



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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October 17, 2008

To Interested Parties:

**Notice of Proposed Regulatory Action
by the
State Board of Equalization**

**Proposed to Adopt Regulation 1506, *Miscellaneous Services Enterprises and
Regulation 1524, *Manufacturers of Personal Property****

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes amendments to Regulation 1506, *Miscellaneous Service Enterprises*, and Regulation 1524, *Manufacturers of Personal Property* 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 regulation will be held in Room 121, 450 N Street, Sacramento, at 9:30 a.m., or as soon thereafter as the matter may be heard, on December 16, 2008. 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 December 16, 2008.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

CURRENT LAW, REVENUE AND TAXATION CODE section 6018.6, *Alterations, cleaning, or dyeing of garments*, provides that cleaners are consumers of property used in their cleaning operations and are not required to hold seller's permits. Unlike other garment-alteration establishments, the law provides that cleaners who provide garment alterations to their customers (whether the alterations are to new or used garments) are providing nontaxable services and, therefore, are the consumers of items furnished or used in altering the garments as long as the alteration activities represent a small percentage, as specified by law, of their business. When meeting this condition, cleaners are generally not required to hold seller's permits.

RTC section 6018.6 defines cleaners as those who (1) operate a location or locations as a pickup and delivery point for garment cleaning; or (2) provide spotting and pressing services on the premises but not garment cleaning; or (3) operate a garment cleaning or dyeing plant on the premises.

Cleaners that meet *one* of the three provisions above must also satisfy *both* of the following conditions for the exclusion to apply.

. Seventy-five percent (75%) or more of the cleaner's total gross receipts must come from their clothes cleaning or dyeing services.

. Twenty percent (20%) or less of the cleaner's total gross receipts during the prior calendar year came from the alteration of new and used garments.

For purposes of the calculation, *total gross receipts* include all charges made by cleaners, including the cleaner's charges for cleaning or dyeing customer items, charges for altering garments, charges for altering other personal and household items, charges for creating new items such as wearing apparel, *and* the cleaner's sales of miscellaneous products (e.g., lint brushes, abandoned clothing, or ties).

Alteration of garments by a third party – As explained, cleaners who fulfill the threshold requirements of RTC section 6018.6 are consumers, not retailers, of the property used or furnished in altering new and used garments alike. Therefore, when the cleaner contracts with a third party, such as a tailor, for the alteration of garments instead of performing the alterations themselves, the third party's charge to the cleaner for altering the garments is subject to tax as provided by Regulation 1524, proposed subdivision (b)(1). Even though the cleaner may hold a seller's permit due to its sales of miscellaneous items, since the cleaner is a consumer under RTC section 6018.6, it may not issue the third party a resale certificate for such alterations.

Charges for altering garments and other items – In general, whether tax applies to a person's charge for altering garments, personal items, or household items is dependent on whether the altered item is "new" or "used" at the time the alterations are performed. The Board has consistently held that the "processing" of "new" material furnished by a consumer is a sale as defined by RTC section 6006. This includes the altering of "new" garments, personal items, and household items. Altering "used" items has consistently been interpreted as repair or reconditioning labor and excluded from the definition of a sale under RTC section 6006.

Persons who alter "new" garments (except for cleaners who fulfill the requirements of RTC section 6018.6) or "new" personal and household items are regarded as manufacturing, producing, processing, or fabricating personal property. Accordingly, they are required to hold seller's permits and report the taxes due on charges to their customers for labor and materials.

Labor charges made for altering "used" garments, personal items, or household items are considered nontaxable repair or reconditioning labor. Except under certain circumstances (see Exhibit 2), the person altering the used item is the consumer of the supplies and materials furnished in connection with the alterations.

What is "fabrication" or a "step in the process" – When changes are made to "new" garments or other personal and household items by cutting and re-sewing the item into a slightly different shape or length, the person making the change is performing a step in the process (fabrication) of producing a "new" product. Consequently, if changes are made to a "new" item to make it suitable for the customer to wear or use, those changes constitute a part of the process of fabrication. This is true even when an item is not remade into a different type of item (i.e., change a coat into a cape).

Historically, the Board has considered an item “new” when the item is brought in by the customer without hems or cuffs, or with store tags or labels still attached, or the item is clearly new and unworn/unused to the observer. In essence, an item is considered new until such time the customer has worn or used the item for its intended purpose.

On the other hand, labor charges for mending, shortening or lengthening, taking in or letting out, or otherwise altering “used” garments or other personal and household items are not taxable when such alterations merely refit or repair the item for the use for which it was originally produced. An item is considered “used” when it has been worn or used for its intended purpose.

Current provisions in Regulations 1506 and 1524 – Guidance regarding how tax applies to the gross receipts of launderers and cleaners is currently provided in Regulation 1506, subdivision (b)(1), which also provides guidance for “barbers,” “beauty shop operators,” and “shoe polishers.” Subdivision (b)(2) discusses the application of tax to the charges made by launderers and cleaners for the rental of linen supplies and similar items, including towels, uniforms, coveralls, shop coats, and dust cloths rented to others when an essential part of the rental contract is the furnishing of the recurring service of laundering or cleaning the items rented. Launderers and cleaners are consumers of the items rented.

Guidance regarding how tax applies to charges for altering new garments is provided in the current version of Regulation 1524, subdivision (b)(1). The subdivision discusses the application of tax to alteration charges in general. Subdivision (b)(2) provides guidance regarding the application of tax to a cleaner’s charges for altering garments and, essentially, restates the provisions of RTC section 6018.6.

Proposed Regulations 1506 and 1524,

Regulation 1506 and 1524 are proposed to be amended to clarify how tax applies to charges made by cleaners for their cleaning and dyeing services and when such persons are required to hold a seller’s permit. The proposed amendments also clarify how tax applies to a cleaner’s alteration charges when the cleaner meets the threshold requirements of Revenue and Taxation Code section 6018.6. Cleaners that do not meet the threshold requirements would rely on Regulation 1524 for guidance regarding their alteration charges. The proposed amendments to Regulation 1524 also clarify how tax applies to charges for the alteration of new and used items in general.

Proposed Regulation 1506 – The Board recommends that a new subdivision (c) be added to Regulation 1506 and the current subdivision (c) be renumbered as subdivision (d). Proposed subdivisions (c)(1) and (c)(2) clarify how tax applies to a cleaner’s charges for its cleaning and rental services, and proposed subdivision (c)(3) clarifies how tax applies to charges for dyeing garments.

Staff also recommends that subdivision (b)(2) in Regulation 1524 (current version), which restates the requirements of RTC section 6018.6, be removed from the regulation and incorporated into proposed, renumbered subdivision (c)(4)(A) of Regulation 1506. A new paragraph (B) would also be added to subdivision (c)(4) to clarify how tax applies to the charges by a third party who alters the garments on behalf of the cleaner. Proposed subdivision (c)(5) would be added to Regulation 1506 to clarify how tax applies to a cleaner’s sales of

miscellaneous items and the need for the cleaner to hold a seller's permit when making such sales.

Proposed Regulation 1524 – The Board recommends that the provisions regarding the application of tax to alterations to “new” garments in the current version of Regulation 1524, subdivision (b)(1) be rewritten and expanded to clarify how tax applies to charges for altering “new” items in general, including garment alterations by cleaners who do not meet the threshold requirements of RTC section 6018.6. Proposed subdivision (b)(1)(B) clarifies how tax applies to the charges for altering “used” items and explains under what circumstances the person providing the alteration service would be a retailer of the supplies and materials furnished in connection with the alteration of the “used” item.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed regulation does not impose a mandate on local agencies or school districts. Further, the Board has determined that the proposed regulation will result in no direct or indirect cost or savings to any State agency, any local agency or school district that is 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 cost 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(a)(7), the Board of Equalization makes an initial determination that the adoption of Proposed Regulations 1506 and 1524 will have no significant statewide adverse economic impact directly affecting business.

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

The proposed regulation 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

Proposed Regulations 1506 and 1524 have no comparable federal regulations.

AUTHORITY

Section 6018.6 Revenue and Taxation Code.

REFERENCE

Section 6006 Revenue and Taxation Code.

CONTACT

Questions regarding the substance of the proposed regulation should be directed to Ms. Lisa Andrews (916) 322-5989, at 450 N Street, Sacramento, CA 95814, e-mail Lisa.Andrews@boe.ca.gov or by mail at State Board of Equalization, Attn: Lisa Andrews, MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

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 Mr. Rick Bennion, Regulations Coordinator, telephone (916) 445-2130, fax (916) 324-3984, e-mail Richard.Bennion@boe.ca.gov or by mail at State Board of Equalization, Attn: Rick Bennion MIC:81, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

The Board must determine 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 be as effective as 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 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>.

AVAILABILITY OF FINAL STATEMENT OF REASONS

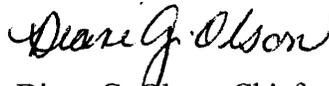
The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

October 17, 2008

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may in accordance with law adopt the proposed regulation 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,



Diane G. Olson, Chief
Board Proceedings Division

DGO:reb

Enclosures

Initial Statement of Reasons Overview/Non-Controlling Summary

Proposed Amendments to Regulation 1506, *Miscellaneous Service Enterprises*, and Regulation 1524, *Manufacturers of Personal Property*

Regulation 1506 and 1524 are proposed to be amended to clarify how tax applies to charges made by cleaners for their cleaning and dyeing services and when such persons are required to hold a seller's permit. The proposed amendments clarify how tax applies to a cleaner's alteration charges when the cleaner meets the threshold requirements of Revenue and Taxation Code section 6018.6. Cleaners that do not meet the threshold requirements would rely on Regulation 1524 for guidance regarding their alteration charges. The proposed amendments to Regulation 1524 also clarify how tax applies to charges for the alteration of new and used items in general.

Specific Purpose

The purpose of the proposed regulation amendments is to interpret, implement, and make specific Revenue and Taxation Code section 6018.6. These proposed amendments are necessary to provide guidance to taxpayers affected by this statute.

Factual Basis

Regulation 1506 and 1524 are proposed to be amended to clarify how tax applies to charges made by cleaners for their cleaning and dyeing services and when such persons are required to hold a seller's permit. The proposed amendments also clarify how tax applies to a cleaner's alteration charges when the cleaner meets the threshold requirements of Revenue and Taxation Code section 6018.6. Cleaners that do not meet the threshold requirements would rely on Regulation 1524 for guidance regarding their alteration charges. The proposed amendments to Regulation 1524 also clarify how tax applies to charges for the alteration of new and used items in general.

Proposed Regulation 1506 – The Board recommends that a new subdivision (c) be added to Regulation 1506 and the current subdivision (c) be renumbered as subdivision (d). Proposed subdivisions (c)(1) and (c)(2) clarify how tax applies to a cleaner's charges for its cleaning and rental services, and proposed subdivision (c)(3) clarifies how tax applies to charges for dyeing garments. Staff also recommends that subdivision (b)(2) in Regulation 1524 (current version), which restates the requirements of RTC section 6018.6, be removed from the regulation and incorporated into proposed, renumbered subdivision (c)(4)(A) of Regulation 1506. A new paragraph (B) would also be added to subdivision (c)(4) to clarify how tax applies to the charges by a third party who alters the garments on behalf of the cleaner. Proposed subdivision (c)(5) would be added to Regulation 1506 to clarify how tax applies to a cleaner's sales of miscellaneous items and the need for the cleaner to hold a seller's permit when making such sales.

Proposed Regulation 1524 – The Board recommends that the provisions regarding the application of tax to alterations to "new" garments in the current version of Regulation 1524,

subdivision (b)(1) be rewritten and expanded to clarify how tax applies to charges for altering “new” items in general, including garment alterations by cleaners who do not meet the threshold requirements of RTC section 6018.6. Proposed subdivision (b)(1)(B) clarifies how tax applies to the charges for altering “used” items and explains under what circumstances the person providing the alteration service would be a retailer of the supplies and materials furnished in connection with the alteration of the “used” item.

Pursuant to Government Code section 11346.5(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. The regulation is proposed to interpret, implement, and make specific the authorizing statutes. These changes will clarify the interpretation or administration of the sales and use tax laws. Therefore, the Board has determined that these changes will not have a significant adverse economic impact on private businesses or persons.

Proposed Amendments to Regulation 1506

Regulation 1506. Miscellaneous Service Enterprises.

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

(a) LICENSED ARCHITECTS.

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

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

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

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

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

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

~~(b) BARBERS, BEAUTY SHOP OPERATORS, AND SHOE POLISHERS, Launderers and Cleaners. (1) In General. Barbers, beauty shop operators, and shoe polishers, launderers and cleaners are the consumers of the supplies and other property used in performing their services, and tax applies with respect to the sale to them of the supplies and other property. They are retailers, however, of any such supplies, or of used articles, or other tangible personal property, which they sell to consumers customers in the regular course of business, and tax applies to the gross receipts from such sales.~~

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

(c) CLOTHES CLEANERS AND DYERS

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

The proposed amendments contained in this document may not be adopted. Any revisions that are adopted may differ from this text.

Proposed Amendments to Regulation 1506

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

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

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

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

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

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

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

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

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

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

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

The proposed amendments contained in this document may not be adopted. Any revisions that are adopted may differ from this text.

Proposed Amendments to Regulation 1506

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

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

(ef) GUN CLUBS. Gun clubs are consumers, not retailers, of clay pigeons or blue rocks furnished to members or patrons in connection with trapshooting or similar sports even though the charge for the service is measured by the number of clay pigeons or blue rocks used. The tax applies with respect to the sale of such property to the clubs.

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

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

(gh) SUMMER CAMPS. The tax applies to gross receipts from the sale of meals or other tangible personal property at summer camps, whether operated by municipal or private corporations, or other parties. When a camp qualifies as a school or educational institution, tax, with respect to meals, applies in the same manner as to schools and educational institutions. To qualify as a school or educational institution for purposes of this regulation, the camp must conduct regularly scheduled classes, with required attendance, in charge of qualified instructors.

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

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

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

(ij) LICENSED VETERINARIANS.

(1) DEFINITIONS. As used herein:

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

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

The proposed amendments contained in this document may not be adopted. Any revisions that are adopted may differ from this text.

Proposed Amendments to Regulation 1506

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

(2) APPLICATION OF TAX.

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

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

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

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

Regulation 1524. Manufacturers of Personal Property.

Reference: Sections 6011, 6012, and 6018.6, Revenue and Taxation Code.

(a) **IN GENERAL.** Tax applies to the gross receipts from retail sales (i.e., sales to consumers) by manufacturers, producers, processors, and fabricators of tangible personal property the sale of which is not otherwise exempted. The measure of the tax is the gross receipts of, or sales price charged by, the manufacturer, producer, processor, or fabricator, from which no deduction may be taken ~~by the manufacturer~~ on account of the cost of the raw materials or other components purchased, or labor or service costs to create or produce the tangible personal property, or of any step in the manufacturing, producing, processing, or fabricating, including work performed to fit the customer's specific requirements, whether or not performed at the customer's specific request, or any other services that are a part of the sale. In addition, no deduction may be taken on account of interest paid, losses, or any other expense.

(b) **PARTICULAR APPLICATIONS.**

~~(I) ALTERATIONS TO NEW CLOTHING FOR MEN, WOMEN AND CHILDREN. ALTERATION OF NEW AND USED ITEMS.~~

~~(A) **Definition of Alteration.** "Alteration," as herein used, means and includes any work performed upon new clothing to meet the requirements of a customer, whether the work involves the addition of material to the garment, the removal of material from the garment, the rearranging or restyling of the garment, or any other change therein.~~

(A) **Alteration of New Items** means and includes any work performed upon new items such as garments, bedding, draperies, or other personal and household items to meet the requirements of the customer, whether the work involves the addition of material to the item, the removal of material from the item, the rearranging or restyling of the item, or otherwise altering the item, when such alterations result in the creation or production of a new item or constitute a step in the creation or production of a new item for the customer.

Charges for the alteration of new items are subject to tax, except as provided in subdivision (c)(4) of Regulation 1506, regardless of whether the charges for the alterations are separately stated or included in the price of the item, or whether the alterations are performed by the seller of the item or by another person. Persons engaged in the producing, processing or fabricating of new items are retailers, not consumers, of the alterations provided to the customer and are required to hold a seller's permit.

(B) **Alteration of Used Items** means and includes the mending, shortening or lengthening, taking in or letting out, or otherwise altering used items such as garments, bedding, draperies, or other personal and household items when such alterations merely refit or repair the item for the use for which it was created or produced.

Charges for the alteration of used items are not subject to tax. Generally, persons performing the alteration of used items are consumers, not retailers, of the supplies and materials furnished in connection with the alterations, and tax applies to the sale of the supplies and materials to such persons.

Except as provided in subdivision (c)(4) of Regulation 1506, persons performing the alteration of used items are retailers, not consumers, of the supplies and materials furnished in connection with the alterations when the retail value of the supplies and materials is more than 10 percent of the total charge for the alterations, or if the invoice to the customer includes a separate charge for such property. When such persons are retailers, not consumers, tax applies to the fair retail selling price of the supplies and materials to the customer.

When the retail value of the supplies and materials is more than 10 percent of the total charge to the customer, the person performing the alterations must segregate on the invoice to the customer and in its records, the fair retail selling price of the supplies and materials from the charge for the alterations. "Total charge" means the combined total of the retail value of the supplies and materials furnished or consumed as part of the alterations and the labor charges for the alterations.

The proposed amendments contained in this document may not be adopted. Any revisions that are adopted may differ from this text.

Proposed Amendments to Regulation 1524

~~(B) Application of Tax.~~

~~1. In General. Charges for alterations to new clothing are subject to tax. It is immaterial whether the charges for the alterations are separately stated or are included in the price of the garment. It also is immaterial whether the alterations are performed by the seller of the garment or by another person.~~

~~(2) ALTERATIONS BY CLOTHES CLEANING OR CLOTHES DYEING ESTABLISHMENT. A person who operates a clothes cleaning or clothes dyeing establishment is the consumer of property used or furnished in altering new and used clothing, provided that~~

~~(A) 75 percent or more of the establishment's total gross receipts represent charges for garment cleaning or dyeing services and~~

~~(B) No more than 20 percent of the establishment's total gross receipts during the preceding calendar year were from the alteration of new and used garments.~~

~~If both requirements are met, sales tax shall not apply to the operator's charges for alterations of new or used clothing. However, that person is a retailer of any other tangible personal property sold to consumers in the regular course of business, and sales tax shall apply to the gross receipts from these sales.~~

~~(32) PAINTING, POLISHING, FINISHING. Tax applies to charges for painting, polishing, and otherwise finishing tangible personal property in connection with the production of a finished product for consumers, whether the article to be finished is supplied by the customer or by the finisher. Tax does not apply to charges for painting or finishing real property.~~

The proposed amendments contained in this document may not be adopted. Any revisions that are adopted may differ from this text.

Regulation History

Type of Regulation: Sales and Use Tax

Regulation: 1506 & 1524

Title: 1506, Miscellaneous Services Enterprises, and Regulation 1524, Manufacturers of Personal Property Estimated Schedule

Preparation: Lynda Cardwell

Legal Contact: Robert Tucker

Amendments are proposed to be adopted to clarify the application of tax to charges by clothes cleaners and dyers for their alterations of new and used garments.

History of Proposed Regulation:

September 16, 2008 BTC, Board Authorized Publication (Vote 5-0)
July 17, 2008 Second IP meeting
May 16, 2008 Last day for IP to respond to Initial Discussion Paper
April 29, 2008 First Interested Parties (IP) meeting

Sponsor: NA
Support: NA
Oppose: NA