



State Board of Equalization

News Release

Vice Chair Michelle Steel

3rd District – Rolling Hills Estates

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Michelle Steel Announces New Wine Regulation *Proposed Regulation Will Change Taxation of Wine-Based Products*

Michelle Steel, Vice Chair of the State Board of Equalization (BOE), announced that, at the Sacramento Board meeting today, the Board authorized publication of a proposed regulation that would change the application of tax to wine-based products that contain distilled alcohol.

The proposed regulation, Alcoholic Beverage Tax Regulation 2558.1, will be effective January 1, 2012, upon approval by the Office of Administrative Law.

“This is a new, unnecessary regulation that creates an added burden for wine producers,” said Steel, who was the only member to vote against authorizing the new regulation.

“Classifying wine products as distilled spirits will increase taxes on those products by 1650%. The regulation will also impose costs on wine producers who choose to reformulate their products to avoid the higher tax. This regulation was a failure when applied to Flavored Malt Beverages, expanding it to wine puts more California businesses in jeopardy.”

The proposed regulation will provide direction to the wine industry regarding the circumstances under which a wine-based product should be classified as a distilled spirit for state tax purposes. The next step is a 45 day comment period which will lead to a public hearing in front of the Board in May. This proposed regulation follows the same approach as the Distilled Spirits Regulations that went into effect October 1, 2008, which the Board adopted to address the taxation of Flavored Malt Beverages (FMBs). This additional proposed regulation changes the definition of wine, specifying that any wine-based product that contains substantial amounts of distilled alcohol from sources other than the agricultural product of which the wine is made will be taxed as a distilled spirit, not as a wine.

Notices will be sent by the BOE to all alcoholic beverage tax program registrants, notifying them of the proposed regulation. More information will be available on the BOE website at www.boe.ca.gov.

At the November 17, 2010 Board meeting, the Board authorized an internal rulemaking process that allowed staff to begin talking to interested parties about the proposed regulations. On December 17, 2010, there was an interested parties meeting with BOE staff and industry representatives to discuss the initial draft of the regulations. The resulting language of the regulation focuses on the type and amount of distilled alcohol added to the wine, and follows the same approach taken in drafting the Distilled Spirits Regulations to properly classify alcoholic beverages like FMBs.

Wine and Beer products are taxed at \$0.20 per gallon, distilled spirits (100 proof or less) are taxed at \$3.30 per gallon, and distilled spirits (over 100 proof) are taxed at \$6.60 per gallon. The excise tax on beer and wine is generally paid by manufacturers, wine growers, and importers. Sellers of beer and wine must pay the excise tax if the tax was not paid by the manufacturers, winegrowers, or importers. In general, the excise tax on distilled spirits collected from retailers by distilled spirits wholesalers at the time of sale to the retailer.

Elected to the Board of Equalization in 2006 and re-elected in 2010, Michelle Steel serves as *Southern California's elected taxpayer advocate*. In December 2007, Steel discovered the Board of Equalization had delayed the return of millions of dollars in security deposits owed to California businesses. Procedures were changed due to Steel's decisive leadership. Following her investigation, the tax agency refunded tax security deposits to over 5,500 small businesses.

The five-member California State Board of Equalization (BOE) is a publicly elected tax board. The BOE collects more than \$48 billion annually in taxes and fees supporting state and local government services. It hears business tax appeals, acts as the appellate body for franchise and personal income tax appeals, and serves a significant role in the assessment and administration of property taxes. For more information on other taxes and fees in California, visit www.taxes.ca.gov.

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