



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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July 15, 2008

VIA INTERNET

Dear Interested Party:

The Sales and Use Tax Department (SUTD) Audit Manual (AM) is a guide in conducting sales and use tax audit for its tax auditors. It is also available to the public.

California retailers of cigarette and tobacco products are required by Law to keep complete and legible cigarette and tobacco product purchase invoices at each licensed location for at least one year after the date of purchase. Accordingly, SUTD is proposing to revise AM section 0403.35, *Receipt for Taxpayer's Records*, by incorporating an existing policy that prohibits auditors from removing these records from the taxpayer's facilities. The full text of AM section 0403.35 is displayed on the following page for the convenience of interested parties who may wish to submit comments or suggestions.

If you have any comments or suggestions *related solely to the proposed changes described above*, you may contact the Department at [AM.RevisionSuggestions@boe.ca.gov](mailto:AM.RevisionSuggestions@boe.ca.gov), or you may submit your comments or suggestions to:

Ms. Nini McCormack  
Sales and Use Tax Department  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0050  
Fax: (916) 322-2958

Your comments or suggestions regarding the proposed changes must be received by **September 15, 2008** in order to be considered by staff. Thank you for your consideration.

Sincerely,

Jeffrey L. McGuire, Chief  
Tax Policy Division  
Sales and Use Tax Department

JLM:nvm

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Whenever a taxpayer leaves ~~their~~ his or her records at a ~~b~~Board office or whenever records are picked up in the field and removed from the taxpayer's premises,\* a Receipt for Books and Records, Form BOE-945, must be used. Receipts will be made in duplicate, the original being given to the taxpayer or representative and the duplicate retained in the working paper file. In preparing the form, care should be taken to adequately describe the books and records.

*\*California retailers of cigarette and tobacco products are required by Law to keep complete and legible cigarette and tobacco product purchase invoices at each licensed location for at least one year after the date of purchase. Accordingly, auditors may not remove from the taxpayer's facilities the invoices for cigarette and tobacco products purchased during the previous 12 months. The taxpayer may provide copies of such invoices.*

~~In addition to the above, the f~~Form BOE-945 has a mailing address box to be checked by the taxpayer when signing the form. This new box requests the taxpayer to indicate if the mailing address listed on the form represents a change to the mailing address of record. The auditor must verify that the taxpayer completed the mailing address box. If the taxpayer did not complete the box, the auditor should request the taxpayer to provide the information prior to the auditor signing the form. If the taxpayer indicates there is a change of address of record, the auditor should confirm the correct address, make a copy of the Form BOE-945 and provide it to the appropriate account maintenance staff. If the taxpayer indicates there is no change to the official address of record, no further action is required by the auditor.

In accordance with Sections 1000.100 and 1000.110 of the Information Security at the Board of Equalization handbook, when taxpayer data is in the possession of the Board it will be stored in secure, lockable areas. Thus, taxpayer books and records must be stored in a locked area when the records are not actually being used.

When the books and records are returned to the taxpayer or representative, the original receipt should be obtained with proper signature of taxpayer or representative affixed thereto indicating their return. If the original receipt is not available, the duplicate copy retained by the staff should be used to obtain receipt for return of the material listed thereon.

If the taxpayer wishes to have the records ~~sent to them~~returned by mail, this should be done in such a way that the Board has ~~their~~ the taxpayer's written instructions and a record of the shipment. The taxpayer should be asked to pay the shipping charges if they are excessive.

If the taxpayer does not respond to normal attempts to return the records, a letter should be sent to the taxpayer by certified mail at the address given on Form BOE-945. ~~This~~ The letter should notify ~~them~~ the taxpayer that the records are no longer needed and unless ~~they~~ he or she call for them responds or advises the Board within 15 days where to ship ~~them~~ the records, they records will be destroyed as authorized by the taxpayer on Form BOE-945. ~~In most instances, such letters will be returned undelivered since they will only be sent after other means of communication have failed.~~—To allow an ample margin of time there should be no actual destruction of the records until at least 30 days after mailing the certified letter. After 30 days, if the taxpayer's records can serve no useful purpose in connection with the tax obligation, they should be removed from the files and disposed of in the same manner as other records the destruction of which has been authorized. A record of such destruction, together with copies of Form BOE-945 and the certified letter, should be retained.