Contractor Making Regular Retail Sales							Y						
Property Purchased Ex-Tax and Consumed at a Permitted Place of Business								Y					
Property Purchased Ex-Tax at a Location for Which a Permit is Not Required									Y				
Cert U Unable to Furnish Allocation										Y			
Delivery From Stock of Goods or Warehouse in California		Y											
No Place of Business in California	Y	Y											
Place of Business in California			Y	Y	Y		Y	Y					
Sales Negotiated at Out-of-State Location			Y										
Sales Negotiated at In-State Location				Y	Y								
Title Passage Out-of-State			Y		Y								
Title Passage In-State				Y									
Interstate Sales Made Throughout California and Impractical To Furnish County Allocation of the Local Tax											Y		
Lessor													
Short term leases of TPP* (30 days or less)												Y	
Long term leases of TPP* (more than 30 days)													Y

Allocate Tax To	1	2	3	4	5	6	7	8	9	10	11	12	13
Area Code Assigned to Place of Business				X			X	X					X
Countywide Code (xx999) of:													
County of Use or Where Property is Installed	X		X		X	X			X			X	
County Where Stock of Goods or Warehouse		X											
Statewide Code (59999)										X	X		

*See AM section 0618.10 for the allocation of local taxes to leases of motor vehicles.

TAX RETURN AND/OR ACCOUNT ADJUSTMENT NOTICE

TO: Headquarters — Return Analysis Section/Support Unit, MIC:35

From: EA - Auditing

Date: 11/15/2005

By: J. McGuire Phone: (714) 555-1212

WHEN TWO ACCOUNTS ARE INVOLVED, HEADQUARTERS REQUIRES TWO COPIES

ACCOUNT TRANSFER OR ADJUSTMENT FROM			ACCOUNT TRANSFER OR ADJUSTMENT TO																																
AREA CODE 30012-000-000	ACCOUNT NUMBER SR EA 024-000123	SUB NO. MASTER	AREA CODE 30012-000-000	ACCOUNT NUMBER SR EA 024-000000	SUB NO. MASTER																														
NAME			NAME																																
REPORTING BASIS <input type="checkbox"/> M <input type="checkbox"/> Q <input type="checkbox"/> Y <input type="checkbox"/> FY <input type="checkbox"/> QP			REPORTING BASIS <input type="checkbox"/> M <input type="checkbox"/> Q <input type="checkbox"/> Y <input type="checkbox"/> FY <input type="checkbox"/> QP																																
<input type="checkbox"/> Close Out Date _____ <input type="checkbox"/> Did Not Operate			<input type="checkbox"/> Close Out _____ <input type="checkbox"/> Did Not Operate																																
BUS. CODE			BUS. CODE																																
Change STARTING DATE from _____ to _____			Change STARTING DATE from _____ to _____																																
Change CLOSING DATE from _____ to _____			Change CLOSING DATE from _____ to _____																																
TRANSFER RETURNS																																			
3 <input checked="" type="checkbox"/> Return(s) Period * From (Per.) 1/1/2005 to (Per.) 6/30/2005																																			
<input type="checkbox"/> Prepayment(s) # _____																																			
Amount \$ _____ Batch # _____ Cash Date _____																																			
TRANSFER REVENUE																																			
4 <input type="checkbox"/> Payments(s) Period From _____ to _____																																			
<input type="checkbox"/> Transfer Balance Amount \$ _____																																			
CLEAR DELINQUENCIES																																			
5 Partial Period Return from _____ Adjust RSI to _____																																			
MM/DD/YY MM/DD/YY MM/DD/YY MM/DD/YY																																			
SPLIT PERIOD																																			
6 <input type="checkbox"/> Payments(s) As Filed Period* _____ Account Number _____																																			
<input type="checkbox"/> Return(s) Included Period* _____ Account Number _____																																			
<input type="checkbox"/> Prepayment(s) # _____																																			
Adjustment shown below. When more than one return or payment is to be adjusted between accounts, prepare and attach separate schedule.																																			
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Delinq. Established</th> <th style="width: 30%;">CORRECT ALLOCATION</th> <th style="width: 30%;">AS FILED</th> <th style="width: 30%;">CORRECT ALLOCATION</th> <th style="width: 15%;">Delinq. Cleared</th> </tr> </thead> <tbody> <tr> <td>Transfer From</td> <td>Acct. No.</td> <td>Account Number</td> <td>Acct. No.</td> <td>Transfer To</td> </tr> <tr> <td>a. Delinquent Periods*</td> <td>From: To:</td> <td></td> <td>From: To:</td> <td>b. Delinquent Periods*</td> </tr> <tr> <td></td> <td>Total Tax \$</td> <td>\$</td> <td>Total Tax \$</td> <td></td> </tr> <tr> <td colspan="5" style="text-align: center;">SEE REVERSE SIDE FOR DETAILS</td> </tr> <tr> <td colspan="5" style="text-align: center;">FOR HEADQUARTERS USE ONLY</td> </tr> </tbody> </table>						Delinq. Established	CORRECT ALLOCATION	AS FILED	CORRECT ALLOCATION	Delinq. Cleared	Transfer From	Acct. No.	Account Number	Acct. No.	Transfer To	a. Delinquent Periods*	From: To:		From: To:	b. Delinquent Periods*		Total Tax \$	\$	Total Tax \$		SEE REVERSE SIDE FOR DETAILS					FOR HEADQUARTERS USE ONLY				
Delinq. Established	CORRECT ALLOCATION	AS FILED	CORRECT ALLOCATION	Delinq. Cleared																															
Transfer From	Acct. No.	Account Number	Acct. No.	Transfer To																															
a. Delinquent Periods*	From: To:		From: To:	b. Delinquent Periods*																															
	Total Tax \$	\$	Total Tax \$																																
SEE REVERSE SIDE FOR DETAILS																																			
FOR HEADQUARTERS USE ONLY																																			
DATE OF KNOWLEDGE _____ (RE: CPPM Chpt 3)																																			
EXPLAIN AND ATTACH PERTINENT DOCUMENTS _____																																			
8																																			
Document transfer effected:																																			
See reverse side:																																			

HEADQUARTERS ROUTING	*PERIOD = Monthly — Jan 00	Quarterly — 1Q00	Prepay — p#1	Yearly — YR00	Fiscal Yearly — FY00
TSD MIC:26	RETURN ANALYSIS MIC:35	LOCAL REV. ALLOCATION MIC:27	LOCAL REV. REGISTRATION MIC:27	SPECIAL PROCEDURES MIC:55	

TAX RETURN AND/OR ACCOUNT ADJUSTMENT NOTICE

**RECAP ITEM 6B — FRONT
TOTAL REPORTED ERRONEOUSLY**

CORRECT ALLOCATION			UNDER	CORRECT ALLOCATION		
ACCT. NO.	TAX MEASURE		ACCOUNT NUMBER	ACCT. NO.	TAX MEASURE	
From:	To:			From:	To:	
State-County Tax Measure	\$		\$	State-County Tax Measure	\$	
Local Tax Measure	\$		\$	Local Tax Measure	\$	
BART	001	\$	\$	BART	001	\$
BART-A	020	\$	\$	BART-A	020	\$
ACTA	010	\$	\$	ACTA	010	\$
BART/ACTA	011	\$	\$	BART/ACTA	011	\$
ACTI	079	\$	\$	ACTI	079	\$
BART/ACTI	080	\$	\$	BART/ACTI	080	\$
CLPS	058	\$	\$	CLPS	058	\$
BART-CC	021	\$	\$	BART-CC	021	\$
CCTA	024	\$	\$	CCTA	024	\$
BART/CCTA	025	\$	\$	BART/CCTA	025	\$
FCTA	012	\$	\$	FCTA	012	\$
FCPL	071	\$	\$	FCPL	071	\$
FCTA/FCPL	072	\$	\$	FCTA/FCPL	072	\$
CCPS	073	\$	\$	CCPS	073	\$
FCTA/FCPL/CCPS	074	\$	\$	FCTA/FCPL/CCPS	074	\$
IMTA	029	\$	\$	IMTA	029	\$
CXHD	045	\$	\$	CXHD	045	\$
IMTA/CXHD	046	\$	\$	IMTA/CXHD	046	\$
INRC	014	\$	\$	INRC	014	\$
LACT	005	\$	\$	LACT	005	\$
LATC	035	\$	\$	LATC	035	\$
LACT/LATC	036	\$	\$	LACT/LATC	036	\$
AMHC	077	\$	\$	AMHC	077	\$
LACT/LATC/AMHC	078	\$	\$	LACT/LATC/AMHC	078	\$
MCTA	034	\$	\$	MCTA	034	\$
MCHA	076	\$	\$	MCHA	076	\$
NCFP	065	\$	\$	NCFP	065	\$
NVPL	067	\$	\$	NVPL	067	\$
TRSR	068	\$	\$	TRSR	068	\$
NVPL/TRSR	069	\$	\$	NVPL/TRSR	069	\$
OCTA	037	\$	\$	OCTA	037	\$
PLPS	070	\$	\$	PLPS	070	\$
RCTC	026	\$	\$	RCTC	026	\$
STAT	023	\$	\$	STAT	023	\$
SBTU	053	\$	\$	SBTU	053	\$
SBER	031	\$	\$	SBER	031	\$
SDTC	013	\$	\$	SDTC	013	\$
BART-SF	022	\$	\$	BART-SF	022	\$
SFTA	027	\$	\$	SFTA	027	\$
SFPF	051	\$	\$	SFPF	051	\$
BART/SFTA/SFPF	052	\$	\$	BART/SFTA/SFPF	052	\$
SJTA	038	\$	\$	SJTA	038	\$
SMCT	002	\$	\$	SMCT	002	\$
SMTA	018	\$	\$	SMTA	018	\$
SMCT/SMTA	019	\$	\$	SMCT/SMTA	019	\$
SBAB	030	\$	\$	SBAB	030	\$
SCCT	003	\$	\$	SCCT	003	\$
SCGF	063	\$	\$	SCGF	063	\$
SCCT/SCGF	064	\$	\$	SCCT/SCGF	064	\$
SCMT	004	\$	\$	SCMT	004	\$
SZPL	061	\$	\$	SZPL	061	\$
SCMT/SZPL	062	\$	\$	SCMT/SZPL	062	\$
SLPL	066	\$	\$	SLPL	066	\$
SCOS	039	\$	\$	SCOS	039	\$
STCL	059	\$	\$	STCL	059	\$
TCTU	060	\$	\$	TCTU	060	\$
WOGT	075	\$	\$	WOGT	075	\$
SLRF	055	\$	\$	SLRF	055	\$
LPSF	056	\$	\$	LPSF	056	\$
ASUT	057	\$	\$	ASUT	057	\$
TOTAL TAXABLE MEASURE	\$		\$	TOTAL TAXABLE MEASURE	\$	

* Total Forward To Front (Section 6)

To report or adjust expired district taxes not listed above, a separate schedule should be prepared and attached.

(RE: Add-on codes in Chpt. 1 of BTCB)

**PREPAYMENT OF SALES TAX ON GASOLINE, DIESEL FUEL,
AND JET FUEL**

EXHIBIT 22

Since July 1, 1986, distributors have been required by Article 1.5 of the California Sales and Use Tax Law, beginning at Section 6480, to collect prepayment of retail sales tax on the first distribution in this state of motor vehicle fuel. From January 1, 1992 to December 31, 2001, producers and importers of fuel were required by Article 1.6 of the law, beginning at Section 6480.10, to collect prepayment of retail sales tax on first sales of fuel to persons in this state. Beginning January 1, 2002, suppliers and wholesalers of motor vehicle fuel are required to collect prepaid tax when the fuel is removed from the terminal rack, entered into California, or sold for resale at any point after removal from the terminal rack.

Period Beginning - Ending	Date Adopted	Rate of (U.S. Cents Gasoline	Prepay Per Gallon) Diesel Fuel
07/01/86 - 03/31/87	Original Legislation	4.0	
04/01/87 - 03/31/88	10/86	4.5	
04/01/88 - 03/31/89	10/87	4.5	
04/01/89 - 03/31/90	10/88	4.5	
04/01/90 - 12/31/90	10/89	4.0	
01/01/91 - 06/30/91	10/90	6.0	
07/01/91 - 12/31/91	05/91	4.5	
01/01/92 - 03/31/92	05/91	4.5	3.0
04/01/92 - 09/30/92	10/91	5.0	3.5
10/01/92 - 03/31/93	07/92	6.0	4.5
04/01/93 - 03/31/94	10/92	6.5	5.0
04/01/94 - 03/31/95	10/93	6.5	5.0
04/01/95 - 03/31/96	10/94	6.5	5.0
04/01/96 - 03/31/97	10/95	7.0	5.5
04/01/97 - 03/31/98	10/96	8.0	6.5
04/01/98 - 03/31/99	10/97	7.5	6.0
04/01/99 - 3/31/2000	10/98	7.0	5.5
04/01/2000 - 3/31/2001	10/99	8.5	6.5
04/01/2001 - 3/31/2002	10/2000	9.5	8.0
04/01/2002 - 3/31/2003	10/2001	9.5	7.5
04/01/2003 - 3/31/2004	10/2002	9.0	7.0
04/01/2004 - 3/31/2005	10/2003	10.0	8.0
04/01/2005 - 3/31/2006	10/2004	11.5	10.5
04/01/2006 - 3/31/2007	10/2005	14.5	14.5

BOE-1296 REV. 4 (1-07)

STATE OF CALIFORNIA
BOARD OF EQUALIZATION

ACCOUNT UPDATE INFORMATION (To be completed by the auditor)

TO: _____ - District Principal _____ Compliance Supervisor	Active C.O.	ACCOUNT NUMBER DAYTIME PHONE NO. ()
CURRENT OWNER(S) NAME(S)		TYPE OF ACCOUNT AND ACCT. NO. (commercial, savings, trust, reserve)
NAME AND ADDRESS OF BANK OR OTHER FINANCIAL INSTITUTION <i>(List all locations where taxpayer makes deposits or has reserves.)</i>		
NAME AND ADDRESS OF CREDIT CARD PROCESSOR		ACCT. NO.
MAJOR ACCOUNTS AND NOTES RECEIVABLE - NAME AND ADDRESS <i>(Schedule of large items. If more space is needed, use reverse or prepare separate list.)</i>		APPROXIMATE AMOUNT OWED TAXPAYER
NAMES AND ADDRESSES OF MAJOR SUPPLIERS <i>(street, city, state, zip code)</i>		IF CORPORATION, PROVIDE THE FOLLOWING INFORMATION ON THE CORPORATE OFFICER CHARGED WITH THE RESPONSIBILITY FOR FILING THE RETURNS OR THE PAYMENT OF TAX:
		Name
		Address
		Title
		Period of control – see section 6829(a)
		From _____ to _____
WAS TAX REIMBURSEMENT INCLUDED IN OR ADDED TO THE SELLING PRICE? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, what records show this? <i>(attach samples)</i>		Name
		Address
		Title
		Period of control – see section 6829(a)
		From _____ to _____
OTHER PERMIT HELD BY TAXPAYER		Name
		Address
		Title
		Period of control – see section 6829(a)
		From _____ to _____
AUDITOR	DATE	OFFICE

USE REVERSE IF MORE SPACE IS NEEDED FOR ANY OF THE CATEGORIES SHOWN ABOVE.

For Original, Revised, Waived or "No-Change" Audits

BOE-79-A	Taxpayer disagrees – 10 days to respond
BOE-79-AP	Taxpayer disagrees; Partial Phone billing has been issued
BOE-79-B	Taxpayer disagrees
BOE-79-B1	Taxpayer noncommittal or no discussion
BOE-79-C	Taxpayer agrees with determination
BOE-79-C1	Revised audit
BOE-79-D	Taxpayer agrees with refund
BOE-79-E	"No-change" audit
BOE-79-F	Waived audit

Reaudit Transmittal Letters

BOE-89-A	Taxpayer disagrees – 10 days to respond
BOE-89-A1	Taxpayer disagrees - 10 days to respond; Late protest not accepted by HQ
BOE-89-B	Taxpayer disagrees – Hearing requested
BOE-89-C	Taxpayer agrees with determination or refund
BOE-89-C1	Taxpayer agrees with determination or refund; Late protest not accepted by HQ
BOE-89-D	Taxpayer noncommittal or no discussion
BOE-89-E	Taxpayer disagrees – no hearing requested
BOE-89-F	Taxpayer disagrees or noncommittal; District accepted late protest
BOE-89-G	Adjustment resulted from appeals staff's D & R

Field Billing Order Transmittal Letters

BOE-235-A	Taxpayer disagrees – 10 days to respond
BOE-235-B	Taxpayer disagrees – FBO forwarded to HQ
BOE-235-B1	Taxpayer noncommittal or no discussion
BOE-235-C	Taxpayer agrees with determination
BOE-235-D	Taxpayer agrees with refund

BOE-502, SUGGESTED LEGISLATIVE CHANGES

EXHIBIT 26

BOE-502 REV. 1 (1-92)

SUGGESTED LEGISLATIVE CHANGES

STATE OF CALIFORNIA
BOARD OF EQUALIZATION

Auditor Name _____ Taxpayer _____

I.D. No. _____ District _____ Account Number _____

Date _____

LAW SECTION, REGULATION, OR OTHER AREA NEEDING CHANGE

If more space is needed, attach additional sheets

FULLY DESCRIBE ISSUE OR PROBLEM

RECOMMEND CHANGES OR SOLUTION

SUGGESTED LANGUAGE FOR NEW LEGISLATION, IF APPLICABLE

Account Number: _____

Case ID No.: _____

Taxpayer Name: _____

Date: _____

Form Number	Form Name	Total Copies	Form in Audit
Forms to be arranged in the order listed below			
BOE-414A/B	Report of Field Audit/Field Billing Order	1	<input type="checkbox"/>
BOE-414C	Report of Examination of Records	3	<input type="checkbox"/>
BOE-197	Allocation of Tax Change of Cooperative Audit Report	2	<input type="checkbox"/>
N/A	Go-Back Sheet with schedules superseded after the review attached	1	<input type="checkbox"/>
BOE-1161	Audit Arrangement Sheet(BLUE)	1	<input type="checkbox"/>
BOE-767	Tax, Penalty, and Interest Calculation	1	<input type="checkbox"/>
BOE-502	Suggested Legislative Changes	1	<input type="checkbox"/>
N/A	Fraud/Jeopardy Letter (Before Approved by HQ Operations Mgr)	1	<input type="checkbox"/>
414A p2	Results of Discussion of Audit Findings	1	<input type="checkbox"/>
BOE-122	Waiver of Limitation	2	<input type="checkbox"/>
BOE-392	Power of Attorney	2	<input type="checkbox"/>
BOE-101	Claim for Refund or Credit	2	<input type="checkbox"/>
R-414-A2	Reconciliation and Explanation of Reaudit/Revised Adjustments	2	<input type="checkbox"/>
N/A	Decision & Recommendation	2	<input type="checkbox"/>
BOE-836A	Report of Discussion of Audit Findings	2	<input type="checkbox"/>
N/A	Taxpayer's Letter of Protest/Petition	2	<input type="checkbox"/>
N/A	Petition Audit Summary Schedules	2	<input type="checkbox"/>
BOE-416	Petition for Redetermination	2	<input type="checkbox"/>
BOE-414L	Auditor's Worksheet- Local Sales and Use Tax Allocation	2	<input type="checkbox"/>
N/A	Reallocation Schedules	2	<input type="checkbox"/>
Schedule 20-G3	Sales Tax Prepaid on MVF Program	2	<input type="checkbox"/>
BOE-526	Managed Audit Program Participation Agreement	2	<input type="checkbox"/>
N/A	FTB Packet	1	<input type="checkbox"/>
BOE-1151	Audit Assessment Summary	2	<input type="checkbox"/>
BOE-495	Index to Audit Working Papers(BLUE)	1	<input type="checkbox"/>
BOE-414-Z	Assignment Contact History(YELLOW)	1	<input type="checkbox"/>
BOE-414-Z1	Assignment Status Summary(YELLOW)	1	<input type="checkbox"/>
BOE-414	Transcript of Returns	1	<input type="checkbox"/>
Schedule 12, ... etc.	Audit Working Papers	1	<input type="checkbox"/>
BOE-504-A ...etc. **	Use of XYZ Letter Procedure to Verify Claimed Exempt Sales	1	<input type="checkbox"/>
BOE-503-A,B,C **	Use of ABC Letter Procedure	1	<input type="checkbox"/>
BOE-472 **	Use of Sampling in Auditing	1	<input type="checkbox"/>
BOE-1311-A **	Bar Short Test Sheet	1	<input type="checkbox"/>
BOE-1311-B **	Bar Fact Sheet	1	<input type="checkbox"/>
BOE-52 **	Certificate of Verification - Out-of-State Delivery	1	<input type="checkbox"/>
BOE-52L **	Sample Letter for Seller Requesting Purchaser's Statement Regarding Receipt of Goods in Interstate Commerce	1	<input type="checkbox"/>
BOE-52-L1 **	Sample Board Letter - Re: Receipt of Goods in Interstate Commerce	1	<input checked="" type="checkbox"/>
BOE-80(A-D)	Audit Engagement Letter	1	<input type="checkbox"/>
BOE-103	Adjustment Request Memo (copy)	1	<input type="checkbox"/>
BOE-175-C	Computer Audit Feasibility Letter	1	<input type="checkbox"/>
BOE-175-D	Computer Audit Feasibility Questionnaire	1	<input type="checkbox"/>
BOE-204	Interdistrict Cooperative Audit	1	<input type="checkbox"/>
BOE-523	Tax Return and/or Account Adjustment Notice (copy)	1	<input type="checkbox"/>
BOE-579	Audit Assignment Transfer	1	<input type="checkbox"/>
BOE-945	Receipt for Books and Records of Account	1	<input type="checkbox"/>
BOE-1296	Account Update Information (copy)	1	<input type="checkbox"/>
N/A	Audit Program	1	<input type="checkbox"/>
N/A	CD or Disk in an envelope with additional information not printed in the audit - Statistical Sampling Total Population only.	1	<input type="checkbox"/>
N/A	Schedules Superseded prior to Review	1	<input type="checkbox"/>

** = To be arranged in the audit with the corresponding schedule