EXECUTIVE BRIEF

STATE BOARD OF EQUALIZATION

Fiscal Year 2009-10

Cigarette and Tobacco Products Licensing and Enforcement

AB 71

Background

AB 71 was enacted to stem the tide of untaxed distributions and illegal sales of cigarettes and tobacco products and to enhance voluntary compliance. The bill mandated BOE to administer and enforce a statewide program to license manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products. The intent of this legislation is to improve voluntary compliance through reduced evasion which support existing cigarette and tobacco products tax laws.

As required under AB 71, the Bureau of State Audits (BSA) conducted a performance audit of the BOE's implementation of the licensing and enforcement provisions of the law. The BSA completed its audit and submitted their report to the Board and Legislature in June 2006. The BSA reported that the increased compliance since 2005 was a direct result of the blended effect of the implementation of the licensing and enforcement aspects of AB 71 and the deployment of a new cigarette tax stamp pursuant to SB 1701. The report indicated that actual revenues were higher for cigarettes alone in calendar year 2005, compared with revenues that the BOE expected for the same year, assuming a 3 percent average annual decline in consumption. The BSA also concluded that the BOE's implementation of AB 71 and the new cigarette tax stamp has significantly increased cigarette and tobacco products tax compliance. Furthermore, BOE's Research and Statistics Section similarly concluded that the Licensing Act and new stamp efforts resulted in $139.1 million annually in additional revenue. Since BOE implemented these legislative bills within the same general timeframe, revenue benefits from the licensing program cannot be distinguished from revenue benefits of the new cigarette tax stamp. Regardless, this $139.1 million in additional revenue is substantially higher than the estimated $86 – 115 million in the original FY 2004/2005 BCP No. 3, combined with SB 1701 Finance Letter No. 3, 2005/2006.

In addition to the new licensing and stamping provisions, the enforcement component plays a critical role in curbing tax evasion. Since the inception of the program, the Investigations Division (ID) has conducted over 49,000 inspections, issuing 3,191 civil and 477 criminal citations totaling 7,679 violations; seized over 16.5 million sticks of contraband cigarettes; and, over $1.7 million in untaxed tobacco products. Since implementation of AB 71, 69 civil audits have been billed and a total of approximately $4 million has been recovered as of June 30, 2008. There are currently 43 additional audits in process as of June 30, 2008 which we would expect to recover additional revenue of over $1.26 million.

Request

This proposal requests 88.9 Boardwide positions (3.5 new and 85.4 continuing) and $5,622,000 ($581,000 General Fund and $5,041,000 Special Funds) in FY 2009-10 (mid-year) and $10,494,000 in FY 2010-11 and on-going. Continuing positions will be made permanent on

Note: Separate Executive Briefs have been prepared for each of the components in this multi-component Budget Change Proposal.

January 1, 2010. Two of the new positions will have an effective date of July 1, 2009 and will be filled immediately.

Current Need

Through the passage of AB 1749, the licensing and enforcement provisions of AB 71 were permanently established. However, AB 1749 did not provide permanent funding for the continuation of resources associated with AB 71. Additionally, due to the loss of continuing revenues from the one-time retailer license application fee and the one-time administration fee of one-cent-per-pack paid by manufacturers and importers of cigarettes, the cost of administering the provisions of AB 71 will continue to exceed revenues deposited into the CTCF. Thus, a technical budget adjustment to cover the shortfall with funds from the Breast Cancer Fund, Proposition 99 Fund, Proposition 10 Fund and the General Fund will continue until the CTCF becomes self-sufficient. This proposal requests permanent funding to address mandated workloads that will ensure and continue the revenue benefits of AB 71.

Workload Addressed

The BOE cannot absorb the workload with its current baseline budget. Additionally, statutes, constitutional provisions, and court decisions prevent the BOE from diverting controlled special funds to pay for other programs. Failure to fund the program would affect funding for breast cancer research, hospital and health education and services, research, early childhood development, and anti-smoking campaigns for the public.

EXECUTIVE BRIEF

STATE BOARD OF EQUALIZATION

Fiscal Year 2009-10

Cigarette and Tobacco Products Licensing and Enforcement

AB 1749

Background

Under AB 1749, all tobacco products manufacturers and importers are required to obtain and maintain a license with the BOE to engage in the sale of tobacco products in California. ETD has licensed over 70 Tobacco Manufacturers and Importers, processed monthly returns, implemented a method to process electronic monthly schedules, and approximately 18 Tobacco Products Distributor accounts have been selected for audit due to information received on the schedules. Overall, the efforts of AB 1749 have also been successful. Importers/Manufacturers are required to report whom they sold products to and because of the reconciliation of schedules and reports that are now available to our auditors, ETD has seen increased voluntary compliance. Tobacco products revenue (excluding cigarettes) has increased even though the tobacco products tax rate has decreased. A contributing factor to the increase in revenue may be attributed, in part, to the licensing requirements that were added under AB 1749 and enforcement efforts of the provisions.

Request

To implement AB 1749, BOE was approved funding to carry out the administration and enforcement of tobacco products manufacturers and importers licensing through FY 2007-08 BCP No. 14 (AB 1749 – Tobacco Products Manufacturer and Importing Licensing). However, these resources will expire on June 30, 2009. This proposal requests continuation of 8.0 Boardwide positions and $713,000 ($82,000 General Fund and $631,000 Special Funds) in FY 2009-10 and ongoing.

Current Need

Although the number of accounts to be registered did not materialize, ETD had not factored in the additional workload that have resulted from the complexities of the licensing program as a whole. For example, the processing of monthly electronic schedules is more time consuming than expected due to the number of pre/post loading edit reports required. However, the benefit is that nontaxable distributions of tobacco products into California are now stored in the IRIS database and accurate reports to assist with audit selection can conveniently and rapidly be requested. ETD requests continuation of these resources (set to expire on June 30, 2009) in order to continue administration of the provisions of AB 1749.

Workload Addressed

The BOE cannot absorb the workload with its current baseline budget. Additionally, statutes, constitutional provisions, and court decisions prevent the BOE from diverting controlled special funds to pay for other programs. This proposal requests permanent funding to address mandated workload and continue the revenue benefits of these legislative bills. Failure to fund

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the program would affect funding for breast cancer research, hospital and health education and services, research, early childhood development, and anti-smoking campaigns for the public.

The AB 1749 licensing and enforcement provisions became effective May 1, 2007. Due to the infancy of the program, the full revenue impact has not been formally measured. However, the increase in tobacco products revenue may quantify with the AB 1749 projected $4.2 million (annually and ongoing).

Note: Separate Executive Briefs have been prepared for each of the components in this multi-component Budget Change Proposal.

EXECUTIVE BRIEF

STATE BOARD OF EQUALIZATION

Fiscal Year 2009-10

Cigarette and Tobacco Products Licensing and Enforcement

SB 1701

Background

In response to suspected cigarette tax evasion, Senate Bill 1701 [Chapter 881, Statutes 2002] was enacted on September 26, 2002. SB 1701 required the BOE to replace the heat-applied decal tax stamps with a technology based counterfeit resistant stamp capable of being read by a scanning or similar device, and encrypted with specific information by January 1, 2005.

Between fiscal years 2001–02 ($1.07 billion in revenues were received) and 2002–03 ($1.03 billion in revenues received), collections of cigarette taxes fell, continuing a trend of declining revenues. However, collections of cigarette tax revenues stabilized in fiscal years 2003–04 ($1.02 billion) and again in 2004–05 ($1.02 billion). Consequently, the stabilization and reversal of the historical decline in cigarette tax revenues was due to the licensing and enforcement provisions of AB 71 and AB 1749 in conjunction with the implementation of the encrypted cigarette tax stamp as mandated by SB 1701.

The Bureau of State Audits (BSA) conducted a performance audit of the BOE's implementation of the licensing and enforcement provisions of the law. The BSA completed its audit and submitted their report to the Legislature in June 2006. The BSA reported that the increased compliance since 2005 was a direct result of the blended effect of the implementation of the licensing and enforcement aspects of AB 71 and the deployment of a new cigarette tax stamp pursuant to SB 1701. The report indicated that actual revenues were higher for cigarettes alone in calendar year 2005, compared with revenues that the BOE expected for the same year, assuming a 3 percent average annual decline in consumption. The BSA determined that the BOE's implementation of AB 71 and the new cigarette tax stamp has significantly increased cigarette and tobacco products tax compliance. Furthermore, BOE's Research and Statistics Section similarly concluded that the Licensing Act and deployment of the new stamp resulted in $139.1 million annually in additional revenue.

Request

BOE requests a budget augmentation to establish additional funding to support the continuation of the state's use of encrypted technology for its cigarette tax stamp as mandated by SB 1701. The additional funding amount requested is $2,163,000 ($248,000 General Fund and 1,915,000 Special Funds) effective January 1, 2010 (mid-year) and $4,310,000 ($495,000 General Fund and $3,815,000 Special Funds) per fiscal year from FY 2010-11 and ongoing. This budget augmentation will provide a funding level necessary to secure a new cigarette tax stamp contract that will serve the best interest of the state.

Current Need

The state's cigarette tax stamp contract will be put out to bid in 2008/2009 to secure a vendor as of January 1, 2010. An augmentation of $4,310,000(yearly) to the budgeted level funding ($5,990,000) is being requested. This augmentation is necessary since the budgeted funding level may prohibit or severely restrict the potential bidders from being able to meet the statutory mandates of the encrypted stamp due to rising costs and the availability of new technologies and security features since the initial contract was procured in 2005. Thus, it is essential for the procurement process to allow potential vendors a broad range of flexibility so that bidders can offer new technologies and innovative covert and overt security enhancements to maintain and/or augment the integrity of the stamp. This additional funding would also cover the costs necessary for the potential transition of stamp vendors from the

Note: Separate Executive Briefs have been prepared for each of the components in this multi-component Budget Change Proposal.

current contractor to another vendor, should it become necessary, which includes moving, storing and securing the stamp database.

Workload Addressed

Statutes, constitutional provisions, and court decisions prevent the BOE from diverting controlled special funds to pay for other programs. This proposal requests permanent funding to address mandated workload and continue the revenue benefits associated with the encrypted cigarette tax stamps. Failure to fund a secure, counterfeit proof tax stamp would affect funding for breast cancer research, hospital and health education and services, research, early childhood development, and anti-smoking campaigns for the public.

Note: Separate Executive Briefs have been prepared for each of the components in this multi-component Budget Change Proposal.

STATE BOARD OF EQUALIZATION
FISCAL YEAR 2009-10
PROPOSAL No. XX

TITLE OF PROPOSED CHANGE:

Cigarette and Tobacco Products Licensing and Enforcement

SUMMARY OF PROPOSED CHANGES:

This proposal requests $8,498,000 ($911,000 General Fund, $7,587,000 Special Funds) in FY 2009-10 and $15,571,000 ($1,653,000 General Fund, $13,864,000 Special Funds) in FY 2010-11 and ongoing to establish 96.9 Boardwide positions (3.5 new and 93.4 continuing). With these resources, the Board of Equalization (BOE) will continue to administer and enforce the Cigarette and Tobacco Products Licensing Act as mandated by Assembly Bill (AB) 71 (Chapter 890, Statutes of 2003) and AB 1749 (Chapter 501, Statutes of 2006); accommodate a projected funding shortfall in the Cigarette and Tobacco Products Compliance Fund (CTCF); and support the state's use of an encrypted cigarette tax stamp as mandated by Senate Bill (SB) 1701 (Chapter 881, Statutes of 2002). Based on the findings, AB 71, AB 1749, and SB 1701 have been successful in curbing tax evasion and have increased cigarette tax revenues.

The total projected revenue that the BOE anticipates to continue to collect from these legislative bills is $144.6 million annually: This is an ongoing benefit-to-cost ratio of 9.3 to 1.

State Board of Equalization

Fiscal Year 2009-10

Cigarette and Tobacco Products Licensing and Enforcement

A. Nature of Request

The Cigarette and Tobacco Products Licensing Act (Licensing Act) was mandated by Assembly Bill (AB) 71 (Chapter 890, Statutes of 2003) and AB 1749 (Chapter 501, Statutes of 2006). In order to continue to receive the on-going benefit of $144.6 million in revenues annually (see below) from the mandated legislative bills, this proposal requests a total of 96.9 new and continuing positions. The projected funding for these positions is $8,498,000 ($911,000 General Fund and $7,587,000 Special Funds) in FY 2009-10 and $15,517,000 in FY 2010-11 and on-going. The positions and funding authorized as a result of AB 71 was provided on a limited basis because the statute contained a sunset date of January 1, 2010. Subsequently, AB 1749 was enacted, removed the sunset date, making the program permanent. Additionally, in 2002 SB 1701 was enacted to employ a new tax stamp by 2005 which uses sophisticated technology intended to resist counterfeiting. We are requesting these positions and funding be made permanent to continue the statutorily mandated provisions of these initiatives.

AB 71 was enacted to stem the tide of untaxed distributions and illegal sales of cigarettes and tobacco products and to enhance voluntary compliance. AB 1749 broadened the scope of AB 71 and incorporated additional provisions focused on the tobacco products area. The intent of these legislative bills is to improve voluntary compliance through reduced evasion and to strengthen and support the existing cigarette and tobacco products programs.

These requested resources, will allow for the Board of Equalization (BOE) to continue to administer and enforce the provisions of the Licensing Act, accommodate a projected funding shortfall in the Cigarette and Tobacco Products Compliance Fund (CTCF); and support the state's use of an encrypted cigarette tax stamp as mandated by Senate Bill (SB) 1701 (Chapter 881, Statutes of 2002). The projected $144.57 million in revenue referenced below is attributed to information obtained from the Bureau of State Audits (BSA) and BOE Research and Statistics Section, as follows:

- $139.1 million additional revenue from the Licensing Act (AB 71) and new cigarette tax stamp (SB 1701) (see Exhibit I):
    - $103.4 million annually for cigarettes and tobacco products
    - $35.7 million in sales and use tax
- $4.2 million associated with AB 1749
- $1.27 million in retailer, distributor, wholesaler, manufacturer, and importer licensing fees.

Full implementation of AB 71 and SB 1701 has been achieved and the combined AB 71, AB 1749, and SB 1701 benefits and costs as a result of this legislation are:

	FY 03/04	FY 04/05	FY 05/06*	FY 06/07	FY 07/08
Cost	$5,598,000	$11,119,000	$13,357,000	$13,357,000	$14,510,000
Positions	42.7	85.0	85.0	85.0	93.1
Estimated Revenue from BCP's			$87 Million	$87 Million	$91.2 Million
*Actual Benefits			$110.68 Million	$141.28 Million	$145.46 Million
Benefit/Cost			8.3 to 1	10.6 to 1	10 to 1

*The revenues for AB 71, AB 1749, and SB 1701 cannot be separated or distinguished because they are interdependent activities.

To successfully continue to generate an additional estimated annual revenue of $144.6 million to fund breast cancer research, hospital and health education and services, research, early childhood development, and anti-smoking campaigns for the public, the State Board of Equalization (BOE) requests to establish permanently 93.4 limited-term and 3.5 new positions and resources that were established with the above legislations. In requesting that limited-term positions and additional positions be made permanent, BOE is requesting funding for several classification upgrades from the original BCPs and establish 3.5 additional positions to meet legislatively mandated operational needs. Over the last 5 years, the workload has become more complex, programs have become more sensitive and visible, and in some areas the workload has increased more than originally anticipated. This timeframe has provided the BOE with the opportunity to gather information to accurately evaluate the workload and the appropriate level and classification of staff needed to conduct these tasks in the most efficient and effective way.

B. Background/History

Cigarette and tobacco products enforcement became a forefront issue around 1989 when the excise taxes on a package of 20 cigarettes was increased from $0.10 to $0.35 with the passage of Proposition 99. An additional $0.50 increase took effect in 1999 as a result of Proposition 10. Subsequently, by fiscal year 2001-02, BOE estimated annual cigarette tax evasion at $292 million. As the excise taxes increased, so did the incentive to evade taxes and the disparity between taxed and untaxed cigarettes became larger. To stem the tide of untaxed distributions and illegal sales of cigarettes and tobacco products and to enhance voluntary compliance, from 2004-05 to 2006-07, three bills were passed, AB 71, AB 1749, SB 1701:

Legislation	Mandates
AB 71 (Chapter 890, Statutes of 2003)	Administer and enforce a statewide program to license manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products; issue civil and misdemeanor citations and serve warrants; impose fines and penalties for those in violation of the law; assess penalties for possession of fraudulent tax stamps; enforce certain provisions of the Master Settlement Agreement. Sunset date of legislation is January 1, 2010.
AB 1749 (Chapter 501, Statutes of 2006)	Repealed the January 1, 2010 sunset date and extended provisions of the Licensing Act (AB 71); required every manufacturer and importer of tobacco products to obtain and maintain a license and file a monthly report; provided additional alternatives for cigarette distributors that desire to defer payments of tax stamps and increased the penalties for counterfeiting tax stamps with intent to evade the taxes.
SB 1701 (Chapter 881, Statutes of 2002)	Required the replacement of the heat-applied decal tax stamps with a technology based counterfeit resistant stamp capable of being read by a scanning or similar device, and encrypted with specific data.

AB 71 was enacted and contained a sunset date of January 1, 2010. The intent of this legislation was to improve voluntary compliance by reducing tax evasion which was suspected as occurring via smuggling and counterfeiting. To implement AB 71, BOE was approved funding to carryout the administration and enforcement of the Licensing Act through BCP No. 3 (AB 71 – The California Cigarette and Tobacco Licensing Act of 2003) in FY 2004-05.

As required under AB 71, the Bureau of State Audits (BSA) conducted a performance audit of the BOE's implementation of the licensing and enforcement provisions of the law. The BSA completed their audit and submitted its report to the Board and Legislature in June 2006. The BSA reported that the increased compliance since 2005 was a direct result of the blended effect of the implementation of the licensing and enforcement aspects of AB 71 and the deployment of a new cigarette tax stamp pursuant to SB 1701[1]. Furthermore, BOE's Research and Statistics Section similarly concluded that the Licensing Act and new stamp efforts resulted in $139.1 million annually in additional revenue, excluding annual licensing fees. Since BOE implemented these legislative bills within the same general timeframe, revenue benefits from the licensing program cannot be distinguished from revenue benefits of the new stamp. Regardless, this additional revenue is substantially higher than the estimated $58-87 million in the original FY 2004/2005 BCP No. 3. Failure to authorize continuation of these programs would affect funding for breast cancer research, hospital and health education and services, research, early childhood development, and anti-smoking campaigns for the public. Therefore, this proposal requests permanent funding to address mandated workloads and continue the revenue benefits of these legislative bills.

In order for the AB 71 licensing and enforcement program to continue on a permanent basis, AB 1749 was enacted and, among other things, it repealed the sunset date (January 1, 2010) of the Licensing Act. Although AB 1749 permanently established the licensing and enforcement program, the bill did not provide permanent funding for the AB 71 positions. However, the BOE did receive funding through BCP No. 14 (AB 1749 – Tobacco Products Manufacturer and Importing Licensing) in FY 2007-08 to implement the mandated provisions related to licensing tobacco products manufacturers and importers.

All of the licensing fee revenues collected pursuant to the provisions of the licensing program are deposited into the Cigarette and Tobacco Products Compliance Fund (CTCF) for the purpose of implementing, enforcing and administering the Act. However, as previously noted in BCP No. 3, FY 2004-05, the initial license fee revenue deposited into the CTCF was expected to sharply decline in FY 2004-05 and thereafter to approximately $2.10 million each fiscal year due to the loss of revenues from the initial one-time retailer license application fees, and the loss of the one-time administration fees of one-cent-per-pack paid by manufacturers and importers of cigarettes. To accommodate the CTCF shortfall and ensure the enforcement and administration of AB 71, the BOE received approval for a technical budget adjustment (BCP No. 5 in FY 2006-07 – AB 71 Cigarette and Tobacco Products Compliance Fund Funding Shift) to supplement the CTCF from the Breast Cancer Fund, Proposition 99 Fund, Proposition 10 Fund and the General Fund. Since the cost of administering AB 71 will continue to exceed revenues deposited into the CTCF this process will continue until the CTCF becomes self-sufficient. The current structure of the program is

[1] Bureau of State Audits, *Board of Equalization: Implementation of the Cigarette and Tobacco Products Licensing Act of 2003 has Helped Stem the Decline in Cigarette Tax Revenues, but it Should Update its Estimate of Cigarette Tax Evasion*, June 2006, p. 1.

not adequate to fund the on-going administrative costs thus; legislation would be required to meet funding needs.

Another effort intended to reduce tax evasion activities was the establishment of SB 1701. The new alternative cigarette tax stamp has made it more difficult for counterfeiters and has reduced tax evasion. The existing bid with the contractor and manufacturer of the cigarette tax stamps, application machinery, and scanning or similar validation devices was valid through December 31, 2007 and contains two (2) one (1) year options to extend the contract at the State's discretion. The Board has approved a one-year extension through December 31, 2008. If the last option is exercised, the stamp contract will expire on December 31, 2009.

ETD requests a budget augmentation to establish additional funding to support the continuation of the state's use of an encrypted cigarette tax stamp as mandated by SB 1701. The state's cigarette tax stamp contract will be offered in 2008/2009 to secure a vendor as of January 1, 2010. An augmentation of $4,310,000 (yearly) to the budgeted level funding is being requested. The total funding for this effort, if additional funding is approved, will not exceed $10,310,000. The BOE will need this funding to facilitate the bid process and secure a competitive contract that will serve the best interest of the state.

Period	**1/1/10 – 6/30/10 Mid-Year**	**FY 2010-11**	**FY 2011-12**	**FY 2012-13+**
Stamp Contract Base-Line	$2,995,000	$5,990,000	$5,990,000	$5,990,000
New Funding Requested	**$2,163,000**	**$4,310,000**	**$4,310,000**	**$4,310,000**
Total	$5,158,000	$10,300,000	$10,300,000	$10,300,000

In administering these legislative bills, it has become clear that the licensing and enforcement functions are an important role in curbing tax evasion. Although BOE has made significant strides against cigarette and tobacco products tax evasion as evidenced by the additional revenue, BOE currently estimates that $276 million in cigarette ($182 million) and tobacco taxes ($94 million) is lost to evasion each year. [2]

C. State Level Considerations

This proposal conforms to BOE's strategic plan and mission statement to serve the public through effective and efficient tax administration. The proposal also supports BOE's strategic plan. Specifically, this proposal conforms to:

Goal 1: Maximize Voluntary Compliance in BOE's programs

- Objective 1- Evaluate current business processes and work cooperatively with stakeholder groups, clarifying and simplifying the laws, regulations and materials, to enhance taxpayers' understanding of the programs we administer.

[2] State Board of Equalization, *News Release*, July 27, 2007

- Objective 5- Identify and analyze areas of noncompliance and develop approaches (such as enhanced parternships with other governmental agencies) to address targeted areas of concern.

- Objective 6- Implement effective audit and collection modeling to ensure ease of compliance with the legal requirements of doing business in California.

Goal 2: Create an Expanded and Responsive Infrastructure

- Objective 1- Create a stable yet flexible state-of-the art technology infrastructure using industry best practices and respond timely, effectively, and efficiently to new tax and fee programs and changes to existing programs.

- Objective 3- Continually evaluate the agency's external and internal environments and introduce new or enhanced technology as changing customer needs and expectations are identified.

This proposal allows the BOE to comply with the administrative mandates of AB 71, AB 1749, and SB 1701. BOE is requesting that the existing positions be established on a permanent basis to meet operational needs. Funding of these positions is critical to maintaining Excise Taxes Division (ETD), Investigations Division (ID), and Boardwide operations at adequate levels in the Cigarette and Tobacco Products Licensing Program. Failure to fund the program would impact legislatively mandated funding for breast cancer research, hospital and health education and services, research, early childhood development, and anti-smoking campaigns that other state agencies such as California Department of Health Services, California Department of Public Health, and California Children & Families First Commission depend upon.

D. Justification/Analysis of all Feasible Alternatives

Alternative 1- Establish permanent resources to continue the funding shift to backfill the CTCF shortfall; support the state's use of an encrypted cigarette tax stamp as mandated by SB 1701; and continue enforcing the provisions of AB 71 and AB 1749.

Under this alternative, the BOE requests to permanently establish funding of $8,498,000 and 96.9 Boardwide positions in FY 2009-10 and $15,517,000 for 2010-11 and on-going years to accommodate the funding shortfall in the CTCF; support the state's use of an encrypted cigarette tax stamp as mandated by SB 1701; and administer and enforce the provisions of AB 71 and AB 1749. This alternative will ensure continuation of an estimated $144.57 million annually in additional revenues, which are used for breast cancer research, hospital and health education and services, research, early childhood development, and anti-smoking campaigns for the public.

CTCF Shortfall

The Cigarette and Tobacco Compliance Fund was established during FY 2003-04 as authorized by AB 71 (Chapter 890, Statutes of 2003) under the California Cigarette and Tobacco Products Licensing Act of 2003. Under AB 71, among other mandates, the provisions required manufacturers and importers of cigarettes to pay a one-time administration fee; retailers of cigarettes and tobacco products to pay a one-time license

fee, and distributors and wholesalers of cigarettes and tobacco products to pay annual license fees. In foreseeing that expenditures to administer and enforce this legislation would exceed license fee revenue in outlying years, the Legislature added Section 22 of AB 71, effective January 1, 2004, which states, "all revenues and expenses generated by this act with respect to the taxes imposed under the Cigarette and Tobacco Products Tax Law (Part 13 – commencing with Section 30001 of Division 2 of the Revenue and Taxation Code) shall be allocated in the same manner as those revenues and expenses are allocated under the Cigarette and Tobacco Products Tax Law as that law read on the effective date of this act." Therefore, based on the projected shortfall of the Cigarette and Tobacco Products Compliance Fund, BOE requested necessary appropriations for FY 2006-07 from the General Fund and Special Funds to cover the operating expenditures required for the BOE to efficiently and effectively administer and enforce the provisions of AB 71.

In order to ensure that the AB 71 licensing and enforcement program is fully funded, BOE will continue to fund this program from the General Fund and other Special Funds (Breast Cancer Fund, Cigarette and Tobacco Products Surtax Fund, and the California Children and Families First Trust Fund) to accommodate the CTCF shortfall. BOE anticipates that approximately $1.129 million from the Cigarette and Tobacco Products Compliance Fund would fund the cost of the program. However, the remaining cost would be funded through the other Special Funds based on a proportionate share of the tax rate on cigarette and tobacco products.

SB 1701

An augmentation of $4,310,000 is necessary as the current funding levels may prohibit or severely restrict the potential bidders from being able to meet the statutory mandates of the encrypted stamp due to rising costs and the availability of new technologies and security features since the initial contract was procured in 2005. Thus, it is essential for the procurement process to allow potential vendors a broad range of flexibility so that bidders can offer new technologies and innovative covert and overt security enhancements to maintain and/or augment the integrity of the stamp. This additional funding would also cover the costs necessary for the potential transition of stamp vendors from the current contractor to another vendor, should it become necessary, which includes moving, storing and securing the stamp database.

The additional funding amount requested is $2,155,000 effective January 1, 2010 (mid-year) and $4,310,000 per fiscal year from FY 2010-11 and on-going.

AB 71 and AB 1749

Staff workloads and resources associated with AB 71 and AB 1749 are separately illustrated to clearly outline the duties between the two legislatively mandated bills. The following tables provide the BOE's resource needs for AB 71 and AB 1749:

Table I

SUMMARY OF REQUESTED POSITIONS AB 71	# POSITIONS 2009-10	Hours Overtime	# POSITIONS 2010-11 On-going	Hours Overtime
I. EXCISE TAXES DIVISION (ETD)				
A. Compliance Continued Positions				
Tax Technician II	3.0	397	6.0	796
Tax Technician III	0.5	199	1.0	396
Business Taxes Representative	3.5	400	7.0	435
*Business Taxes Compliance Specialist	1.5	143	3.0	205
Office Assistant	1.0	208	2.0	414
**Business Taxes Compliance Supervisor II	1.0		2.0	
***Business Taxes Administrator III	0.5		1.0	
Total ETD Continued Compliance Positions and Overtime	**11.0**	**1347**	**22.0**	**2246**
B. ETD Audit Continued Positions				
Tax Technician III	0.5	20	1.0	30
Associate Tax Auditor	2.0	151	4.0	120
Business Taxes Specialist I	0.5	99	1.0	96
Business Taxes Specialist II	0.5	94	1.0	158
Office Assistant		48		97
Sub Total ETD Audit Continued Positions and Overtime	**3.5**	**412**	**7.0**	**501**
C. ETD Audit Positions (New Positions)				
Business Taxes Specialist I (Cig. Refunds)	2.0	200	2.0	200
Sub Total ETD Audit New Positions	2.0		2.0	
Total New ETD Audit Positions and Overtime	**5.5**	**200**	**9.0**	**200**
Total ETD Positions and Overtime Requested	**16.5**	**1959**	**31**	**2947**
II. INVESTIGATIONS DIVISION (ID)				
A. ID Continued -- Audit Positions				
Associate Tax Auditor	2.0		4.0	
Business Taxes Specialist I	1.0		2.0	
Business Taxes Specialist II	0.5	88	1.0	176
Sub Total ID Continued Audit Positions and Overtime	**3.5**	**88**	**7.0**	**176**
B. ID Continued Inspection/Investigation Positions				
Business Taxes Compliance Specialist	7.0	613	14.0	1,225
Business Taxes Specialist I	11.0		22.0	
Business Taxes Specialist II	1.0		2.0	
Sr. Information System Analyst	**.5**		**1.0**	
Sub Total ID Inspection/Investigation Continued Positions	**19.5**	**613**	**39.0**	**1225**
C. ID Continued Supervision/Technical Support				
Business Taxes Administrator II	0.5		1.0	
Business Taxes Administrator III	0.5		1.0	
Business Taxes Specialist II	0.5		1.0	
Supervising Tax Auditor II	0.5		1.0	
Property Controller II	0.5		1.0	
Sub Total ID Supervision/Technical Continued Positions	**2.5**		**5.0**	
Total ID Positions and Overtime Requested	**25.5**	**701**	**51.0**	**1401**
III. BOARDWIDE ADMINISTRATIVE SUPPORT				
Continued Positions				
Legal Division				
Tax Counsel III	1.0		2.0	
Internal Security and Audit Division				
Business Taxes Specialist I	0.25		0.5	
Accounting Section				
Accounting Officer	0.8		1.5	
Personnel Management Division (PMD)				
Associate Personnel Analyst	0.25		0.5	
Sales and Use Tax Department (**New Positions**)				
Tax Technician II	0.5		1.0	
Tax Technician III		388		777
Total SUTD Positions and Overtime Requested	**.5**		**1.0**	**777**
Customer and Taxpayer Services Division (CATS)				
Digital Composition Specialist III		24		48
Associate Government Program Analyst		14		28
Tax Technician II		58		116
Business Taxes Compliance Specialist		3		6
Total CATS Overtime Hours Rquested		**99**		**198**
Mail Services Unit				
Office Assistant		78		156
Cashiers Unit				
Office Assistant		250		500
Technology Service Division (TSD)				
Staff Information Systems Analyst (**New Position**)	0.5		1.0	
Total Boardwide Administrative Support Requested	**3.5**	**815**	**6.9**	**1631**
Total Positions Requested	**45.5**	**34756**	**88.9**	**5979**

Footnotes for Table I

*BTR position reclassified to BTCS approved by the BOE's Human Resources Section in November 2007 and is consistent with the allocation standards and position specifications established by Department of Personnel Administration (DPA).

**TT II position reclassified BTCS II in June 2008 to accommodate a mandatory reinstatement. The reclassification was recommended and approved by BOE's Human Resources Section and is consistent with the series specification and scope established by DPA, and provides for an employee to supervisor ratio of 11 to 1.

***BTA II position reclassified to BTA III approved by the BOE's Department Head Committee and Human Resources Section in November 2007 and is consistent with the allocation standards and position specifications established by DPA and provides for an employee to supervisor ratio of 11 to 1.

Table II

SUMMARY OF REQUESTED POSITIONS AB 1749	# POSITIONS 2009-10	Hours Overtime	# POSITIONS 2010-11 On-going	Hours Overtime
I. EXCISE TAXES DIVISION (ETD)				
A. Compliance Continued Positions				
Tax Technician II	3.0	372	3.0	372
Tax Technician III	1.0	439	1.0	439
*Business Taxes Specialist I	1.0	49	1.0	49
Sub Total ETD Continued Compliance Positions & Overtime	**5.0**	**860**	**5.0**	**860**
B. ETD Audit Continued Positions				
Tax Technician II	1.0	18	1.0	18
Tax Auditor	1.0	400	1.0	400
Sub Total ETD Continued Audit Positions & Overtime	2.0	**418**	2.0	**418**
Total ETD Positions Requested	**7.0**	**1278**	**7.0**	**1278**
II. BOARDWIDE ADMINISTRATIVE SUPPORT				
Continued Positions				
Customer and Taxpayer Services Division (CATS)				
Digital Composition Specialist III		48		48
Associate Government Program Analyst		36		36
Tax Technician II		14		14
Business Taxes Compliance Specialist		6		6
Total CATS Overtime Hours Requested		**104**		**104**
Technology Service Division (TSD)				
Staff Programmer Analyst	1.0		1.0	
Total Boardwide Administrative Support Requested	1.0	104	1.0	104
Total Positions Requested	**8.0**	**1382**	**8.0**	**1382**

*TT II position reclassified to BTS I approved by the BOE's Human Resources Section in July 2007 and is consistent with the allocation standards and position specifications established by DPA.

Excise Taxes Division (ETD)

Compliance Section

AB 71 On-Going Workload

ETD Compliance Section developed FY 2004-05 BCP No. 3 (AB 71 – The California Cigarette and Tobacco Licensing Act of 2003) based on the assumption that approximately 85,000 retail locations that sold alcohol in California also sold cigarettes. Currently, there are 38,128 active cigarette and tobacco products retailer licenses. A portion of the

difference may have been a result of businesses that stopped selling cigarettes and tobacco products due to the new licensing requirements. Although the number of cigarette and tobacco products retailers was unknown prior to AB 71 being implemented, the $139.1 million in additional revenue from increased compliance was higher than the $58-87 million in revenue originally estimated.

ETD Compliance Section also based original workload estimates on its experience administering similar tax/fee programs and assumptions about how the licensing program would operate. Through best practices, ETD Compliance Section has since defined all of the specific processes and procedures necessary to efficiently administer the licensing program. ETD Compliance Section is requesting continuation of 22.0 positions to review and screen new applications, perform background checks, batch and process annual renewal applications, issue licenses, perform account maintenance and close outs of accounts, process refunds, process citations and violations, issue notice of violations, handle appeals, conduct first level and second level hearings, issue suspensions and revocations, issue billings for fines and penalties, perform collection functions on complex fraud and audit billings, provide phone advisory services, scan and image documents, and ensure proper oversight of the provisions of the Licensing Act (Refer to Table I, page 8 for summary of positions requested and Exhibit II for specific details of the workload activity).

The following table shows historical and projected workload for AB 71:

Activity	FY 03/04	FY 04/05	FY 05/06	FY 06/07	FY 07/08	Full Year Est FY 10/11+
New Licenses Issued	34,911	11,896	6,829	6,865	6,166	6,190
Renewal Applications Processed		31,670	33,670	34,506	35,900	38,031
Account Maintenance		12,559	22,004	19,671	16,792	17,756
Close Outs (LR, LW, LD, LM)		5,139	8,360	7,486	6,278	5,360
Refunds Processed (LR, LW, LD, LM)		3,120	1,327	566	2,451	1,866
Taxpayer Inquiries/Phone Advisory	69,987	49,853	26,787	26,723	22,112	22,100
Citations Processed		605	984	895	1,082	941
Billings for Fines/Penalties Issued		43	195	302	392	314
Suspensions Issued		360	302	213	188	185
Revocations Issued		4	18	6	8	12
First Level Appeals Processed		202	237	221	296	252
First Level Appeal Hearings Conducted		164	213	141	136	252
Second Level Appeals Processed		71	94	31	18	87
Second Level Hearings Conducted		0	124	56	11	87
Documents Scanned and Indexed		45,168	136,997	155,832	108,233	148,217

AB 1749 On-Going Workload

In FY 2007-08 BCP No. 14 (AB 1749 – Tobacco Products Manufacturer and Importing Licensing), ETD Compliance Section estimated 234 tobacco products manufacturers and importers based on industry data compiled by the Economic Census Bureau. There are currently 72 active Tobacco Manufacturer Importer accounts that require annual renewal. Although the workload related to registration did not materialize, ETD Compliance Section did not factor in the additional appeals hearings workload from AB 1749 and more

significantly the licensing program as a whole. Additionally, the processing of monthly electronic schedules is more time consuming than expected due to the number of pre/post loading edit reports required. Overall, the efforts of AB 1749 have also been successful. Tobacco products revenue (excluding cigarettes) has increased even though the tobacco products tax rate decreased. A contributing factor to the increase in revenue may be, in part, a result of the licensing requirements that were added under AB 1749 and enforcement efforts of the provisions.

ETD Compliance requests the continuation of 5.0 positions to administer the on-going licensing provisions of AB 1749. Refer to Table II (pg. 9) for summary of positions and to Exhibit II for specific details of the workload activity associated with the compliance positions required.

The following table shows historical and projected workload for AB 1749:

Activity	FY 06/07	FY 07/08	Est FY 08/09+
New Accounts	60	20	36
Process Renewal Application		59	72
Account Maintenance	120	51	50
Returns Processed	720	864	864
Manual Schedules Processed (BOE-501-MIT)	720	828	828
Electronic Schedules Processed	1,800	2,070	2,070
Work Pre-edit and Post edit reports	1,080	1,242	1,242
First Level Appeal Hearings Conducted	80	95	126
Second Level Hearings Conducted	16	23	44

On a monthly basis, Tobacco Manufacturers and Importers file returns and pay for taxable sample distributions of tobacco products. In addition, they also file electronic schedules to report non-taxable distributions of tobacco products. ETD staff has to compute, verify and issue billings and refunds. Staff must also load the electronic files and review exception reports resulting from improperly formatted or filed schedules. ETD staff is required to thoroughly examine and perform pre-load edits and review/correct exception reports to ensure that data is clean and will not corrupt the database. Due to the high volume of pre-edit reports, ETD staff may have to reload the same file multiple times resulting in approximately 2,070 entries annually.

Other areas impacted are the citation, violation and appeals processes. An increase of approximately 126 first level hearings per year is anticipated due to large amounts of tobacco products imported from outside the United States. To combat violations from potential offenders cited numerous times, a BTS I has been assigned the task of holding first level conferences for the multiple or more complex violations. In addition, the BTS I will assist with ETD program planning; act as agency liaison; perform special projects; assist in outreach efforts; and training of employees.

ETD Audit Section

AB 71 On-Going Workload

ETD Audit Section is requesting 9.0 positions and related resources to perform tax audit activities and ensure proper oversight of the Cigarette and Tobacco Products Tax Programs. Specifically, these positions will perform all tax audit functions related to ID referrals, UPS common carrier report leads, other common carrier/supplier information, tobacco products and cigarette tax stamp refunds.

Many of these referrals originate from complaints by the public in which a preliminary investigation by ID concluded that there was insufficient evidence for criminal prosecution; however, further investigation is warranted as their preliminary investigation indicated a potential tax shortage. Almost all of these referrals have resulted in liability determinations. Since implementation of AB 71, 82 audits have been billed for $11.6 million as of June 30, 2008. ETD currently has 169 additional referrals from ID in process as of June 30, 2008 which we would expect to bill (50 hours per audit @ $902 tax change per hour) for an additional $7.6 million. A significant percentage of the determinations have resulted in petitions for redetermination and claims for refund.

Additionally, AB 71 includes additional audit workload, which require the generation of quarterly reports for the Attorney General's Office (AG) to verify the market share of cigarette manufacturers. Under the November 1998 MSA between the State of California, other states, and cigarette manufacturers, each tobacco company must make annual payments to the participating states in perpetuity, totaling an estimated $206 billion through 2025. California's share of the revenue is projected to be $25 billion based on receiving 12.8% of the total payments. This requires verifying the accuracy of schedules filed by all cigarette and tobacco distributors and to provide reliable data to the AG so they can obtain the required escrow payment. AB 71 requires additional detailed reports, which are used by BOE and AG management to measure the effectiveness of the program. The Audit Section routinely encounters additional workloads, assignments and tasks relating to the audit and refund aspect of the program, including office support, lead-person responsibilities, audit selection, and specialized training conducted on a regular basis.

Further, ETD audit section performs field reviews and processes cigarette tax stamp refunds, tobacco products refunds, provides reciprocal assistance for other jurisdictions, for in-state licensees, and all other related activities associated with each claim. Refer to Table I (pg. 7) for summary of positions and to Exhibit III for specific details of the workload activity associated with the audit positions required.

The following table shows historical and projected workload for AB 71:

Activity	FY 03/04	FY 04/05	FY 05/06	FY 06/07	FY 07/08	Full Year Est FY 10/11+
Audit Referrals	111	252	136	87	104	109
Cigarette Tax Stamp Refunds			63	102	104	100
Process and Verify Distributor Reports		4300	4300	4300	4300	4300
Petitions				55	17	27
Special Reports				24	24	24
Investigate MSA Reports	100	100	100	100	100	100

AB 1749 On-Going Workload

The BOE requests 2.0 positions and related resources to administer the increased audit workload associated with AB 1749. The workload requirements for these two (2.0) positions (1.0) Tax Technician II and (1.0) Tax Auditor are summarized as follows:

AB 1749 requires Tobacco Manufacturers/Importers to file monthly reports detailing their sales to California customers. Data from the schedules must be compiled for audit selection and to prepare reports for the Attorney General's Office.

ETD Audit Section is requesting 1.0 permanent TA to continue tax audit activities for the Cigarette and Tobacco Products Tax Programs. The TA performs field and desk audits for the least-to-moderately difficult audits and assists in the more difficult audits. The workload for this position is based on leads from Tobacco Manufacturers or Importers monthly reports detailing their sales to California customers. Refer to Table II (pg. 8) for summary of positions and to Exhibit III for specific details of the workload activity associated with the audit positions required.

The following table shows historical and projected workload for AB 1749:

Activity					FY 07/08	Full Year Est FY 10/11+
Conduct Field Audits (1/2 year's actual data)					15	20
Conduct Desk Audits (1/2 year's actual data)					2	70
Compile Reports					954	954

Investigations Division AB 71

AB 71 On-Going Workload

The Investigations Division (ID) is responsible for enforcement of the Cigarette and Tobacco Products Licensing Act of 2003. Enforcement includes, but is not limited to: conducting taxpayer education, licensee compliance inspections, seizing contraband product, issuing civil and misdemeanor citations for violations of the Licensing Act, responding to consumer and industry tax evasion complaints, and following investigative leads which may develop into a felony criminal investigation. Felony investigations involve surveillance, coordinating with other state, local and federal enforcement agencies, issuing search warrants, preparing audit reports, prosecution packages, and ultimately working with the prosecuting authority to adjudicate cases.

ID staffs eight regional enforcement teams with each team comprised of four inspectors and one lead. The teams perform inspections of distributors, wholesalers, and retailers selling cigarette and tobacco products. As a safety precaution and to minimize business disruption, inspectors pair up in teams of two. Since the inception of AB 71, ID has conducted 41,003 cigarette and tobacco inspections resulting in 2,379 contraband cigarette seizures and 1,037 tobacco seizures. From these inspections, 3,191 civil citations and 477 criminal (misdemeanor) citations have been issued for violations of the Act.

In terms of effectiveness, the percentage of cigarette seizures per site inspection dropped significantly after the implementation of the Licensing Act. The non-compliance rate for cigarettes prior to program implementation was well over 20%. Post implementation, the rate has progressively declined; 13.4% in FY 04/05, 4.6% in FY 05/06, 3.2% in 06/07, and 2.7% in 07/08. ID's enforcement and field presence have increased compliance levels and significantly impacted evasion. Enforcement and field presence is an essential part of the program to maintain the positive gains in compliance and revenues achieved through these efforts. Through best practices, the enforcement of AB 71 has evolved into an effective deterrence to the illegal sales of contraband cigarette and tobacco products. ID has identified obstacles and found solutions to enhance the benefits derived from the program. While inspections have increased, the overall amount of counterfeit-stamped cigarette seizures has decreased by approximately 90% and enforcement has contributed to additional cigarette tax revenue and increased cigarette tax compliance (see Exhibit IV).

With the significant decline in counterfeit cigarette seizures, enhanced enforcement effort was directed to tobacco products (see Exhibit V). Staff was trained on tobacco-dating, which determines the manufactured date through markings on packages of popular brands of tobacco. Without tax stamps to identify that the excise tax has been paid, Other Tobacco Products[3] (OTP) evasion has been more difficult to determine. By knowing the manufactured date of tobacco, reconciliation of purchase invoices with the tobacco inventory became more precise resulting in an increase in tobacco seizures. As a result of AB 71 enforcement efforts, tobacco revenues have risen from $40 million (pre-implementation) to approximately $87 million in 07/08, during a period when the tobacco products tax rate has consistently declined. This is an increase of over 117% in other tobacco products revenue (see Exhibit VI).

The chart below provides a summary breakdown of enforcement inspection activity:

	FY 04/05	FY 05/06	FY 06/07	FY 07/08	Total
# of Inspections	9,236	11,084	10,130	10,553	41,003
Civil Citations Issued	588	839	737	1027	3191
Violations	972	1652	1586	2134	6344
Criminal Citations Issued	12	142	177	146	477
Violations	30	369	462	479	1340
# of Cigarette Seizures	1240	514	329	296	2379
Sticks Seized	6,528,473	3,870,232	3,300,286	2,818,487	16,517,478
# of Tobacco Seizures	117	285	245	390	1037
Tobacco Seizure Wholesale Value	$225,084	$581,687	$286,799	$612,155	$1,705,725

ID attempts to complete 10,000 inspections per year. Approximately 115 inspections will lead to additional complaints that will require investigative work. Historically 10, or 8.5%, will result in a criminal case that will require further investigation. On average a case takes 3 years to adjudicate from inception. Rapid response time provides the best opportunity for investigating fraudulent operations that are easily moved from place to place. Some illegal distribution and wholesale operations can move locations simply by renting a new month-to-month storage facility. By having investigators in the field making inspections, there is a

[3] OTP includes all items other than cigarettes such as chewing tobacco, snuff, cigars, moist tobacco, roll your own tobacco, etc.

more proactive and rapid response to cigarette and tobacco tax evasion. This has the added benefit of showing California's citizens and stakeholders that the State is responding to the evasion in their community. It also allows ID to obtain more timely information concerning evasion schemes, and allows the investigators to develop cases and seek prosecutions in a more proactive fashion.

To improve efficiency and to comply with recommendations by the Department of Justice to separate civil and criminal procedures to the extent possible, ID created an audit crew to conduct all audits related to criminal investigations. Since implementation of AB 71, 69 civil audits have been billed and a total of approximately $4 million has been recovered as of June 30, 2008. There are currently 43 additional audits in process as of June 30, 2008 which we would expect to recover additional revenue of over $1.26 million. In addition to civil audits, the audit crew is responsible for the completion of detailed financial transaction analysis, which is being requested with greater frequency by District Attorneys to prosecute financial crime cases. These financial analyses often include scheduling each suspect's bank transactions, credit card transactions and other monetary instruments (money laundering).

Enforcement of AB 71 provides information sharing opportunities with other agencies. As a result of compliance inspections some agencies are provided with referrals such as Department of Health Services (DHS), local County Department of Human Assistance, local Cigarette and Tobacco Enforcement Agencies, the State Fire Marshall, Department of Alcoholic Beverage Control (ABC), Employment Development Department (EDD) and Franchise Tax Board (FTB). Examples of information sharing include:

- In cooperation with DHS, staff provides retailers in violation of penal code section 308 (Stake Act) the appropriate signage and literature on the legal requirements.
- If welfare fraud is suspected through the use of a food stamp card (Golden State Advantage Card) a referral is sent to the local County Department of Human Assistance.
- The State Fire Marshall is notified if cigarettes are found not to be fire safe.
- ABC is also notified of retailers selling alcohol without a license.

In addition to the revenue benefits AB 71 provides to the BOE (viable Excise and SUTD audit leads), other agencies benefit through information sharing.

Pursuant to AB 71, the BOE also enforces provisions relating to the Master Settlement Agreement (MSA). This requires ID to seize cigarettes to which are affixed tax stamps or meter impressions that are in violation of Section 30163.1 of the Revenue and Taxation Code, as well as cigarettes distributed by manufacturers not identified as a participating manufacturer by the Attorney General.

With the advent of retail inspections, the enforcement of the MSA and the increase in case workload there is an increase in the number of search warrants and the number of seizures. Based on the current investigative staff to support staff ratio, the continuation of management and administrative positions is necessary to properly maintain the seized product and evidence for criminal cases; to maintain quality control measures, establish new procedures, monitor appropriate checks and balances, and to collect and analyze data for specific demographic evasion trends generated by the new investigative positions and case work. For example, by tracking counterfeit tax indicia seizures, ID can isolate a demographic area for focused investigation.

The following is a summary of ID resource needs, (see Exhibit VII for details of workload):

Investigation Tasks		**FY January 1, 2010 (mid-year)**		**FY 2010 On-going**
Audit workload		5,688		11,376
Inspection/Investigation Workload		30,253		60,505
Supervision/Technical Support		4,500		9,000
Total Hours:		**40,441**		**80,881**
Positions Requested:	**PYs**	**Hours**	**PYs**	**Hours**
Audit				
Associate Tax Auditor	2	3,200	4	6,400
Business Taxes Specialist I	1	1,600	2	3,200
Business Taxes Specialist II	.5	800	1	1,600
Total:	**3.5**	**5,600**	**7**	**11,200**
Inspection/Investigation				
Business Taxes Compliance Specialist	7.0	10,640	14	21,280
Business Taxes Specialist I	11	16,720	22	33,440
Business Taxes Specialist II	1	1,520	2	3,040
Sr. Information Sys. Analyst	.5	760	1	1520
Total	**19.5**	**29,640**	**39**	**59,280**
Supervision/Technical Support				
Business Taxes Administrator III	.5	900	1	1,800
Business Taxes Administrator II	.5	900	1	1,800
Business Taxes Specialist II	.5	900	1	1,800
Supervising Tax Auditor II	.5	900	1	1,800
Property Controller II	.5	900	1	1,800
Total	**2.5**	**4,500**	**5**	**9,000**
Total PYs Requested:	**25.5**	**39,740**	**51**	**79,480**
Overtime				
Audit Workload				
Business Taxes Specialist II		88		176
Inspection/Investigation Workload				
Business Taxes Compliance Specialist		613		1,225
Total		**701**		**1,401**

Foot Note: The Police Officer Standards and Training (Post) requires completion of PC 832 for all personnel exercising powers of arrest, search and seizure. Additionally, POST recommends 80 hours of annual law enforcement-related training to reinforce and expand upon the basic training provided under PC 832. Since investigators and inspectors will be required to enforce all tax laws of BOE, it is anticipated that an additional 80 hours of annual training will be required to refresh ID employees, as well as update employees on changes related to applicable tax and enforcement laws. Thus, ID investigator and inspector positions were calculated using 1520 hours per PY.

Boardwide Administrative Support

AB 71 On-Going Workload

Legal Division AB 71

Two Tax Counsel III's are being requested to handle on-going work. One position is an upgrade from a Tax Counsel. The upgrade is necessary due to the complex and sensitive legal work generated by AB 71. The Tax Counsel III advises on constitutional and criminal law matters related to ID's enforcement of AB 71 involving due process, the search and seizure of property, and the sufficiency of evidence relating to the prosecution of civil and criminal tax evasion and fraud to ensure compliance with applicable state and federal statutory law and related case law. Additionally, the Tax Counsel III drafts issue papers, legal opinions, regulations and legislation and advises on complex matters related to AB 71.

Internal Security and Audit Division (ISAD) AB-71

ISAD's workload increased with the elevated enforcement activity. As a result of AB 71, there has been an increase in internal investigations, threats against BOE staff, and security concerns. The new processes also require internal review/audit. To accommodate the increased workload, ISAD will require .5 PY Business Taxes Specialist I.

Accounting Section AB 71

Refer to Exhibit VIII for a detailed description for the functions and workload for this position.

Personnel Management Division AB 71

Refer to Exhibit IX for a detailed description for the functions and workload for this position.

Sales and Use Tax Department (SUTD) AB 71

There have been changes to SUTD District Office (DO) procedures to administer the AB 71 program and these changes have resulted in an increased workload. In the original BCP (No. 3, 2004-2005) it was assumed SUTD DO would handle minor walk-in traffic related to cigarette and tobacco products licensing and that taxpayers would be given forms and publications, and subsequently referred to ETD. SUTD TT II's are in fact handling walk-in and mail-in registration and renewal application forms. In addition to a workload increase, participation by the DO 's has grown, they are assisting taxpayers who apply for a license with their initial contacts, by accepting new and renewal application forms, adding new locations, and forwarding related documents to ETD to complete the licensing process. As a result, SUTD is requesting an upgrade from the current 0.5 PY to 1.0 PY to process the additional workload.

SUTD DO's are also now accepting payments for new applications and reinstatement fees related to AB 71. Payment processing involves a review of the application for signatures, issuing receipts, logging/batching payments, and under certain circumstances, contacting ETD for clarification on which accounts a payment should be applied. Therefore, 0.4 PY is requested to continue processing the additional workload.

Refer to Exhibit X for a detailed description of the functions and workload for this position.

Customer and Taxpayer Services Division (CATS)

AB 71 On-Going Workload

The E-Publishing Section has on-going costs related to AB 71 for maintaining and printing of the cover letter, tax application, instructions, schedules, envelopes, and other outreach documents. This requires 48 overtime hours for a Digital Composition Specialist III and 16 overtime hours for an AGPA. In addition, there will be an on-going cost of $7,000 for printing and envelopes each year.

In 2007, the Taxpayer Information Section (TIS) staff received 24,742 calls, which were transferred to the Excise Taxes Division and another 1,105 calls are estimated to have been Excise Tax related calls that were abandoned prior to being answered. Of those abandoned, approximately 765 calls were related to AB 71. In order to make attempts to capture these abandoned calls it would take another 116 overtime hours per year at the TTI/II level. In addition, the call center is constantly training new staff due to attrition. The TIS will require 12 AGPA overtime hours and 6 overtime hours for the BTCS position, to keep materials and staff up to date on AB 71 requirements. Thus, CATS request a total combined on-going overtime hours in the amount of 198.

AB 1749 On-Going Workload

The E-Publishing Section has on-going costs related to AB 1749 for maintaining and printing the registration form, form letters, tax return, schedules, delinquency notice, notice to appear, final revocation notice and envelopes. This requires 48 overtime hours for a Digital Composition Specialist III and 24 hours for an AGPA yearly. There is an expense of $673 for printing and envelopes each year.

In 2007 the Taxpayer Information Section (TIS) staff received 24,742 calls, which were transferred to the Excise Taxes Department and another 1,105 calls are estimated to have been Excise Tax related calls that were abandoned prior to being answered. Of those abandoned, approximately 95 calls were related to AB 1749. In order to make attempts to capture these abandoned calls it would take another 14 overtime hours per year at the TTI/II level. In addition, the call center is constantly training new staff due to attrition. The TIS will require 12 AGPA overtime hours and 6 overtime hours for the BTCS position, to keep materials and staff up to date on AB 1749 requirements. Thus, CATS request a total combined on-going overtime hours for a total of 104 hours.

Mail Services Unit (MSU) AB 71

MSU will need 156 hours on-going Office Assistant to mail, open, and print items related to AB 71. MSU also estimates additional postage and envelope costs of $43,000 on-going.

Cashier's Unit AB 71

Cashier Unit estimates that they will require 500 overtime hours on-going at the Office Assistant classification to batch, process, and reconcile checks related to AB 71.

Technology Service Division (TSD) AB 71

Technology Services Division is responsible for the computer systems and technology infrastructure that support the BOE tax and administrative programs. TSD needs 1.0 Staff Information Systems Analyst in the Network Support Section to support the additional personnel, hardware and software associated with AB 71 (see table below).

Classification	*Activity*	*Time Measure Unit H=Hours*	*Time per Occurrence*	*Occurrences per Year*	**Total Hours**
Staff Information Systems Analyst (SISA)	Troubleshoot non-mainframe problems, user support and training	H	5	190	950
	Maintain Encryption, VPN, and other security	H	2.5	95	238
	Build, Test and Maintain computer hardware and images	H	3.5	70	245
	Coordinate with Excise Tax Division on technology	H	1.5	65	98
	Special Projects and Documentation	H	1.5	65	98
	Technical Training and Travel	H	2.5	40	100
	Lead Functions	H	2.0	50	100
	Total SISA Hours				1,829

Technology Service Division (TSD) AB 1749

TSD will need to continue to maintain the BOE integrated mainframe system, known as Integrated Revenue Information System (IRIS). IRIS was modified to implement and administer AB 71 as an expansion of the Revenue Database Consolidation Project. With the passage of AB 1749, IRIS functionality was expanded to meet the new requirements. The development of any system requires on-going maintenance, which is no exception for this effort. The necessary on-going maintenance for AB 1749 includes performing bug fixes, planning and implementing mainframe system software upgrades, performance tuning, implementing minor enhancements, testing and updating documentation.

Classification	*Activity*	*Time Measure Unit H=Hours*	*Time per Occurrence*	*Occurrences per Year*	**Total Hours**
Staff Programmer Analyst (SPA)	Troubleshoot mainframe problems, user support and training		84	12	1008
	Maintain system software		100	1	100
	System enhancements		100	3	300
	Testing		16	12	192
	System and Project Documentation		9	12	108
	Technical Training		100	1	100
	Total SPA				1,808

Alternative 1 – Authorize permanent funding and positions to continue the programs.

Pros:
- Continues financial support to breast cancer research; California children and families program which includes early childhood development programs; and health education, hospital services, physician services, research, and public resources.
- Continues an estimated $144.6 million annually in additional revenue.
- Provides, on a permanent basis, required positions to fully and effectively administer the requirements of AB 71 and AB 1749.
- Ensures mandated workload is performed.
- Provides contractual flexibility during the bid process to secure state-of-the-art technology for cigarette tax stamp features as required by SB 1701 and allows BOE to procure a contract that serves the best interest of the State.
- Maximize voluntary compliance through reduced evasion.
- Does not require statutory change to re-allocate funds.

Cons:
- Costs associated with administering the program.
- Costs associated with the new stamping and scanning technology contract.
- Seeks funding from General Fund and other Special Funds.

Alternative 2 – Absorb workload within other existing programs.

Under this alternative, the BOE would have to divert funding and resources from other programs to administer the mandates of AB 71, AB 1749, and SB 1701.

Pros:
- No authority is needed to establish additional resources.
- Continued financial support to breast cancer research; California children and families program which includes early childhood development programs; and health education, hospital services, physician services, research, and public resources.

Cons:
- Statutes, constitutional provisions, and court decisions prevent the BOE from diverting controlled special funds to pay for other programs.
- The Board cannot absorb the workload with its current baseline budget.

Alternative 3 – Stop administering the provisions of AB 71, AB 1749, SB 1701.

Pro:
- No additional workload.

Cons:
- Prevents BOE from meeting its obligation with mandated legislation.
- Compliance and enforcement would be minimized resulting in an increase of tax evasion.
- Revenues would decrease substantially and critical funding to the General Fund and Special Taxes funds for breast cancer research, hospital and health education and services, research, and early childhood development would be negatively affected.

E. Facility/Capital Outlay Considerations

Since this proposal requests permanent establishment of positions previously authorized on a limited-term basis, there is no additional impact on existing facilities. However, for the new positions being requested, BOE is currently completing a "restacking plan" for BOE's Headquarter building. This plan will allow BOE to address current optimum occupancy issues, align program functions/activities, identify additional offsite lease space, and for growth.

F. Outcomes and Accountability

With the approval of this proposal, beginning January 1, 2010, the positions will continue working in their current capacity to ensure the effective and efficient administration of the California Cigarette and Tobacco Products Licensing Act and the new encrypted tax stamp. The outcome of continuing the positions permanently will be measured by the increase in voluntary compliance through reduced tax evasion and increased revenues. The data collected from the activities will be reflected in the ETD & ID regular reporting process.

G. Timetable

The BOE requests permanent establishment of new positions beginning July 1, 2009.

FY 2008/09 (January 2009-June 2009)	FY 2009/10
• Prepare duty statements for new positions • Develop seating plan and identify workstations • Prepare purchase orders for PCs, telephones, and other equipment needs • Advertise new positions and conduct interviews • Develop training plans for new staff • Hire new staff • Prepare Invitation for Bid for Cigarette Tax Stamp	• Train new staff on refund process • Evaluate bids for cigarette tax stamp contract • Procure new cigarette tax stamp contract • Continue efficient and effective administration and enforcement of the provisions of AB 71 and AB 1749 • Continue to improve processes and level of customer service (best practices)

H. Recommendation

Alternative 1 is recommended. By providing the authorized funding in Alternative 1, the BOE will successfully continue administering the mandated provisions of AB 71, AB 1749 and SB 1701. The end result will lead to an increase in voluntary compliance with the cigarette and tobacco products tax law, recovered revenue lost to cigarette and tobacco tax evasion and an overall decrease to the criminal element in California.

I. Fiscal Detail

See attached "Fiscal Detail" schedules for additional detail.

J. Appendix

See attachments

Estimated Annual AB 71 and Stamp Revenue Benefits		
Assumptions: *Cigarette revenues would have declined 3% per year without licensing or the new stamp.* *Tobacco products sales and revenues would not have changed without licensing.* *Thirty-month implementation period for both licensing and the new stamp.* *(January 1, 2004 through June 30, 2006)* *Revenues are annual and ongoing.* *Tobacco products tax rate is for fiscal year 2007-08.*		
	Tax Rate or Price	**Millions**
Cigarettes		
Distributions (Millions of Packs)	n.a	100.8
Excise Taxes	$0.87	$87.7
General Fund	$0.10	$10.1
Breast Cancer	$0.02	$2.0
Proposition 99	$0.25	$25.2
Proposition 10	$0.50	$50.4
Sales and Use Taxes		
Average Retail Price Per Pack	$4.00	
Retail Value of Cigarette Sales	n.a	$403.3
Sales and Use Taxes, Total	7.94%	$32.0
State	5.25%	$21.2
Local	2.00%	$8.1
Transit	0.69%	$2.8
Tobacco Products		
Wholesale Sales	n.a.	$34.7
Excise Taxes	45.13%	$15.7
Proposition 99	28.66%	$10.0
Proposition 10	16.47%	$5.7
Sales and Use Taxes		
Retail Mark-Up Over Wholesale Price	35%	n.a.
Estimated Value of Retail Sales	n.a.	$46.9
Sales and Use Taxes, Total	7.94%	$3.7
State	5.25%	$2.5
Local	2.00%	$0.9
Local Districts	0.69%	$0.3
Total Excise and Sales and Use Taxes		**$139.1**

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California Board of Equalization
February 20, 2008

AB 71 ETD COMPLIANCE

Tax Technician II

Workload Detail

Activity	Time Measure H = Hours M = Minutes	Time Per Occurrence	2009-10 (Mid-Year) Occurrences Per Half-Year	2009-10 (Mid-Year) Total Hours	2010-11 & On-going Occurrences Per Year	2010-11 & On-going Total Hours
Flag new retailer (LR) registrations	M	2	309	10	619	21
Register and issue new Distributor (LD) license	M	30	50	25	100	50
Register and issue new Wholesaler (LW) license	M	30	46	23	93	47
Register and issue new Cig. Manufacturer/Importer (LM) license	M	30	2	1	4	2
Renewal Retailer (LR) registration and issue license	M	15	19015	4754	38031	9508
Review Wholesaler account of close/out	M	18	79	24	159	48
Review Cigarette Manufacturer for close/out	M	18	2	1	4	1
Account Maintenance (LR, LW, LD, LM)	M	5	8878	740	17756	1480
Review/analyze civil citation packet	M	18	470	141	941	282
Enter civil/criminal citation information in IRIS	M	10	470	78	941	157
Total hours per year				5,797		11,596
Position based on 1,800 hours per year				3.2		6.4
Postions Requested				3.0		6.0
OT Hours Requested				397		796

Tax Technician II (TT II)

The continuation of 6.0 permanent TT II's is required to perform part of the new license process and all license renewals, issuance of licenses, account maintenance, close out process, review and analyze civil citations and inputting the information into the IRIS system. This group also processes approximately 38,000 renewal applications annually.

AB 71 ETD COMPLIANCE

Tax Technician III

Workload Detail

Activity	Time Measure H = Hours M = Minutes	Time Per Occurrence	2009-10 (Mid-Year) Occurrences Per Half-Year	2009-10 (Mid-Year) Total Hours	2010-11 & On-going Occurrences Per Year	2010-11 & On-going Total Hours
Issue billings for violations, fines/penalties	M	10	157	26	314	52
Taxpayer inquiries on billings	M	10	79	13	157	26
Input application batches into Excel log sheet	M	1	4578	76	9156	153
Receiving batches in the payment subsystem of Integrated Revenue Information System (IRIS)	M	1	4578	76	9156	153
Review related account information is complete, verify Secretary of State status	M	5	4578	382	9156	763
Verify/Comp applications	M	2	4578	153	9156	305
Create Financial Obligation Shells for IRIS	M	1	1831	31	3662	61
Applying/Unapplying Payments to Applications	M	2	4578	153	9156	305
Evaluate Claims for Refunds and overpayments	M	8	933	124	1866	249
Process refunds	M	10	933	156	1866	311
Total hours per year				1,190		2,378
Position based on 1,800 hours per year				0.7		1.3
Postions Requested				0.6		1.0
OT Hours Requested				110		578

Tax Technician III (TT III)

The continuation of 1.0 permanent TT III's is required to perform the functions involved with verification of application batches (new and renewals), billings, fines, refunds, and application of payments. To avoid delays, the TT III must properly verify that the application loaded to the IRIS database is error free and that the payment is properly applied. The TT III must also issue billings and refunds in a timely manner. On an annual basis, approximately 9,156 documents are reviewed and appropriate follow-up action is taken by this position.

AB 71 ETD COMPLIANCE

Business Taxes Representative

Workload Detail

	Time Measure		2009-10 (Mid-Year)		2010-11 & On-going	
Activity	H = Hours M = Minutes	Time Per Occurrence	Occurrences Per Half-Year	Total Hours	Occurrences Per Year	Total Hours
Register and issue new Retailer (LR) license	H	1.5	3095	4643	6190	9285
Renewal Distributor (LD) registration and issue license	M	30	289	145	578	289
Renewal Wholesaler (LD) registration and issue license	M	30	204	102	408	204
Renewal Cig. Manufacturer/Importer (LM) registration and issue license	M	30	14	7	28	14
Handle taxpayer inquiries on registration issues (LR, LD, LW, LM)	M	5	11050	921	22100	1842
Review Retailer (LR) account for close out	M	5	2500	208	5000	417
Review Distributor (LD) account for close out	M	20	98	33	197	66
Second line review/analyze citation packet	M	5	470	39	941	78
Initiate citation notice, enter comment in IRIS and Automated Compliance Management System (ACMS)	M	5	470	39	941	78
Review printed warning/violation, mail notice and make folder	M	5	470	39	941	78
Courtesy call to taxpayer in regards to notice issued	M	5	470	39	941	78
Appeal received/Enter appeal information on Appeals screen	M	10	111	19	222	37
Review Decision and Recommendation (D&R) mailing with summary to taxpayer and attorney	M	30	111	56	222	111
Initiate D & R mailing to taxpayer & attorney	M	5	111	9	222	19
Review printed notice to D & R, mail and enter comments in IRIS/ACMS, prepare appeal file, update appeals index	M	5	111	9	222	19
Second (2nd) appeal/Update appeals screen & index	M	30	31	16	62	31
Collection actions for Fines & Penalties (calls, levies, liens, warrants, earning withholds, monitor in ACMS)	H	2	51	102	102	204
Appeal received, enter comments, collection file in IRIS, ACMS	M	10	51	9	102	17
Prepare Relief of Penalties	M	30	13	7	26	13
Review Decision and Recommendation	M	30	51	26	102	51
Write--off liability	M	30	5	3	10	5
Issue Revocation Notice	M	30	6	3	12	6
Issue Notice to Suspend	M	30	92	46	185	93
Total hours per year				6,520		13,035
Position based on 1,800 hours per year				3.6		7.2
Postions Requested				3.4		7.0
OT Hours Requested				400		435

Business Taxes Representative (BTR)

The continuation of 7.0 permanent BTR's is required to perform the functions involved with new retailer registrations, renewals and account maintenance of Retailers, Distributors, Wholesalers and Cigarette Manufacturers. In addition, the BTR's must also review and process closeouts, issue citations; track violations; issue suspensions and revocations; perform collection functions; and provide advisory services. These positions involve an intense review of all new applicants in order to prevent any previous offenders from obtaining a new license. These positions process approximately 6,190 new retailer licenses and handle approximately 22,100 taxpayer inquiries on an annual basis.

AB 71 ETD COMPLIANCE

Business Taxes Compliance Specialist

Workload Detail

Activity	Time Measure H = Hours M = Minutes	Time Per Occurrence	2009-10 (Mid-Year) Occurrences Per Half-Year	2009-10 (Mid-Year) Total Hours	2010-11 & On-going Occurrences Per Year	2010-11 & On-going Total Hours
Complex Collection cases (high dollar amounts, Attorney General Referrals, Audit/Fraud Cases, Bankruptcies)	H	80	28	2240	55	4400
First Appeal received from BTR (review appeal, set-up hearing notice).	M	15	126	32	252	63
Update Excise Taxes Division (ETD) Appeals spreadsheet with current hearing status.	M	15	126	32	252	63
Write-up of case (review citation packet, write summary of case based on statement of facts).	M	45	126	95	252	189
Review file prior to hearing	M	30	126	63	252	126
Conduct hearing via telephone or in person	M	30	126	63	252	126
Write Decision and Recommendation (D&R)	H	1	126	126	252	252
Update ETD spreadsheet documenting hearing outcome	M	5	126	11	252	21
Second Appeal (review violation status in IRIS for cancellation of suspension, update appeals spreadsheet and review file prior to sending to appeals)	M	10	42	7	87	15
Received final D & R from Appeals (review and initiate Notice of Decision)	M	30	42	21	87	44
Composing and sending final list of suspended licenses to all Distributors & Wholesalers via e-mail	H	2	24	48	48	96
Review and approve refunds	M	10	629	105	1259	210
Total hours per year				2,843		5,605
Position based on 1,800 hours per year				1.6		3.1
Postions Requested				1.5		3.0
OT Hours Requested				143		205

Business Taxes Compliance Specialist (BTCS)

The continuation of 3.0 permanent BTCS positions is required to perform functions involved with complex collection cases resulting from fraud and audits, hearing process, appeals, and refund reviews and approvals. In order to comply with internal audit requirements, proper checks and balances are required when refunds are issued. These positions also play an important role in sorting through the many complex laws and penalties that arise during the course of the hearing and appeal process. In addition, BTCS's are also responsible for handling fraud and complex collection cases, including bankruptcies and jeopardy determinations.

AB 71 ETD COMPLIANCE

Office Assistant

Workload Detail

	Time Measure		2009-10 (Mid-Year)		2010-11 & On-going	
Activity	H = Hours M = Minutes	Time Per Occurrence	Occurrences Per Half-Year	Total Hours	Occurrences Per Year	Total Hours
Prepare, batch, scan documentation/Index files	M	1	74108	1235	148217	2470
Telephone receptionist	M	3	618	31	1235	62
Mail receipt/distribution	H	2	371	742	741	1482
Total hours per year				2,008		4,014
Position based on 1,800 hours per year				1.1		2.2
Postions Requested				1.0		2.0
OT Hours Requested				208		414

Office Assistant (OA)

The continuation of 2.0 permanent OA's is required to perform the functions involved with the daily tasks of office support of the compliance teams including filing, scanning documents, telephone receptionist, mail receipt and distribution. All documents related to the Cigarette and Tobacco Products Licensing Programming are scanned. On an annual basis, OA's process approximately 148,217 documents for scanning and indexing.

AB 71 ETD COMPLIANCE

Business Taxes Compliance Supervisor II

Workload Detail

Activity	Time Measure H = Hours M = Minutes	Time Per Occurrence	2009-10 (Mid-Year) Occurrences Per Half-Year	2009-10 (Mid-Year) Total Hours	2010-11 & On-going Occurrences Per Year	2010-11 & On-going Total Hours
Plans organizes, directs and controls compliance activities for the compliance staff assigned.						
Directs staff in furnishing accurate application of the law and provides direction.						
Interview, hire and oversee training of new employees, reviews, and evaluates work performance.						
Resolve grievances, handle disciplinary matters, make recommendation regarding promotions and prepare employee appraisals.						
Provide technical guidance to district, field and headquarters compliance staff, and other agencies.						
Total hours per year				1,800		3,600
Position based on 1,800 hours per year				1.0		2.0

Business Taxes Compliance Supervisor II (BTCS II)

The continuation of 2.0 permanent BTCS II is required to lead, direct and oversee the work of approximately 23 compliance staff from the Cigarette and Tobacco Products Licensing team. The compliance functions consist of application review, registration, issuing, suspending and revoking licenses, assessing penalties and fines, maintenance of accounts, hearing and appeal process, delinquency control, bankruptcies, skip tracing, advisory service, and collections. This provides for an employee to supervisor ratio of 11 to 1.

AB 71 ETD COMPLIANCE

Business Taxes Administrator III

Workload Detail

Activity	Time Measure H = Hours M = Minutes	Time Per Occurrence	2009-10 (Mid-Year) Occurrences Per Half-Year	2009-10 (Mid-Year) Total Hours	2010-11 & On-going Occurrences Per Year	2010-11 & On-going Total Hours
Plan, control and organize the work flow of program functions including but not limited to report, return review and processing, delinquency control, collections, billings, refunds, registration, security deposits, statistical costing and revenue analysis, audit and appeals.						
Conduct meetings and discussions with subordinate supervisors and staff to coordinate workflow and resolve problems as necessary.						
Determine staffing needs, develop and set work priorities, and establish work standards.						
Coordinate legislative analysis, legislative costing, and budget change proposals for ETD compliance and audit programs.						
Coordinate the work of the programs administered with other BOE units, and external agencies.						
Interview, hire, and oversee the training of new employees. Evaluate employee work performance and prepare performance evaluations.						
Assist the Chief of Excise Taxes Division in the formulation of policies regarding administration of the division's programs. Implements policies developed by the chief and acts for the chief, in his/her absence.						
Represent Excise Taxes Division in appeals, hearings by meeting in informal setting or by appearing before the the elected Board.						
Total hours per year				900		1,800
Position based on 1,800 hours per year				0.5		1.0

Business Taxes Administrator III (BTA III)

The continuation of 1.0 permanent BTA III is required to direct and oversee approximately 60 positions consisting of a variety of supervisory, compliance, audit, and support personnel. Under the general direction of the Chief of ETD, the BTA III through subordinate supervisors, plans, directs, controls, organizes, and evaluates the work performed in the Cigarette and Tobacco Products Licensing program as well as all other programs administered in ETD. The BTA III plans, develops, and recommends compliance and audit policy and procedures and is responsible for implementing division wide policies and provides functional guidance to the Principal Compliance Supervisor regarding emerging issues affecting the compliance & audit policies of various programs.

AB 1749 ETD COMPLIANCE

Tax Technician II

Workload Detail

Activity	Time Measure H = Hours M = Minutes	Time Per Occurrence	2009-10 Occurrences Per Year	2009-10 Total Hours	2010-11 & On-going Occurrences Per Year	2010-11 & On-going Total Hours
New Tobacco Manufacturer/Importer (TIM) registration and issue license	H	1	36	36	36	36
Renewal Tobacco Manufacturer/Importer (TIM) and issue license	M	30	72	36	72	36 0
Taxpayer inquiries regarding registration	M	5	17	1	17	1
Send new renewal registration package/info	M	10	35	6	35	6
Manually review, copy or transfer paper filing information to electronic format	H	2.5	828	2070	828	2070
Receive and review electronic filing of the BOE-501-MIT schedule, prepare and process data for pre-load screening	H	1.75	2070	3623	2070	3623
Total hours per year				5,772		5,772
Position based on 1,800 hours per year				3.2		3.2
Postions Requested				3.0		3.0
OT Hours Requested				372		372

Tax Technician II (TT II)

The continuation of 3.0 permanent TT II's is required to perform part of the new registration process and handle the entire renewal registration process for Tobacco Manufacturers and Importers (TIM), issuance of licenses, account maintenance, close out process, and also to review, copy, and transfer paper filing schedules to electronic format.

AB 1749 ETD COMPLIANCE

Tax Technician III

Workload Detail

Activity	Time Measure H = Hours M = Minutes	Time Per Occurrence	2009-10 Occurrences Per Year	2009-10 Total Hours	2010-11 & On-going Occurrences Per Year	2010-11 & On-going Total Hours
Review TIM account for close out	M	15	8	2	8	2
Maintaining TIM account	M	10	50	8	50	8
Review account for initial deferred purchases of cigarette tax stamps request	H	1	24	24	24	24
Input security information into IRIS database	M	15	24	6	24	6
Archiving security records	M	15	24	6	24	6
Contact banks, insurance companies, taxpayers re: security	M	30	36	18	36	18
Maintain security data, including increasing, decreasing security	M	30	24	12	24	12
Review security reports on cancellations/reinstatements	M	30	36	18	36	18
Disburse, offset, and transfer securities	M	45	24	18	24	18
Download and review disbursement reports including BOE-1035	H	1	12	12	12	12
Verify/comp BOE-501-TIM Tobacco/Manufacturers importers return	M	10	864	144	864	144
Contact taxpayer for overpayment, missing return information	M	10	166	28	166	28
Clear delinquencies	M	30	173	87	173	87
Bill, refund, transfer, adjust and apply payments	M	15	173	43	173	43
Prepare correspondence	M	30	86	43	86	43
Initially contact taxpayer regarding filing electronically requirements	M	15	36	9	36	9
Send electronic flat file to taxpayer	M	30	36	18	36	18
Assisting taxpayer with technical instructions on creating or loading a flat file	M	30	36	18	36	18
Review load report and if pre-load edits exist, research, contact taxpayer, correct it and resubmit	M	45	1242	932	1242	932
Work post-load edit exception report or corrections after schedule is input in IRIS	M	15	1242	311	1242	311
Contact taxpayer to troubleshoot incomplete or defective or clarify electronic filings	M	30	621	311	621	311
Work delinquent or duplicate schedules filed	M	45	228	171	228	171
Total hours per year				2,239		2,239
Position based on 1,800 hours per year				1.2		1.2
Postions Requested				1.0		1.0
OT Hours Requested				439		439

Tax Technician III (TT III)

The continuation of 1.0 permanent TT III is required to oversee the functions involved with reviewing taxpayer's qualifying criteria for deferred purchases of cigarette tax stamps, security deposits, billing, fines, refunds, application of payments and process pre/post load edits exception reports of manual and electronic filed schedules.

AB 1749 ETD COMPLIANCE

Business Taxes Specialist I

Workload Detail

Activity	Time Measure H = Hours M = Minutes	Time Per Occurrence	2009-10 Occurrences Per Year	2009-10 Total Hours	2010-11 & On-going Occurrences Per Year	2010-11 & On-going Total Hours
First appeal received from Business Taxes Representative (review, appeal, set-up hearing & initiate notice).	M	15	126	32	126	32
Update Excise Taxes Division Appeal log with current hearing information	M	15	126	32	126	32
Write-up of case (review citation packet write a summary of case based on statement of facts).	M	45	126	95	126	95
Review file prior to hearing	M	30	126	63	126	63
Conduct actual hearing via telephone or in person	M	30	126	63	126	63
Write Decision and Recommendation (D&R)	M	60	126	126	126	126
Update ETD spreadsheet documenting hearing outcome	M	5	126	11	126	11
Second Appeal (review violation status in IRIS for cancellation of suspension, update appeals spreadsheet and review file prior to sending to appeals	M	10	44	7	44	7
Received final D & R from Appeals (review and initiate Notice of Decision	M	30	44	22	44	22
Composing and sending final list of suspended licenses to all Distributors & Wholesalers vie e-mail	M	120	24	48	24	48
Program planning, agency liaison, special projects, outreach program, training, system testing/implementation				450		450
Review and approve of Business Tax Compliance Specialist, Business Tax Rep & handle most complex cases, including advisory service				450		450
Lead to journey level staff and hearing staff				450		450
Total hours per year				1,849		1,849
Position based on 1,800 hours per year				1.0		1.0
Postions Requested				1.0		1.0
OT Hours Requested				49		49

Business Taxes Specialist I (BTS I)

The continuation of 1.0 permanent BTS I is required to handle an anticipated 50 percent increase in hearings. Four years after implementing AB 71, businesses are establishing a history of violations, which because the same business has been cited multiple times, increases the potential penalties. With these circumstances, the review, documentation, hearing and legal process becomes more complex. The BTS I has been assigned to handle the more complicated hearings and appeal cases. In addition, the BTS I oversees tax stamp sales desk operations and is working a variety of special projects along with assisting with program planning tasks.

AB 1749 ETD AUDIT

Tax Technician II

Workload Detail

Activity	Time Measure H = Hours M = Minutes	Time Per Occurrence	2009-10 Occurrences Per Year	2009-10 Total Hours	2010-11 & On-going Occurrences Per Year	2010-11 & On-going Total Hours
Compiling Reports for Master Settlement Agreement (MSA)	H	2	864	1,728	864	1,728
Compiling Reports for Audit selection	H	1	90	90	90	90
Total hours per year				1,818		1,818
Position based on 1,800 hours				1.0		1.0
Total positions requested				1.0		1.0
OT Hours Requested				18		18

Tax Technician II (TT II)

ETD Audit Section is requesting 1.0 permanent TT II to continue the support of audit activities for the Cigarette and Tobacco Tax Programs. The TT II records and reconciles data from reports submitted.

AB 71 ETD AUDIT

Associate Tax Auditors

Workload Detail

Activity	Time Measure H = Hours M = Minutes	Time Per Occurrence	2009-10 (Mid-Year) Occurrences Per Half-Year	2009-10 (Mid-Year) Total Hours	2010-11 & On-going Occurrences Per Year	2010-11 & On-going Total Hours
Audits- Investigation/other referrals - large	H	80	9	720	17	1,360
Audits - Investigation/other referrals - medium	H	55	19	1,045	37	2,035
Audits - Investigation/other referrals - small	H	25	28	700	55	1,375
Screenings - Analyze and process screening	H	22	7	154	13	286
Refunds - Analyze and process refund	H	6	12	72	24	144
Reports and reconciliations- Investigate to determine accuracy of reports filed	H	12	50	600	100	1,200
Training	H	1	60	60	120	120
Total hours per year				3,351		6,520
Position based on 1,600 hours per year				2.1		4.1
Positons Requested				2.0		4.0
OT Hours Requested				151		120

Associate Tax Auditor (ATA)

ETD Audit Section is requesting 4.0 permanent ATA's to perform tax audit activities for the Cigarette and Tobacco Programs. The workload for these positions is based on referrals from ID, SUTD, UPS Common Carrier Reports, and other common carrier/supplier information, along with related account screenings and refunds.

AB 71 ETD AUDIT

Business Taxes Specialist I

Workload Detail

	Time Measure		2009-10 (Mid-Year)		2010-11 & On-going	
Activity	**H = Hours M = Minutes**	**Time Per Occurrence**	**Occurrences Per Half-Year**	**Total Hours**	**Occurrences Per Year**	**Total Hours**
Audits- Investigation/other referrals - large - primary auditor, most difficult cases.	H	40	4	160	7	280
Audits- Investigation/other referrals – large - review	H	12	9	108	17	204
Audits - Investigation/other referrals – medium - primary auditor, most difficult cases.	H	30	5	150	9	270
Audits - Investigation/other referrals – medium - review	H	8	19	152	37	296
Audits - Investigation/other referrals – small - review	H	1	28	28	55	55
Petitions - Investigation/other referrals - 25% result in petitions	H	10	14	140	27	270
Petitions - Investigation/other referrals -25% result in petitions - review	H	1	14	14	27	27
Petitions - Investigation/other referrals - 80% go to appeals conference	H	10	11	110	22	220
Petitions - Investigation/other referrals - 80% go to appeals conference – review	H	2	11	22	22	44
Petitions - Investigation/other referrals - 15% go to Board Hearing - prepare case summary	H	20	2	40	4	80
Petitions - Investigation/other referrals - 15% go to Board Hearing - review	H	4	2	8	4	16
Petitions - Investigation/other referrals - 5% go to court for resolution	H	50	0.5	25	1	50
Refunds – review	H	1	12	12	24	24
Training	H	1	30	30	60	60
Total hours per year				999		1,896
Position based on 1,800 hours per year				0.6		1.1
Positions requested				0.5		1
OT Hours Requested				99		96

Business Taxes Specialist I (BTS I)

ETD Audit Section is requesting 1.0 permanent BTS I to continue tax audit activities for the Cigarette and Tobacco Products Tax Programs. The workload for this position is based on referrals from ID, SUTD, UPS Common Carrier Reports, and other common carrier/supplier information, along with related petitions. The BTS I tracks audit referrals, performs field audits for the most difficult audit cases, performs audit review, and drafts petition summary write-ups.

AB 71 ETD AUDIT

Business Taxes Specialist I (Cig. Refunds)

Workload Detail

	Time Measure		2009-10		2010-11 & On-going	
Activity	H = Hours M = Minutes	Time Per Occurrence	Occurrences Per Year	Total Hours	Occurrences Per Year	Total Hours
Refund Verification	H	17	100	1,700	100	1,700
Refund Verification Witness	H	17	100	1,700	100	1,700
Total hours per year				3,400		3,400
Position based on 1,600 hours per year				2.1		2.1
Positions requested				2.0		2.0
OT Hours Requested				200		200

Business Taxes Specialist I (BTS I)

ETD Audit Section is requesting 2.0 new permanent Business Taxes Specialist I's (BTS I) to perform refund verification activities for cigarette tax stamp and tobacco product refund claims. ID staff previously handled the on-site cigarette tax stamp verification portion of the refund claim process. The workload for these positions is based on approximately 100 annual tax stamp refund claims submitted by cigarette distributors. Because of internal control requirements, two BOE staff members must be present at the taxpayer's business location for the tax stamp verification portion that is conducted utilizing scanning equipment to upload data from each tax stamp into a database. ETD Audit estimates that each on-site cigarette tax stamp refund verification will take approximately 17 hours to complete. In addition, these staff will process refund claims for other tobacco products (OTP) as well as reciprocal cigarette and tobacco refund verification for other jurisdictions at in-state locations. One of the BTS I positions will also function as a Computer Audit Specialist which requires additional training at a cost of approximately $10,000. This position will work closely with the cigarette stamp manufacturer's Database Management System (DMS) to monitor and analyze the electronic information transmitted during the stamp verification process. This position will also assist other audit staff members with retrieving audit information using various electronic means from a variety of data processing records systems for joint audit efforts being performed within the BOE. With the assistance of the BTS I /Computer Audit Specialist, the ETD anticipates that the time to complete an audit may be reduced by up to 20%.

AB 71 ETD AUDIT

Business Taxes Specialist II

Workload Detail

	Time Measure		2009-10 (Mid-Year)		2010-11 & On-going	
Activity	**H = Hours M = Minutes**	**Time Per Occurrence**	**Occurrences Per Half-Year**	**Total Hours**	**Occurrences Per Year**	**Total Hours**
Audits- Investigation/other referrals – lead auditor required	H	40	7	280	14	560
Audits - Investigation/other referrals – lead auditor required	H	30	10	300	19	570
Audits - Investigation/other referrals – lead auditor required	H	2	7	14	14	28
Reports and reconciliations - special reports as requested for AG	H	20	6	120	12	240
Reports and reconciliations - special reports/statistics/task force requests	H	20	6	120	12	240
Audit lead person/ Liason - meetings and preparation	H	10	11	110	22	220
Audit lead person/ Liason - special reports/statistics/task force requests	H	10	5	50	10	100
Total hours per year				994		1,958
Position based on 1,800 hours per year				0.6		1.1
Positions requested				0.5		1.0
OT Hours Requested				94		158

Business Taxes Specialist II (BTS II)

ETD Audit Section is requesting 1.0 permanent Business Taxes Specialist II (BTS II) to continue as a lead position to oversee the tax audit activities for the Cigarette and Tobacco Products Tax Programs. In this capacity, the BTS II directs the activities of subordinate audit positions described in the audit section of this BCP and works as a lead on large Board projects, such as the cigarette tax stamp multi-year contract. The BTS II issues and controls audit assignments and reviews and approves referrals of suspected tax evasion. The BTS II also performs liaison activities and prepares special reports for external agencies as necessary. In addition, the BTS II position attends appeals conferences and performs complex litigation support including the preparation of summons and complaints, docket files, and provides expert testimony.

AB 71 ETD AUDIT

Tax Technician III

Workload Detail

Activity	Time Measure: H = Hours M = Minutes	Time Per Occurrence	2009-10 (Mid-Year): Occurrences Per Half-Year	2009-10 (Mid-Year): Total Hours	2010-11 & On-going: Occurrences Per Year	2010-11 & On-going: Total Hours
Audits- Investigation/other referrals - large - tracking/processing/billing	H	2	9	18	17	34
Audits- Investigation/other referrals - medium - tracking/processing/billing	H	2	19	38	37	74
Audits- Investigation/other referrals - small - tracking/processing/billing	H	2	28	56	55	110
Petitions - Investigation/other referrals - 25% result in petitions - tracking/processing/billing	H	2	14	28	27	54
Petitions - Investigation/other referrals - 15% go to Board Hearing - tracking/processing/billing	H	2	2	4	4	8
Petitions - Investigation/other referrals - 5% go to Court - tracking/processing/billing	H	2	1	2	1	2
Refunds - tracking/processing/billing	H	2	12	24	24	48
Reports and reconciliations and special projects - reconcile and record data - distributor reports	M	22	2068	750	4135	1,500
Total hours per year			2153	920	4300	1,830
Position based on 1,800 hours per year				0.5		1.0
Positions requested				0.5		1.0
OT Hours Requested				20		30

Tax Technician III (TT III)

ETD Audit Section is requesting 1.0 permanent TT III to support tax audit activities for the Cigarette and Tobacco Products Tax Programs. The TT III records and reconciles data from reports submitted by taxpayers and manufacturers. This requires contacting manufacturers and taxpayers as necessary to obtain delinquent reports and schedules. The information that the TT III provides to management documents the official records of the BOE that are certified, provided and relied on by the AG's office regarding authorized brands of cigarettes and roll-your-own (RYO) products that are distributed within California.

AB 71 ETD AUDIT

Office Assistant

Workload Detail

Activity	Time Measure H = Hours M = Minutes	Time Per Occurrence	2009-10 (Mid-Year) Occurrences Per Half-Year	2009-10 (Mid-Year) Total Hours	2010-11 & On-going Occurrences Per Year	2010-11 & On-going Total Hours
Office support - Prepare/index files	M	2	250	8	500	17
Office support - Telephone Receptionist	M	5	180	15	360	30
Mail Distribution	M	3	500	25	1000	50
Total overtime hours per year				48		97

Office Assistant (OA)

ETD Audit Section is requesting overtime hours for existing OA staff to perform support for tax audit activities for the Cigarette and Tobacco Products Tax Programs. The primary workload for the OA will be clerical support, preparing, scanning and indexing files, telephone receptionist duties, and mail distribution for the audit activities added by AB 71.

AB 1749 ETD AUDIT

Tax Auditors

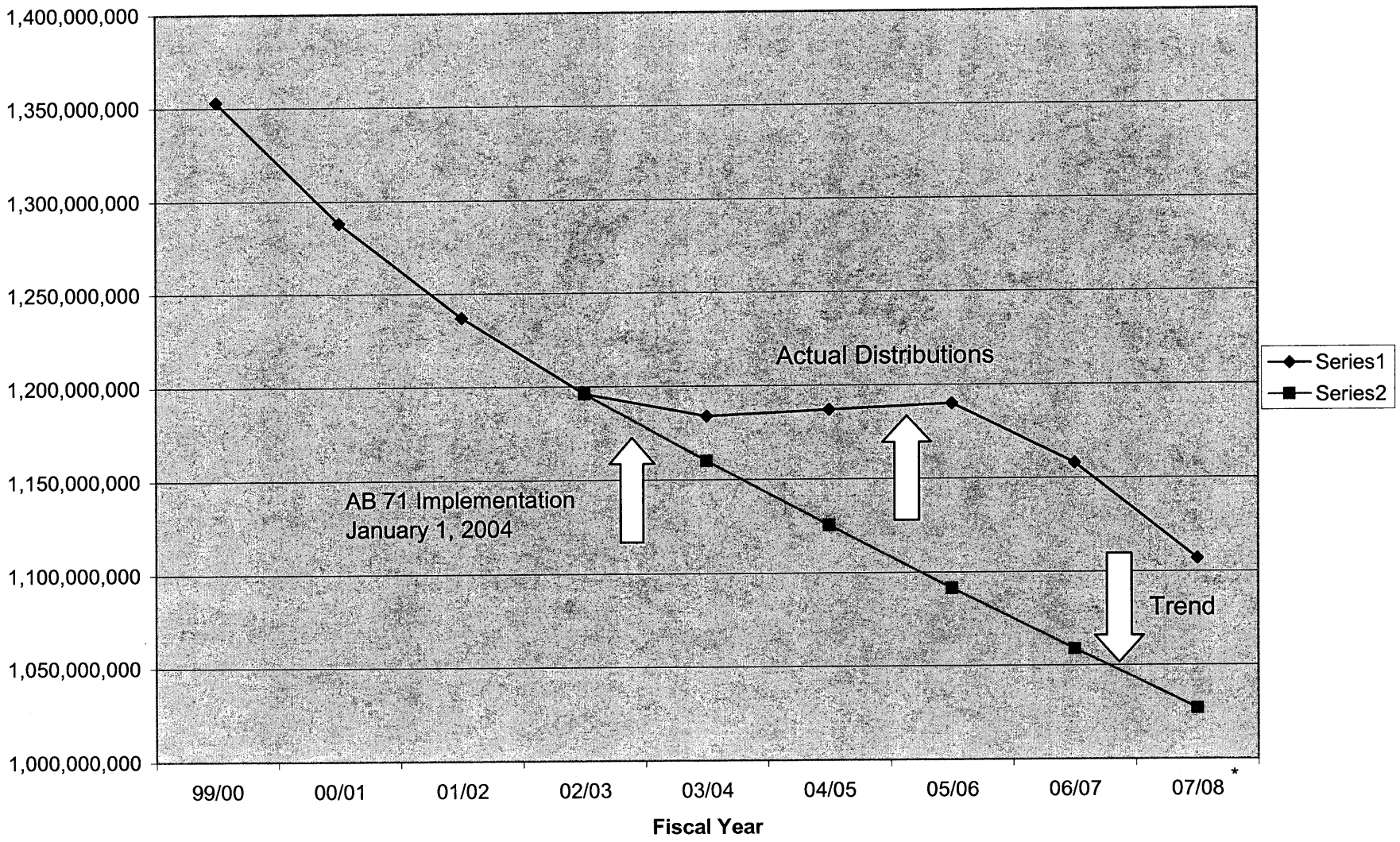
Workload Detail

Activity	Time Measure H = Hours M = Minutes	Time Per Occurrence	2009-10 Occurrences Per Year	2009-10 Total Hours	2010-11 & On-going Occurrences Per Year	2010-11 & On-going Total Hours
Conduct field audits generated from leads	H	65	20	1,300	20	1,300
Conduct desk audits generated from leads	H	10	70	700	70	700
Total hours per year				2,000		2,000
Position based on 1,600 hours				1.3		1.3
Total Positions Requested				1		1.0
OT Hours Requested				400		400

Tax Auditor (TA)

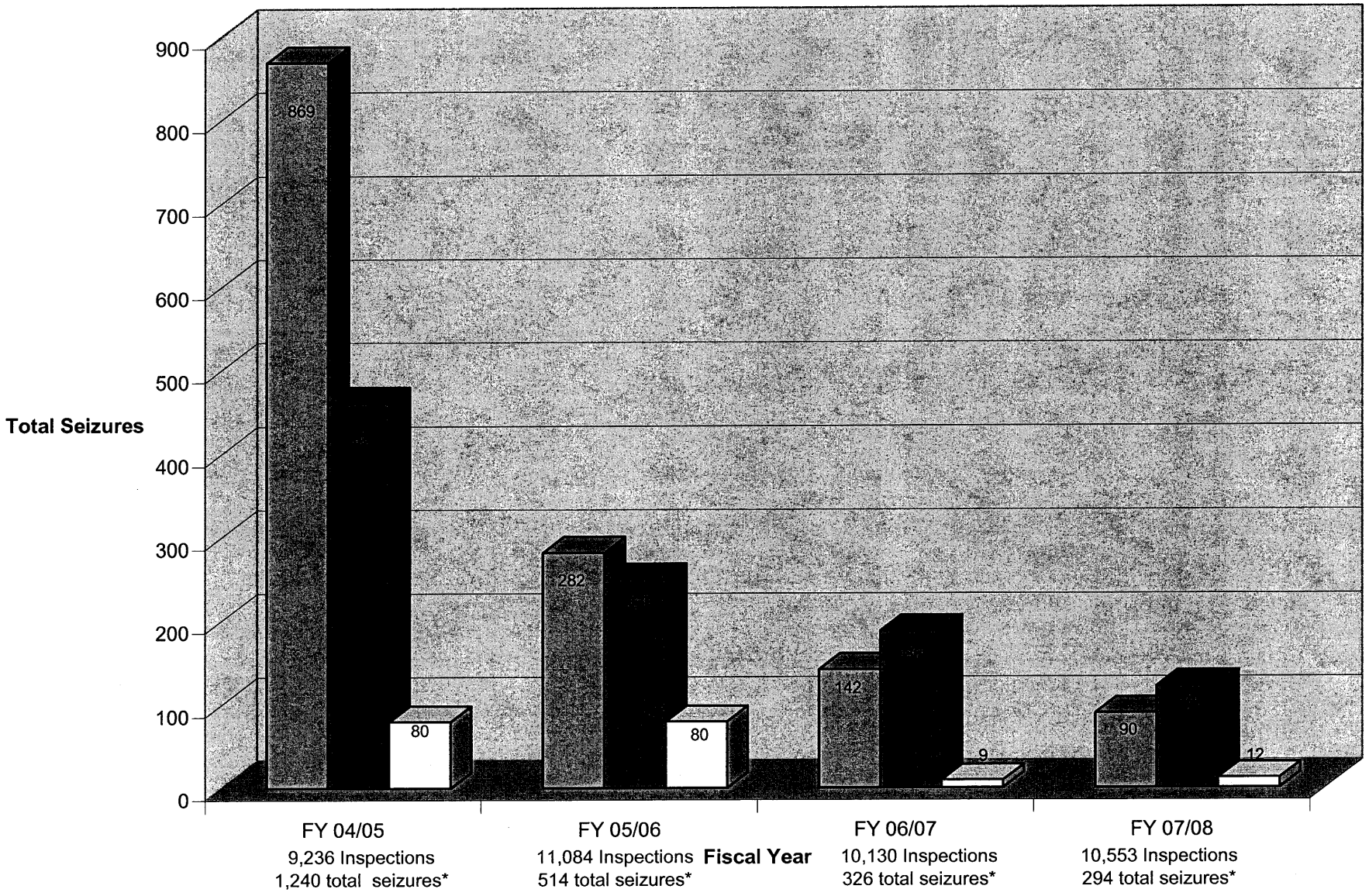
ETD Audit Section is requesting 1.0 permanent TA to continue tax audit activities for the Cigarette and Tobacco Products Tax Programs. The TA performs field and desk audits for the least-to-moderately difficult audits and assists in the more difficult audits. The workload for this position is based on leads from Tobacco Manufacturers or Importers monthly reports detailing their sales to California customers.

CA Cigarette Taxable Distributions



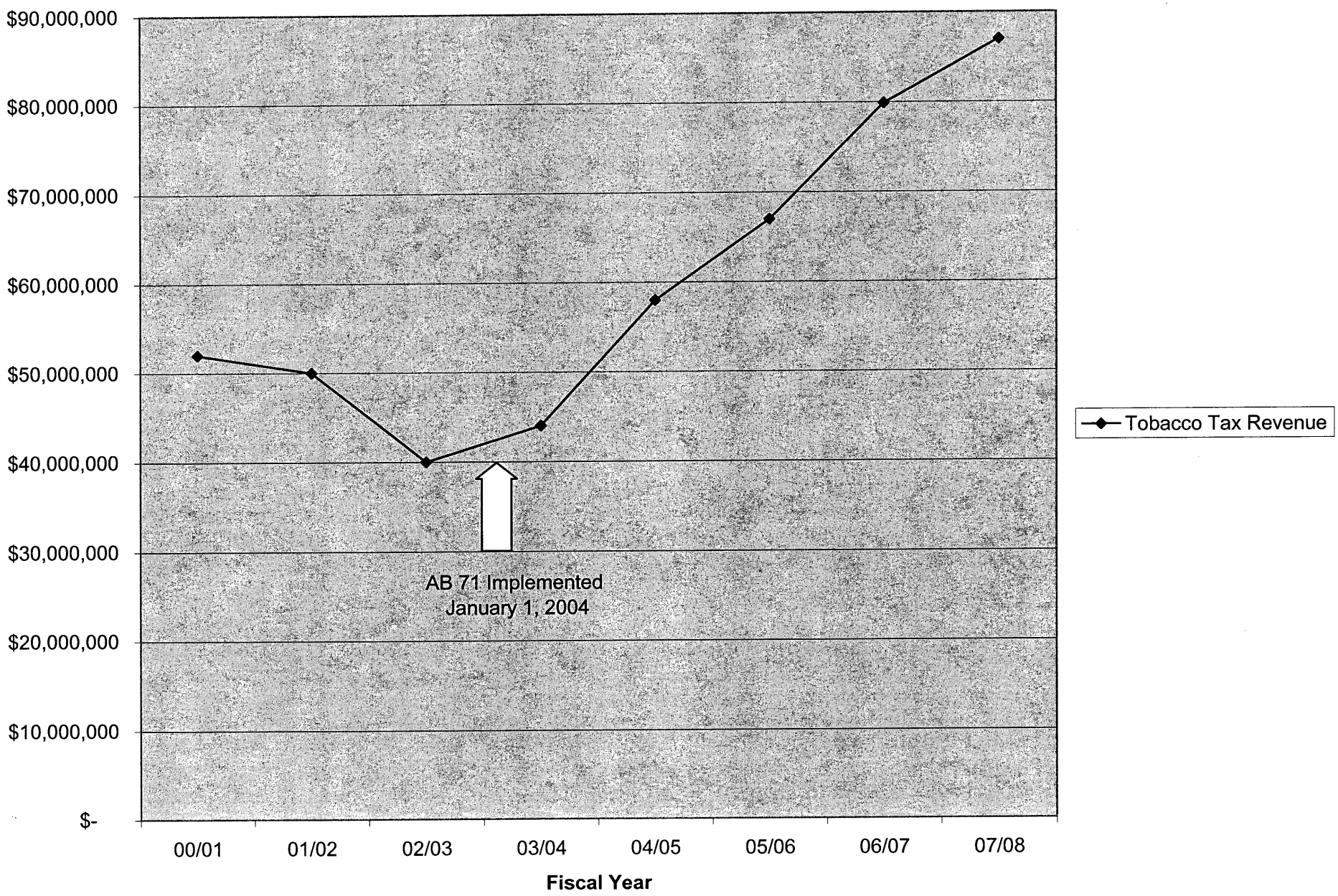
* 07/08 numbers are estimates

Contraband Cigarette Seizures



*One seizure can include more than one type of contraband product.

Other Tobacco Products Tax Revenue



Tobacco reveunes have risen from $40 million (pre-implemenation) to approx. $87 million in 07/08, this is an increase of over 117% in other tobacco products revenue.

Investigation Division

AB 71
Audit Workload Detail

Activity	Time Measure H = Hours M = Minutes	Time Per Occurrence	2009-10 (Mid-Year) Occurrences Per Half-Year	2009-10 (Mid-Year) Total Hours	2010-11 & Ongoing Occurrences Per Year	2010-11 & Ongoing Total Hours
Associate Tax Auditor						
Complex cigarette and tobacco products audits	H	694	0.7	482	1.4	964
Cigarette and tobacco products audits	H	122	23	2,806	46	5,612
Total Hours Per Year				3,288		6,576
Positions Needed				2.1		4.1
Business Taxes Specialist I						
Complex cigarette and tobacco products audits	H	694	2.3	1,600	4.6	3,200
Positions Needed				1.0		2.0
Business Taxes Specialist II						
Review cigarette and tobacco audits	H			800		1,600
Positions Needed				0.5		1.0
Total Positions Needed				3.6		7.1
Positions Requested				**3.5**		**7.0**
Overtime Hours Requested				**88**		**176**

Associate Tax Auditor (ATA)

The ATA conducts fraud/tax evasion audits of a more difficult nature, prepares appropriate audit reports, and conducts specialized audit procedures and techniques. Assists in identifying interrelated fraud schemes, and may testify in court to liabilities determined and coordinate civil fraud audit efforts with other governmental agencies.

Business Taxes Specialist II (BTS II) Audit Reviewer

This position is an upgrade from a BTS I. The BTS II Audit Reviewer is responsible for reviewing audits that are difficult and complex, as they emanate from records seized during search warrants, or obtained via subpoena's and represent a cross section of BOE programs (Sales, Recycling, Fuels, Cigarette and Tobacco). Due to the nature of fraud penalties that are typically involved, the ID reviewer must also insure that ID audit can meet a higher level of scrutiny given by appeals officers and Board members.

Business Taxes Specialist I (BTS I) Lead Auditor

The BTS I Lead Auditor is required to audit cases that are increasingly sophisticated and organized in their criminal effort. As these cases are brought to audit, ID auditors are required to compile disjointed records obtained from search warrants, identify and seek out records from third party vendors, and to audit and reconcile output from seized electronic devices, and to reconstruct the most difficult and complex financial audits. These audits must meet a higher standard than the BOE standard of clear and convincing evidence.

_1/ Calculation is based on 800 hours (half of standard hours for full year) since the positions begin mid-year of FY 2009-10.

Investigation Division

AB 71
Inspection/Investigation Workload Detail

Activity	Time Measure H = Hours M = Minutes	Time Per Occurrence	2009-10 (Mid-Year) Occurrences Per Half-Year	2009-10 (Mid-Year) Total Hours	2010-11 & Ongoing Occurrences Per Year	2010-11 & Ongoing Total Hours
Business Taxes Compliance Specialist						
First Inspection	H	4.5	2,213	9,959	4,425	19,913
Re-inspection	H	4.5	288	1,296	575	2,588
Total Hours Per Year				11,255		22,500
Hours Available to Work (Based on 1,520 Hours Per Year Per Position)				7.4		14.8
Business Taxes Specialist I						
First Inspection	H	4.5	2,212	9,954	4,425	19,913
Re-inspection	H	4.5	287	1,292	575	2,588
Complaints	H	13	57.5	748	115	1,495
Inspection Package Review	H	0.5	4425	2,213	8850	4,425
Citation Seizure Package Review	H	0.5	500	250	1,000	500
Criminal Citation Package Prep	H	5	75	375	150	750
Re-inspection Package Review	H	0.5	575	288	1150	575
2nd Criminal Review Package	H	5	23	115	46	230
Cases from complaints	H	500	3	1,500	6	3,000
Total Hours Per Year				16,733		33,475
Hours Available to Work (Based on 1,520 Hours Per Year Per Position)				11.0		22.0
Senior Information Systems Analyst (Spec.)						
Investigations of electronic data of felony tax evasion cases	H	152	5	760	10	1,520
Hours Available to Work (Based on 1,520 Hours Per Year Per Position)				0.5		1.0
Business Taxes Specialist II						
Complex multi jurisdictional cases from complaints	H	753	2	1,506	4	3,012
Hours Available to Work (Based on 1,520 Hours Per Year Per Position)				1.0		2.0
Total Positions Needed				19.9		39.8
Positions Requested				**19.5**		**39.0**
Overtime Hours Requested				**613**		**1225**

Business Taxes Compliance Specialist (BTCS) – Inspector (LPO)

The BTCS Inspector is responsible for conducting inspections of distributors, wholesalers and retailers of cigarettes and tobacco products. This includes conducting background investigations using the BOE's IRIS system, the Investigations Division's Investigations Tracking System and other background search tools deemed to ascertain true ownership; issuing non-compliance citations, conducting administrative seizures, preparing appropriate inspection and seizure reports and appearing in court proceedings.

Business Taxes Specialist I (BTS I) Lead Inspector (LPO)

The BTS I Lead Inspector within a designated service area is responsible for coordinating all licensing inspections, reviewing all non-compliance citations, monitoring and following courtroom disposition of citations issued, reviewing administrative seizures, preparing appropriate inspection and seizure reports, attends all preliminary hearings and meetings with Deputy District Attorneys, and appears in court proceedings.

Business Taxes Specialist I (BTS I) Investigator (LPO)

The BTS I Investigator prepares the most complex prosecution packages which includes completed detailed investigation reports on findings. The BTS I coordinates activities with other local, state and federal law enforcement, as well as non law enforcement governmental agencies, prepares working papers to develop data in order to support criminal findings, prepares evidentiary exhibits for trial presentation, and testifies in felony criminal proceeding at the local and federal levels.

Business Taxes Specialist II (BTS II) – Investigator (LPO)

The BTS II Investigator is responsible for conducting and coordinating the most complex and sensitive investigations, involving multi-jurisdictional county, state and federal agencies. The BTS II's analyze and assimilate large volumes of investigative information in short time frames, make decisions and take appropriate action on the information received.

Senior Information Systems Analyst (Spec.) - (LPO)

This position was upgraded from a BTS I. Under the general direction of Business Taxes Administrator II, the Computer Forensic Expert (CFE) independently conducts the investigation of electronic data (evidence) of felony tax evasion cases. The CFE participates in search warrants executed by the Investigations Division and takes down and seizes, or images stand-alone computers as well as sophisticated computer networks. The CFE extracts data from seized or imaged computer systems or networks to be used as evidence in felony criminal cases and prepares appropriate reports. The CFE conducts research to keep informed of latest electronic data storage technologies and provides technical support to investigative staff. The CFE researches, procures, maintains and upgrades lab equipment.

Investigation Division

AB 71
Supervision/Technical Support Workload Detail

Activity	Time Measure: H = Hours M = Minutes	Time Per Occurrence	2009-10 (Mid-Year): Occurrences Per Half-Year	2009-10 (Mid-Year): Total Hours	2010-11 & Ongoing: Occurrences Per Year	2010-11 & Ongoing: Total Hours
Business Taxes Administrator III						
Management of staff of over 70 performing in multiple disciplines - compliance, audit, administrative support and criminal prosecutions	H			900		1,800
Positions Needed				0.5		1.0
Business Taxes Administrator II						
Plan, organize, manage and direct the work of staff engaged in criminal enforcement activities	H			900		1,800
Positions Needed				0.5		1.0
Supervising Tax Auditor II						
Supervision of audit staff in two offices	H			900		1,800
Positions Needed				0.5		1.0
Business Taxes Specialist II - Technical Advisor						
Technical advisor on multiple tax and fee programs	H			180		360
Development of policies and procedures	H			180		360
Development of written publications for public distribution	H			180		360
Coordination and facilitation public outreach	H			180		360
Analysis of legislation and regulations	H			180		360
Total Hours Per Year				900		1,800
Positions Needed				0.5		1.0
Property Controller II						
Maintenance of evidence, equipment, and storage facility	H			900		1,800
Positions Needed				0.5		1.0
Total Positions Needed				2.5		5.0
Total Positions Requested				**2.5**		**5.0**

Business Taxes Administrator III (BTA III) – (LPO)

This position is an upgrade from a BTA II. The BTA III is responsible for staff performing multiple disciplines (Compliance, Audit, Administrative Support, Licensing and Criminal Prosecution) with staff located in BOE offices throughout the state and multiple subordinate supervisors. The responsibilities include the entire BOE felony criminal tax evasion enforcement program. The BTA III is skilled in diplomacy and is politically sensitive as criminal investigations have, and can involve, militant tax protesters, individuals, as well as organized crime groups, and individuals or groups willing to finance criminal and violent acts.

Business Taxes Administrator II (BTA II) – (LPO)

This position is an upgrade from a BTA I. The BTA II provides direct oversight on the development and execution of all criminal search warrants; reviews staff workload and reports; discusses recommendations and options and determines a course of action in connection with directing the investigative work necessary to administer the enforcement activities; acts as a representative of the division at multi-agency task force meetings, meetings with Deputy District Attorneys, Deputy Attorney Generals and with local, state and federal law enforcement agencies and associations; makes presentations; coordinates joint criminal investigations and joint compliance inspection efforts to enhance the BOE programs and enforcement efforts; and, is a limited peace officer and therefore meets all the requirements and responsibilities of that designation.

Business Taxes Specialist II (BTS II) – Technical Advisor

This position is an upgrade from a BTS I. The BTS II Technical Advisor is a technical specialist in multiple tax and fee programs. The BTS II is responsible for the development of policies and procedures for the division's tax enforcement program; analyzes and responds to pending legislation or regulations for impact on the division, and develops drafts of regulations or legislation for submission; is responsible for the division's public outreach program, coordinating and facilitating outreach with various law enforcement and regulatory agencies. This includes, but is not limited to, developing publications, brochures, news releases, seminar presentations, and other informational medium for distribution to taxpayers, chambers of commerce, news media, business organizations and associations, and other state and local community agencies.

Supervising Tax Auditor II (STA II)

This position is an upgrade from a STA I. The STA II oversees the specialized civil tax fraud audit functions in two offices with professional staff consisting of 50% BTS I level. Assists in resolving specific audit problems; provides advice on the application of the business laws to specific situations; monitors audits in progress and does a preliminary review of audit reports submitted; and approves and writes correspondence in regard to unassigned audits, audits in progress and completed audits. The STA II is also the lead liaison and primary instructor in training seminars provided to outside agencies/groups such as District Attorneys, retailer associations, FTA groups and other BOE divisions on topics ranging from the underground economy and tax evasion to cigarette, tobacco and fuels tax.

Property Controller II (PC II)

The PC II is responsible for recording the receipt of evidence seized under a search warrant or as administrative buys or seizures. Maintains an evidence storage facility, which requires transporting evidence; control records for keys; receives destruction or return of evidence orders and arranges for the destruction or return of said evidence; ensures authorized personnel conform to policies relating to handling and controlling such evidence and ensuring evidence is properly marked.

Hiring above mid-step level

Due to the complex nature of the work performed by the investigative positions (criminal investigations), the minimum standards for hiring has been set by the Board. All Limited Peace Officer (LPO) positions are at Business Taxes Compliance Specialist or higher. The Board currently has no entry level positions to handle criminal investigations. Therefore hiring must be through promotions within the department, and candidates are already at mid-step or higher when promoted. Division can not downgrade positions, in order to create budget savings. Therefore, budgeting at mid-step for these positions will cause a funding shortage within the division. Not immediately filling vacancies would lead to less inspections and criminal investigations and potential lost revenue.

AB 71 Accounting Section

Accounting Officer

Workload Detail

Activity	Time Measure H = Hours M = Minutes	Time Per Occurrence	2009-10 (Mid-Year) Occurrences Per Half-Year	2009-10 (Mid-Year) Total Hours	2010-11 & On-going Occurrences Per Year	2010-11 & On-going Total Hours
Reconcile accounts with the State Controller's Office (SCO)	H	5	24	120	48	240
Compile fiscal year-end information and prepare financial Statements	H	99	1	99	1	99
Post to the general ledger and accounting registers	H	15	24	360	48	720
Processing Controller's journal entries	H	1	24	24	48	48
Process revenue documents and fund adjustments from the Cashier's unit	H	7	24	168	48	336
Process refunds and fund transfer adjustments from the Excise Taxes Division	H	4	24	96	48	192
Balance revenue reports from TSD against EFT Trans. reported by State Treasurer's Office	H	0.5	130	65	260	24
Reconcile non-EFT and EFT deposits to bank statements	H	0.5	130	65	48	24
Prepare transmittal remittance advice, and check	H	3.5	78	273	156	546
Process travel advances and expense claims, payroll	H	0.25	732	183	1464	366
Report revenue to control agencies (i.e. DOF, SCO, STO, & BSA) and BOE units	H	2	24	48	48	96
Total hours per year				1501		2691
Total positions requested				0.8		1.5
Position based on 1800 hours						

Accounting Officer

AB 71 created the Cigarette and Tobacco Products Compliance Fund. All moneys collected are deposited into the fund. The Accounting Section coordinates with the State Controller's Office to ensure deposits flow into the fund. Perform daily and monthly reconciliations of the fund, prepare financial statements related to the fund, and process travel advances and expense claims.

AB 71 Personnel Management Division

Associate Personnel Analyst

Workload Detail

(Based on 100 Positions Requested)		FY 2009-10		FY 2010-11 & On-going	
Task Description	**Standard Hours** (a)	**Number Per Item/Contact** (b)	**Hours** (a x b)	**Number Per Item/Contact** (c)	**Hours** (a x c)
Review and process request for position actions (628s).	1.00	100.0	100	50.0	50
Position allocation determinations.	1.00	100.0	100	50.0	50
Consultation to and preparation of probationary reports/performance evaluations.	0.50	20.0	10	50.0	25
Counseling and corrective memos, adverse actions, administrative appeals, interpret statewide personnel management policies.	1.75	7.0	12	80.0	140
Probation reports due to promotions.	0.50	20.0	10	150.0	75
Consultation on organizational structure.	0.75	10.0	8	35.0	26
FMLA/CFRA consultation (determining need for and eligibility of employee and package preparation).	1.50	10.0	15	100.0	150
Preliminary review of employee issues related to performance (medical and non-medical).	1.50	10.0	15	100.0	150
Correspondences to employees, management, and control agencies; staff development and training programs; telephone calls and emails	230.00 (Per Analyst)	1.0	230	1.0	230
Total Hours Needed			500		896
Total Position Requested (Based on 1,800 hours per year)			**0.3**		**0.5**

Associate Personnel Analyst

The Human Resources Division (HRD) is responsible for maintaining personnel administrative duties for all BOE employees. HRD will continue to need the 0.5 Associate Personnel Analyst position to work in the Employee and Management Services Section of HRD. The continuation of an 0.5 Associate Personnel Analyst position assists HRD absorb the California Cigarette and Tobacco Licensing Act of 2003 critical work as well as ensure the processing of the BOE's current critical personnel-related workload. The following information provides a detailed description of the functions and workload for this position.

AB 71 SALES AND USE TAX DEPARTMENT

Tax Technician II

Workload Detail

	Time Measure		2009-10 (Mid-Year)		2010-11 & On-going	
Activity	H = Hours M = Minutes	Time Per Occurrence	Occurrences Per Half-Year	Total Hours	Occurrences Per Year	Total Hours
Registration (walk in)	M	34	1020	578	2040	1156
Registration (mail in, no checks enclosed)	M	10	432	72	864	144
Renewal Application	M	10	1500	250	3000	500
Total hours per year				900		1,800
Position based on 1,800 hours per year				0.5		1.0

*Time shown is only that portion of the sales and use tax acitivity that represents AB 71 processing time.

SUTD Tax Technician II

SUTD TT II will handle walk in and mail in registration activities and renewal application activities.

AB 71 SALES AND USE TAX DEPARTMENT

Tax Technician III

Workload Detail

	Time Measure		2009-10 (Mid-Year)		2010-11 & On-going	
Activity	H = Hours M = Minutes	Time Per Occurrence	Occurrences Per Half-Year	Total Hours	Occurrences Per Year	Total Hours
Process Application Payment (walk in and mail in)	M	14	1600	373	3200	747
Process Reinstatement Fee	M	12	75	15	150	30
Total hours per year				388		777
Position based on 1,800 hours per year				0.2		0.4

*Time shown is only that portion of the sales and use tax activity that represents AB 71 processing time.

SUTD Tax Technician III

SUTD TT III will process payments for applications and reinstatement fees related to AB 71.

STATE OF CALIFORNIA
BUDGET CHANGE PROPOSAL - FISCAL DETAIL
STATE OPERATIONS
FISCAL YEAR 2009-10

CIGARETTE AND TOBACCO PRODUCTS LICENSING AND ENFORCEMENT

	FY 2009-10		FY 2010-11		FY 2012-13	
		(Amounts in Whole Dollars)				
	PY's	Amount	PY's	Amount	PY's	Amount
Personal Services						
Total Salaries and Wages	53.6	3,536,000	96.9	6,450,000	96.9	6,450,000
Salary Savings	-2.7	-169,000	-4.8	-312,000	-4.8	-312,000
Net Salaries and Wages	50.9	3,367,000	92.1	6,138,000	92.1	6,138,000
Staff Benefits		1,200,000		2,204,000		2,204,000
Distributed Administration		461,000		815,000		815,000
Net Total Personal Services	50.9	5,028,000	92.1	9,157,000	92.1	9,157,000
Operating Expense & Equipment (OE&E)						
General Expense		2,315,000		4,512,000		4,512,000
Distributed Administration		115,000		204,000		204,000
Printing		18,000		18,000		18,000
Communications		26,000		46,000		46,000
Postage		63,000		63,000		63,000
Travel-In-State		391,000		684,000		684,000
Travel-Out-of-State		50,000		68,000		68,000
Training		95,000		116,000		116,000
Facilities Operations		368,000		615,000		615,000
Cons & Prof Svs - External		6,000		13,000		13,000
Department of Technology Srvs.		21,000		21,000		21,000
Data Processing		2,000				
Equipment						
Total OE&E		3,470,000		6,360,000		6,360,000
Total Expenditures		8,498,000		15,517,000		15,517,000
FUNDING						
General Fund		911,000		1,653,000		1,653,000
Breast Cancer Fund		182,000		330,000		330,000
Cig. & Tob. Prod. Surtax Fund		2,280,000		4,136,000		4,136,000
CA Child. & Fam. First Trust Fund		4,560,000		8,269,000		8,269,000
Cigarette & Tobacco Products Compliance Fund		565,000		1,129,000		1,129,000
Total		8,498,000		15,517,000		15,517,000
REVENUE						
Anticipated Revenues:		$ 74,386,000		$ 144,571,000		$ 144,571,000
BENEFIT-TO-COST RATIO		8.8 to 1		9.3 to 1		9.3 to 1

STATE OF CALIFORNIA
BUDGET CHANGE PROPOSAL - FISCAL DETAIL
STATE OPERATIONS
FISCAL YEAR 2009-10

Classification	Salary Range	1/	SUMMARY - TAX GAP INITIATIVES FY 2009-10 Pos.	FY 2009-10 Amount	FY 2010-11 Pos.	FY 2010-11 Amount	FY 2011-12 Pos.	FY 2011-12 Amount
				(Amounts in Whole Dollars)				
Property & Special Taxes								
Excise Taxes:								
Associate Tax Auditor	2/ 64,164		2.0	$ 128,328	4.0	$ 256,656	4.0	$ 256,656
Bus. Taxes Administrator III	2/ 98,604		0.5	49,302	1.0	98,604	1.0	98,604
Bus. Taxes Compliance Spec.	2/ 61,104		1.5	91,656	3.0	183,312	3.0	183,312
Bus. Taxes Compliance Supvr. II	2/ 67,200		1.0	67,200	2.0	134,400	2.0	134,400
Bus. Taxes Representative	2/ 42,384		3.5	148,344	7.0	296,688	7.0	296,688
Bus. Taxes Specialist I	3/ 74,016		3.5	259,056	4.0	296,064	4.0	296,064
Bus. Taxes Specialist II	2/ 77,424		0.5	38,712	1.0	77,424	1.0	77,424
Office Assistant (Gen.)	2/ 27,360		1.0	27,360	2.0	54,720	2.0	54,720
Tax Auditor	4/ 48,408		1.0	48,408	1.0	48,408	1.0	48,408
Tax Technician II	5/ 34,908		7.0	244,356	10.0	349,080	10.0	349,080
Tax Technician III	6/ 39,036		2.0	78,072	3.0	117,108	3.0	117,108
Legal								
Investigations:								
Associate Tax Auditor	2/ 64,164		2.0	128,328	4.0	256,656	4.0	256,656
Bus. Taxes Administrator II	2/ 88,968	7/	0.5	44,484	1.0	88,968	1.0	88,968
Bus. Taxes Administrator III	2/ 103,536	7/	0.5	51,768	1.0	103,536	1.0	103,536
Bus. Taxes Compliance Spec.	2/ 67,392	7/	7.0	471,744	14.0	943,488	14.0	943,488
Bus. Taxes Specialist I	2/ 74,016		1.0	74,016	2.0	148,032	2.0	148,032
Bus. Taxes Specialist I	2/ 77,712	7/	11.0	854,832	22.0	1,709,664	22.0	1,709,664
Bus. Taxes Specialist II	2/ 85,356	7/	1.0	85,356	2.0	170,712	2.0	170,712
Bus. Taxes Specialist II	2/ 77,424		1.0	77,424	2.0	154,848	2.0	154,848
Property Controller II	2/ 43,608		0.5	21,804	1.0	43,608	1.0	43,608
Upgrade Property Controller I to II	8/			2,604		5,208		5,208
Senior Info. Sys. Analyst	2/ 77,400		0.5	38,700	1.0	77,400	1.0	77,400
Supervising Tax Auditor II	2/ 73,740		0.5	36,870	1.0	73,740	1.0	73,740
Legal:								
Tax Counsel III	2/ 101,628		1.0	101,628	2.0	203,256	2.0	203,256
Sales and Use Tax								
Tax Technician II	2/ 34,908		0.5	17,454	1.0	34,908	1.0	34,908
Executive								
Internal Security and Audit:								
Bus. Taxes Specialist I	2/ 74,016		0.3	22,205	0.5	37,008	0.5	37,008
Technology Services:								
Staff Info. Sys. Analyst (Spec.)	2/ 70,356		0.5	35,178	1.0	70,356	1.0	70,356
Staff Programmer Analyst (Spec.)	4/ 70,356		1.0	70,356	1.0	70,356	1.0	70,356
Administration								
Accounting Section:								
Accounting Officer (Spec.)	2/ 50,808		0.8	$ 40,646	1.5	$ 76,212	1.5	$ 76,212
Human Resources:								
Associate Personnel Analyst	2/ 58,200		0.3	17,460	0.5	29,100	0.5	29,100
Blanket Funds:								
Overtime (Various)			(2.6)	154,963	(3.7)	225,887	(3.7)	225,887
Temporary Help			0.2	7,283	0.4	14,584	0.4	14,584
TOTAL			53.6	$ 3,535,897	96.9	$ 6,449,991	96.9	$ 6,449,991

STATE OF CALIFORNIA
BUDGET CHANGE PROPOSAL - FISCAL DETAIL
STATE OPERATIONS
FISCAL YEAR 2009-10

SUMMARY - TAX GAP INITIATIVES

Classification	Salary Range 1/	FY 2009-10 Pos.	FY 2009-10 Amount	FY 2010-11 Pos.	FY 2010-11 Amount	FY 2011-12 Pos.	FY 2011-12 Amount
			(Amounts in Whole Dollars)				
Staff Benefits Detail:							
OASDI			$ 257,576		$ 469,558		$ 469,558
Health Insurance			381,873		702,880		702,880
Retirement			545,949		1,004,881		1,004,881
Workers' Compensation			1,311		2,412		2,412
Industrial Disability Leave			2,297		4,227		4,227
Non-Industrial Disability Leave			1,661		3,056		3,056
Unemployment Insurance			492		905		905
Other			8,470		15,590		15,590
TOTAL			$ 1,199,629		$ 2,203,509		$ 2,203,509

_1/ The salary is the mid-step of the salary range for the stated classification.
_2/ Permanent positions effective January 1, 2010.
_3/ One permanent position effective July 1, 2009 and three permanent positions effective January 1, 2010.
_4/ One permanent position effective July 1, 2009.
_5/ Four permanent positions effective July 1, 2009 and six permanent positions effective January 1, 2010.
_6/ One permanent position effective July 1, 2009 and two permanent positions effective January 1, 2010.
_7/ The salary is the top-step of the salary range for the stated classification.
_8/ Upgrade salary adjustment.

DEPARTMENT: State Board of Equalization
BCP NO. XX
FISCAL YEAR 2009-10
DATE: August 19, 2008

SUPPLEMENTAL INFORMATION

Dollars in Thousands

		Current Year	Budget Year	Budget Year + One
Proposed Equipment:				
	Total	$0	$0	$0
Proposed Contracts:				
Consulting & Professional Servs. - External			6	13
	Total	$0	$6	$13
One-Time Costs:				
General Expense			$34	
Communication			1	
Training			10	
Data Processing			2	
	Total	$0	$47	$0
Future Savings:				
N/A				
	Total	$0	$0	$0
Full-Year Cost Adjustments:				
N/A				
	Total	$0	$0	$0