REGULATION HISTORY

TYPE OF REGULATION: Uniform Local Sales and Use Tax

REGULATION: 1802

TITLE: *Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes*

PREPARATION: Lynn Whitaker/Charles Arana
LEGAL CONTACT: Carole Ruwart/Cary Huxsoll

Proposed amendments to Regulation 1802(d)(1) regarding the direct allocation of local use tax on transactions of $500,000 or more.

HISTORY OF PROPOSED AMENDMENTS:

09-12-07: Public hearing

09-03-07: 45-day public comment period ends

07-20-07: OAL publication date; notice letter sent to Interested Parties

07-09-07: Notice to publish submitted to the Office of Administrative Law (OAL)

05-31-07: BTC Meeting; Board authorized amendments for publication

03-22-07: Second Interested Parties Meeting

02-08-07: First Interested Parties Meeting

10-23-06: Topic Placed on Business Taxes Committee (BTC) Calendar

Sponsor: None

Support: Alternative 1 – Board Staff, The HdL Companies, the League of California Cities, the City of San Marcos, the City of Paso Robles, and the City of Glendale
Alternative 2 – Mr. Albin Koch, MuniServices, LLC; the City of Los Angeles; and Mr. Robert Cendejas, representing the City of Ontario

Oppose: NA

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
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State Controller, Sacramento

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Executive Director

August 17, 2007

STATE BOARD OF EQUALIZATION
NOTICE OF RESCHEDULED PUBLIC HEARING

SALES AND USE TAX REGULATION 1802,
Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes

BY NOTICE dated July 20, 2007 and published in the July 20, 2007 California Regulatory Notice Register 2007, Number 29-Z, the State Board of Equalization, announced that it would conduct a public hearing on September 11, 2007 to consider proposed adoption of Regulation 1802, *Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes*, in Title 18, Division 2, Chapter 4 of the California Code of Regulations relating to sales and use tax. A decision was made to postpone the public hearing.

A rescheduled public hearing on the proposed regulation will be held on September 12, 2007, in Room 121, 450 N Street, Sacramento, CA at 9:30 a.m., or as soon thereafter as the matter may be heard.

Questions regarding the substance of the proposed regulation should be directed to Ms. Carole Ruwart (916) 322-3682, at 450 N Street, Sacramento, CA 95814, e-mail Carole.Ruwart@boe.ca.gov or MIC:82, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, e-mail Diane.Olson@boe.ca.gov or Ms. Mira Tonis, telephone (916) 319-9518, e-mail Mira.Tonis@boe.ca.gov or by mail at State Board of Equalization, Attn: Diane Olson or Mira Tonis, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080 by September 12, 2007.

STATE BOARD OF EQUALIZATION

Gary Evans, Acting Chief
Board Proceedings Division

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JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

July 20, 2007

To Interested Parties:

Notice of Proposed Regulatory Action
By the
State Board of Equalization

Proposed to Adopt Sales and Use Tax Regulation 1802,
Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes

Notice is Hereby Given

The State Board of Equalization (Board), pursuant to the authority vested in it by section 15606, subdivision (a), of the Government Code, proposes to amend Regulation 1802, Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulations will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on September 11, 2007. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by September 11, 2007.

Informative Digest/Policy Statement Overview

Current law provides that a city or county participating in the Bradley-Burns Uniform Local Sales and Use (Local) Tax system may levy a sales tax on sales consummated within that jurisdiction. Such jurisdictions may levy a complementary use tax on property stored, used, or consumed within the jurisdiction. Revenue and Taxation Code section 7204 requires all sales and use taxes collected by the Board to be distributed to the appropriate city, city and county, redevelopment agency, or county periodically as promptly as feasible. Under Revenue and Taxation Code section 7204.3, the Board is reimbursed for its administrative costs in administering the local tax system by the participating jurisdictions.

Regulation 1802, Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes, is proposed to be amended to interpret, implement and make specific Revenue and

Taxation Code section 7203. Regulation 1802 explains when local sales and use tax is directly distributed to a jurisdiction and when the tax is distributed through the medium of the countywide pool. Currently, Regulation 1802 provides that when the order for the property is sent by the purchaser directly to an out-of-state location and the property is shipped directly to the purchaser in California from a point outside this state, the transaction is subject to the local use tax of the jurisdiction where first functional use is made. If such a transaction is $500,000 or more, then retailers who are required to report California use tax on such a transaction are required to report local use tax directly to the jurisdiction of first functional use. Amendments are proposed that would eliminate the requirements that the order is made directly with a retailer outside this state and the property is shipped directly to the consumer from outside this state. On any transaction of $500,000 or more, if the seller is required to collect the local use tax on the transaction, the seller is also required to report the local use tax revenues directly to the jurisdiction of first functional use. Persons who voluntarily collect use tax under Regulation 1684 may, at their own discretion, report use tax revenues on such transactions directly to the jurisdiction of first functional use.

Cost to Local Agencies and School Districts

The State Board of Equalization has determined that the proposed amendments do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendments and regulations will result in no direct or indirect cost or savings to any State agency, or any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

Effect on Business

Pursuant to Government Code section 11346.5, subdivision (a)(8), the Board of Equalization makes an initial determination that the adoption of the amendments to Regulation 1802 will have no significant statewide adverse economic impact directly affecting business.

The adoption of the proposed amendment to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment to the regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulations may affect small business.

Cost Impact on Private Person or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant Effect on Housing Costs

No significant effect.

Federal Regulations

Regulation 1802 and the proposed changes have no comparable federal regulations.

Authority

Section 7051, Revenue and Taxation Code.

Reference

Section 7203 Revenue and Taxation Code.

Contact

Questions regarding the substance of the proposed regulation should be directed to Ms. Carole Ruwart (916) 322-3682, at 450 N Street, Sacramento, CA 95814, e-mail Carole.Ruwart@boe.ca.gov or MIC:82, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, e-mail Diane.Olson@boe.ca.gov or Ms. Mira Tonis, telephone (916) 319-9518, e-mail Mira.Tonis@boe.ca.gov or by mail at State Board of Equalization, Attn: Diane Olson or Mira Tonis, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

Alternatives Considered

The Board determined that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

Availability of Initial Statement of Reasons and Text of Proposed Regulation

The Board has prepared an initial statement of reasons and an underscored and strikeout version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's Web site http://www.boe.ca.gov.

July 20, 2007

Availability of Final Statement of Reasons

The final statement of reasons will be made available on the Internet at the Board's Web site following its public hearing of the proposed regulation. It will also be available for public inspection at 450 N Street, Sacramento, California.

Additional Comments

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

Sincerely,

Gary Evans, Acting Chief
Board Proceedings Division

GE:mnt

Enclosures

1802. PLACE OF SALE AND USE FOR PURPOSES OF BRADLEY-BURNS UNIFORM LOCAL SALES AND USE TAXES.

Reference: Sections 6012.6, 6015, 6359, 6359.45, 7202, 7203, 7203.1, 7204.03 and 7205, Revenue and Taxation Code.

(a) IN GENERAL.

(1) RETAILERS HAVING ONE PLACE OF BUSINESS. For the purposes of the Bradley-Burns Uniform Local Sales and Use Tax Law, if a retailer has only one place of business in this state, all California retail sales of that retailer in which that place of business participates occur at that place of business unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-state destination, or to a common carrier for delivery to an out-of-state destination.

(2) RETAILERS HAVING MORE THAN ONE PLACE OF BUSINESS.

(A) If a retailer has more than one place of business in this state but only one place of business participates in the sale, the sale occurs at that place of business.

(B) If a retailer has more than one place of business in this state which participate in the sale, the sale occurs at the place of business where the principal negotiations are carried on. If this place is the place where the order is taken, it is immaterial that the order must be forwarded elsewhere for acceptance, approval of credit, shipment, or billing. For the purposes of this regulation, an employee's activities will be attributed to the place of business out of which he or she works.

(3) PLACE OF PASSAGE OF TITLE IMMATERIAL. If title to the tangible personal property sold passes to the purchaser in California, it is immaterial that title passes to the purchaser at a place outside of the local taxing jurisdiction in which the retailer's place of business is located, or that the property sold is never within the local taxing jurisdiction in which the retailer's place of business is located.

(b) PLACE OF SALE IN SPECIFIC INSTANCES.

(1) VENDING MACHINE OPERATORS. The place of sale is the place at which the vending machine is located. If an operator purchases property under a resale certificate or from an out-of-state seller without payment of tax and the operator is the consumer of the property, for purposes of the use tax, the use occurs at the place where the vending machine is located.

(2) ITINERANT MERCHANTS. The place of sale with respect to sales made by sellers who have no permanent place of business and who sell from door to door for their own account shall be deemed to be in the county in which is located the seller's permanent address as shown on the seller's permit issued to him or her. If this address is in a county imposing sales and use taxes, sales tax applies with respect to all sales unless otherwise exempt. If this address is not in a county imposing sales and use taxes, he or she must collect the use tax with respect to property sold and delivered or shipped to customers located in a county imposing sales and use taxes.

(3) RETAILERS UNDER SECTION 6015. Persons regarded by the Board as retailers under Section 6015(b) of the Revenue and Taxation Code are regarded as selling tangible personal property through salespersons, representatives, peddlers, canvassers or agents who operate under or obtain the property from them. The place of sale shall be deemed to be:

(A) the business location of the retailer if the retailer has only one place of business in this state, exclusive of any door-to-door solicitations of orders, or

(B) the business location of the retailer where the principal negotiations are carried on, exclusive of any door-to-door solicitations of orders, if more than one instate place of business of the retailer participates in the sale.

The amendments to paragraph (b)(3) apply only to transactions entered into on or after July 1, 1990.

(4) AUCTIONEERS. The place of sale by an auctioneer is the place at which the auction is held. Operative July 1, 1996, auctioneers shall report local sales tax revenue to the participating jurisdiction (as defined in subdivision (d) below) in which the sales take place, with respect to auction events which result in taxable sales in an aggregate amount of $500,000 or more.

(5) FACTORY-BUILT SCHOOL BUILDINGS. The place of sale or purchase of a factory-built school building (relocatable classroom) as defined in paragraph (c)(4)(B) of Regulation 1521 (18 CCR 1521), Construction Contractors, is the place of business of the retailer of the factory-built school building regardless of whether sale of the building includes installation or whether the building is placed upon a permanent foundation.

(6) JET FUEL.

(A) For sales of jet fuel prior to January 1, 2008, the place of sale or purchase of jet fuel is the city, county, or city and county which is the point of the delivery of the jet fuel to the aircraft, if both of the following conditions are met:

1. The principal negotiations for the sale are conducted at the retailer's place of business in this state; and

2. The retailer has more than one place of business in the state.

(B) For sales of jet fuel on or after January 1, 2008, the place of sale or purchase of jet fuel is the city, county, or city and county which is the point of the delivery of the jet fuel to the aircraft.

(C) The local sales or use tax revenue derived from the sale or purchase of jet fuel under the conditions set forth in this subdivision shall be transmitted by the Board, to the city, county, or city and county where the airport is located at which such delivery occurs.

(D) Multi-Jurisdictional Airports. For the purposes of this regulation, the term "multi-jurisdictional airport" means and includes an airport that is owned or operated by a city, county, or city and county, that has enacted a state-administered local sales and use tax ordinance and as to which the owning or operating city, county, or city and county is different from the city, county, or city and county in which the airport is located. Through June 30, 2004, the local tax rate is imposed at 1.25% by Revenue and Taxation Code section 7202 (a). Operative July 1, 2004, the local tax rate is imposed at 1% by Revenue and Taxation Code section 7203.1 The local tax revenue derived from sales of jet fuel at a "multi-jurisdictional airport" shall, notwithstanding subdivision (C), be transmitted by the Board as follows:

1. In the case of the 0.25% local sales tax imposed by counties under Government Code section 29530 and Revenue and Taxation Code section 7202(a), or operative July 1, 2004, imposed by counties under Revenue and Taxation Code section 7203.1(a)(1), half of the revenue to the county which owns or operates the airport (or in which the city which owns or operates the airport is located) and half to the county in which the airport is located.

2. In the case of the remaining 1% of the local sales tax imposed by counties under Revenue and Taxation Code section 7202(a), or operative July 1, 2004, the remaining 0.75%, imposed by counties under Revenue and Taxation Code section 7203.1(a)(2), and in the case of the local sales tax imposed by cities at a rate of up to 1%, or operative July 1, 2004, at a rate of up to 0.75% under Revenue and Taxation Code section 7203.1(a)(2), and offset against the local sales tax of the county in which the city is located under Revenue and Taxation Code section 7202(h), half of the revenue to the city which owns or operates the airport and half to the city in which the airport is located. If the airport is either owned or operated by a county or is located in the unincorporated area of a county, or is owned or operated by a county and is located in the unincorporated area of a different county, the local sales tax revenue which would have been transmitted to a city under this subdivision shall be transmitted to the corresponding county.

3. Notwithstanding the rules specified in subdivisions 1. and 2., the following special rules apply:

a. In the case of retail sales of jet fuel in which the point of the delivery of the jet fuel to the aircraft and place of sale or purchase, as described in subdivision (A) or (B), is San Francisco International Airport, the Board shall transmit one-half of the local sales tax revenues derived from such sales to the City and County of San Francisco, and the other half to the County of San Mateo.

b. In the case of retail sales of jet fuel in which the point of the delivery of the jet fuel to the aircraft and place of sale or purchase, as described in subdivision (A) or (B), is Ontario International Airport, the Board shall transmit local sales taxes with respect to those sales in accordance with both of the following:

c. All of the revenues that are derived from a local sales tax imposed by the City of Ontario shall be transmitted to that city.

d. All of the revenues that are derived from a local sales tax imposed by the County of San Bernardino shall be allocated to that county.

(E) Otherwise, as provided elsewhere in this regulation.

(c) TRANSACTIONS NEGOTIATED OUT OF STATE AND DELIVERED FROM THE RETAILER'S STOCK OF TANGIBLE PERSONAL PROPERTY IN CALIFORNIA

(1) If an out-of-state retailer does not have a permanent place of business in this state other than a stock of tangible personal property, the place of sale is the city, county, or city and county from which delivery or shipment is made. Local tax collected by the Board for such sales will be distributed to that city, county, or city and county.

(2) If a retailer has a permanent place of business in this state in addition to its stocks of tangible personal property, the place of sale, in cases where the sale is negotiated out of state and there is no participation by the retailer's permanent place of business in this state, is the city, county, or city and county from which delivery or shipment is made. Local tax collected by the Board for such sales will be distributed to the city, county, or city and county from which delivery or shipment is made.

(d) ALLOCATION OF SALES TAX AND APPLICATION OF USE TAX.

Local sales tax is allocated to the place where the sale is deemed to take place under the above rules. The local use tax ordinance of the jurisdiction where the property at issue is put to its first functional use applies to such use. As used in this subdivision, the term "participating jurisdiction" means any city, city and county, or county which has entered into a contract with the Board for administration of that entity's local sales and use tax.

(1) ~~APPLICATION OF USE TAX GENERALLY.~~DIRECT REPORTING BY RETAILERS. For transactions prior to December 31, 2007. ~~(1) W~~when the order for the property is sent by the purchaser directly to the retailer at an out-of-state location and the property is shipped directly to the purchaser in this state from a point outside this state, the transaction is subject to the local use tax ordinance of the participating jurisdiction where the first functional use is made. Operative July 1, 1996, for transactions of $500,000 or more, except with respect to persons who register with the Board to collect use tax under Regulation 1684(c) (18 CCR 1684), the seller shall report the local use tax revenues derived therefrom directly to such participating jurisdiction.

Operative January 1, 2008, for transactions of $500,000 or more, if the seller is required to collect the local use tax on the transaction, except with respect to persons who register with the Board to collect use tax under Regulation 1684(c) (18 CCR 1684), then the seller shall report the local use tax revenues derived therefrom directly to the participating jurisdiction where the first functional use is made.

Persons who voluntarily collect use tax under Regulation 1684(c) may, solely at their own discretion, report the local use tax revenues on transactions of $500,000 or more directly to the participating jurisdiction where first functional use is made.

(2) DIRECT REPORTING BY PURCHASERS ~~(2)~~ Operative July 1, 1996, if a person who is required to report and pay use tax directly to the Board makes a purchase in the amount of $500,000 or more, that person shall report the local use tax revenues derived therefrom to the participating jurisdiction in which the first functional use of the property is made.

The amendments to paragraph (b)(4) ~~and paragraph (d)~~ shall apply prospectively only to transactions entered into on or after July 1, 1996. Paragraph (d) shall not apply to lease transactions.

INITIAL STATEMENT OF REASONS
OVERVIEW/NON-CONTROLLING SUMMARY

REGULATION 1802
PLACE OF SALE AND USE FOR PURPOSES OF BRADLEY-BURNS UNIFORM LOCAL SALES AND USE TAXES

Regulation 1802 explains the allocation of sales and use tax revenue derived from sales that are subject to sales and use tax ordinances levied by a city, county, or city and county (hereafter, for ease of discussion, collectively, city or cities) under the Bradley-Burns Uniform Local Sales and Use Tax (Local Tax) Law.

Specific Purpose

The purpose of the proposed amendments is to interpret, implement, and make specific Revenue and Taxation Code section 7203, a part of the Local Tax Law. These amendments are necessary to provide guidance to that portion of the public which is affected by this statute, including retailers (taxpayers), purchasers, cities, and Board staff. These amendments are also necessary to further the situs-based allocation policy supported by Interested Parties that, to the extent feasible, revenues generated from city Local Use Tax ordinances should be distributed directly to those jurisdictions instead of through the countywide pool.

Another purpose of the proposed amendments is to codify the Board's current policy that retailers who voluntarily register to collect use tax on these transactions may, at their own discretion, report local use tax revenues directly to the city of first functional use for transactions that otherwise meet the criteria for direct reporting. This codification is necessary to ensure that all taxpayers understand their reporting responsibilities under the Local Tax Law.

Factual Basis

Regulation 1802 discusses how revenue derived from sales and use taxes levied by the cities under the Local Tax Law are allocated either to where the retailer exercises its privilege of selling (sales tax), or where the purchaser uses, stores, or otherwise consumes the property purchased (use tax). Subdivision (d) explains when transactions subject to the local use tax will be distributed directly to the local jurisdiction of first functional use instead of being distributed to such local jurisdiction through the countywide pool.

Currently, subdivision (d)(1) of Regulation 1802 provides that retailers who are required to collect local use tax revenues shall report them directly to the city of first functional use only when all of the following criteria are met: (1) the transaction is over $500,000; (2) the order for the property is sent directly to the retailer at an out-of-state location; and (3) the property is shipped directly to the purchaser in this state from a point outside this state. Therefore, Board staff disallows inquiries requesting direct allocation when the order for the property is not placed directly with the retailer out-of-state, or when the property is not shipped directly to the purchaser from out-of-state. Several cities have contended that it was the intent of the sponsors

of this subdivision, operative July 1, 1996, that the direct reporting requirement applies to all use tax transactions meeting the $500,000 threshold, not just those where the order is sent directly to, and the property shipped directly from, a retailer outside this state. This position was discussed in detail in an April 6, 2007, letter from MuniServices, LLC, who represents several cities throughout the state. Disputes over the meaning of this subdivision have been the subject of numerous local tax reallocation inquiries as well as several reallocation hearings before the Board.

The proposed amendments were developed through an interested parties process through the Board's Business Taxes Committee, which consisted of two interested parties meetings, solicitation of public comment, and preparation by Board staff of three issue papers, which culminated in the Committee's consideration of the proposed amendments and one alternative. The proposed amendments authorized by the Board for publication provide partial codification of the substantive result of the Appeal of the City of Sacramento (decided November 4, 2004), in which the Board held that use tax should be directly reported for a transaction of $500,000 or more even though the order was not placed directly with the out-of-state retailer. The alternative considered and rejected by the Board proposed a similar extension of the direct reporting requirement to all use tax transactions, but did not contain an operative date and therefore would have been retroactive in effect.

Necessity

The proposed amendments prospectively mandate that retailers who are required to collect local use tax on transactions of $500,000 or greater report the local use tax revenues derived therefrom directly to the participating city where first functional use is made. The requirements that the order be sent directly to the retailer outside this state, and that the property be shipped directly to the purchaser in this state from a point outside this state, will no longer apply. Deletion of these requirements is necessary to ensure that more local use tax revenue is matched to the jurisdiction hosting the expense of public services associated with the use of the property. This policy is supported by the League of California Cities in a letter dated April 6, 2007.

The purpose of making the proposed amendments prospective in effect (by means of an operative date of January 1, 2008) is to ensure that no local jurisdiction experiences a de-allocation of funds that have been distributed and most likely spent, and that taxpayers and staff are notified of the change and have sufficient time to make any necessary record-keeping changes. Making the proposed amendments prospective in application allows all cities to plan for any changes in revenue distribution on a going-forward basis, and provides fair treatment to cities who, in reliance on Board staff's interpretation of current subdivision (d)(1) of Regulation 1802, did not (or will not) file inquiries on transactions prior to the prospective operative date of the proposed amendments. Such prospective application of the proposed amendments was supported by an April 6, 2007, letter of The HdL Companies.

Economic Impact on Private Persons or Businesses

The principal economic impact on private persons or businesses is expected to be that out-of-state retailers selling tangible personal property in non-lease use tax transactions of $500,000 or more will have to determine the place of first functional use even if the property is sold through a broker or if the property is not shipped directly from out-of-state. (The place of first functional use is presumed to be the place where the property is shipped.) This potential impact on taxpayers is not expected to be significant, especially if sufficient notice of the new requirement is given. Therefore, pursuant to Government Code section 11346.5, subdivision (a)(8), the Board of Equalization finds that the adoption of the proposed regulation will not have a significant adverse economic impact on private businesses or persons.