STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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No. 75/158

TO COUNTY ASSESSORS:

SITUS OF BEER KEGS

We have recently received several inquiries regarding the situs of beer kegs moving in intrastate and interstate commerce.

As a result of these inquiries, the Board's legal staff has recently issued opinions differentiating between kegs that move in interstate commerce from those strictly involved in intrastate movements.

The situation where kegs are moved from an out-of-state brewery to a California county for consumption of the contents and then back to the out-of-state brewery for refilling constitutes movement in interstate commerce. As such it would be proper for the California county to assess the "average presence" of the beer kegs in the county. This would be in keeping with the holding of the court in Sea-Land Service, Inc. v. County of Alameda (1974) 12 Cal. 3d 772. In determining the "average presence" you should remember that this number may be more or less than the number actually there on the lien date.

Kegs moving from an in-state brewery to an in-state location for consumption and return to the brewery are moving purely in intrastate commerce. The tax situs of these kegs is dependent upon Rule 205(a). Under the guidelines of that rule, it is clear in general that the situs of the kegs would be the brewery where they are returned for cleaning and refilling.

The same guidelines should be used for determining the situs of other returnable containers that move in interstate or intrastate commerce, with the one exception of soft drink beverage containers moving in intrastate commerce. The guidelines for situs and assessee for these containers are provided by Section 996, Revenue and Taxation Code.

Sincerely,

Jack F. Eisenlauer

Jack F. Eisenlauer, Chief
Assessment Standards Division

JFE:pd