

Memorandum

To: Mr. Ramon J. Hirsig
Executive Director, MIC:73

Date: October 27, 2009

From: Kristine Cazadd, Chief Counsel
Legal Department, MIC:83 *K. Cazadd*
David Gau, Deputy Director *David Gau*
Property and Special Taxes Department, MIC:63

Subject: Alcoholic Beverage Tax Regulations
Chief Counsel’s Rulemaking Calendar
Board Meeting—November 17, 2009

We request your approval to place proposed Rule 100 changes to a number of Alcoholic Beverage Tax regulations on the Chief Counsel’s Rulemaking Calendar for the November 17, 2009, Board meeting in order to request the Board’s authorization to complete the changes. The attached Statement of Explanation includes a detailed description of the proposed changes to each regulation and strikeout and underlined versions of each regulation. These changes are appropriate for processing under Rule 100 without the normal notice and public hearing process because they correct grammatical errors, update outdated references to state and federal forms and a federal agency, and update or add citations to the current authorities and references for these regulations.

If you have any questions regarding this request, please let me know or contact Ms. Carolee Johnstone, at 323-7713.

Recommendation by:

Kristine Cazadd

Kristine Cazadd, Chief Counsel

Approved:

Ramon J. Hirsig

Ramon J. Hirsig, Executive Director

Approved:

David Gau

David Gau, Deputy Director
Property and Special Taxes Department
Attachment

BOARD APPROVED
At the _____ Board Meeting

Diane Olson, Chief
Board Proceedings Division

cc (with attachment):

Ms. Diane Olson	(MIC 80)
Mr. Randy Ferris	(MIC 82)
Mr. Steve Smith	(MIC 82)
Mr. Bradley Heller	(MIC 82)
Ms. Monica Silva	(MIC 82)
Ms. Lynn Bartolo	(MIC 56)
Mr. Richard Parrott	(MIC 56)
Mr. Dave McKillip	(MIC 63)

CHANGES WITHOUT REGULATORY EFFECT UNDER
CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Changes to Title 18. Public Revenue

Regulation 2504, *Distilled Spirits Produced, Packaged, or Bottled*
Regulation 2505, *Bottled or Packaged Distilled Spirits Acquired in California*
Regulation 2506, *Bottled or Packaged Distilled Spirits Imported*
Regulation 2507, *Distilled Spirits Sold or Exported*
Regulation 2508, *Distilled Spirits Invoices and Bottling or Packaging Records*
Regulation 2509, *Prepayment of Distilled Spirits Tax; Consolidated Returns*
Regulation 2512, *Beer and Wine Production; Beer Bottling; Wholesalers' Beer and Wine Purchases*
Regulation 2513, *Beer and Wine Imported*
Regulation 2514, *Beer and Wine Sold*
Regulation 2525, *Contents*
Regulation 2530, *Inventories*
Regulation 2535, *Distilled Spirits*
Regulation 2536, *Beer Manufacturers*
Regulation 2537, *Wine Growers*
Regulation 2538, *Beer and Wine Importers*
Regulation 2540, *Common Carrier Receipts and Delivery Reports*
Regulation 2541, *Common Carrier Tax Reports*
Regulation 2542, *Public Warehouses*
Regulation 2543, *Customs Brokers*
Regulation 2544, *Conversion of Liters to Gallons*
Regulation 2557, *Powdered Distilled Spirits*
Regulation 2560, *Treated as Sales*
Regulation 2561, *Exports and Sales for Export*

A. Factual Basis

Chapter 6 of division 2 of title 18 of the California Code of Regulations (Chapter 6) generally prescribes the application of the Alcoholic Beverage Tax Law (part 14 (commencing with section 32001) of division 2 of the Revenue and Taxation Code) to the sale of beer, wine, and distilled spirits in this state. The State Board of Equalization (Board) hereby proposes to amend certain provisions, as set forth above and described in detail below, of Chapter 6 under California Code of Regulations, title 1, section (Rule) 100 to correct outdated references to state and federal forms and outdated references to federal authority, to make other minor corrections to the text of certain regulations, and to provide accurate authority and reference citations, where necessary, throughout the chapter.

The regulations in Chapter 6 were, for the most part, originally promulgated in 1955, and none of the regulations proposed to be amended here, with the exception of Regulations 2538 and 2550,

have been amended since at least 1989. Since then, the Board has changed how it designates its forms, and, in 2003, the federal government moved responsibility for regulation and taxation of alcoholic beverages from the Federal Bureau of Alcohol, Tobacco, and Firearms to the Federal Alcohol and Tobacco Tax and Trade Bureau (TTB) and has also changed how it designates its forms.

The Board now proposes to amend these regulations to update the federal and state form and federal agency references. In addition, the Board proposes to take this opportunity to correct grammatical errors and update citations to statutes, including updating and correcting citations to the “authorities” and “references,” as appropriate, for the regulations that were adopted in 1955 and have not been recently amended.

B. Proposed Amendments

1. Rule 100 Changes to Regulation 2504, *Distilled Spirits Produced, Packaged, or Bottled*

A Rule 100 change is proposed to replace the reference to SBE Form 240A with the current designation, form BOE-240-A, in Regulation 2504.

A Rule 100 change is also proposed to replace the general Revenue and Taxation Code sections cited as references for Regulation 2504, sections 32001-32556, with more specific citations to sections 32211 and 32452.

2. Rule 100 Changes to Regulation 2505, *Bottled or Packaged Distilled Spirits Acquired in California*

A Rule 100 change is proposed to replace the reference to SBE Form 241A with the current designation, form BOE-241-A, in Regulation 2505.

A Rule 100 change is also proposed to replace the general Revenue and Taxation Code sections cited as references for Regulation 2505, sections 32001-32556, with more specific citations to sections 32211 and 32452.

3. Rule 100 Changes to Regulation 2506, *Bottled or Packaged Distilled Spirits Imported*

A Rule 100 change is proposed to replace the reference to SBE Form 242A with the current designation, form BOE-242-A, in Regulation 2506.

A Rule 100 change is also proposed to replace the general Revenue and Taxation Code sections cited as references for Regulation 2506, sections 32001-32556, with more specific citations to sections 32211 and 32452.

4. Rule 100 Changes to Regulation 2507, *Distilled Spirits Sold or Exported*

Rule 100 changes are proposed to replace the references to SBE Form 243B and SBE Form 244B with their current designations, form BOE-243-B and form BOE-244-B, respectively, in Regulation 2507.

Rule 100 changes are also proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2507, and citations to sections 32211 and 32452, the references for Regulation 2507.

5. Rule 100 Change to Regulation 2508, *Distilled Spirits Invoices and Bottling or Packaging Records*

A Rule 100 change is proposed to replace the general Revenue and Taxation Code sections cited as references for Regulation 2508, Sections 32001-32556, with more specific citations to sections 32211 and 32452.

6. Rule 100 Changes to Regulation 2509, *Prepayment of Distilled Spirits Tax; Consolidated Returns*

Rule 100 changes are proposed to replace the references to SBE Form 241A and SBE Form 243B with their current designations, form BOE-241-A and form BOE-243-B, respectively, in Regulation 2509.

Rule 100 changes are also proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2509, and citations to sections 32211 and 32452, the references for Regulation 2509.

7. Rule 100 Changes to Regulation 2512, *Beer and Wine Production; Beer Bottling; Wholesalers' Beer and Wine Purchases*

Rule 100 changes are proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2512, and citations to sections 32171, 32173, and 32452, the references for Regulation 2512.

8. Rule 100 Changes to Regulation 2513, *Beer and Wine Imported*

Rule 100 changes are proposed to replace the reference to SBE Form 269A with the current designation, form BOE-269-A, in Regulation 2513.

Rule 100 changes are also proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2513, and citations to sections 32175 and 32452, the references for Regulation 2513.

9. Rule 100 Changes to Regulation 2514, *Beer and Wine Sold*

Rule 100 changes are proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2514, and citations to sections 32171, 32173, and 32452, the references for Regulation 2514.

10. Rule 100 Changes to Regulation 2525, *Contents*

Rule 100 changes are proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2525, and citations to sections 32173, 32211, and 32452, the references for Regulation 2525.

11. Rule 100 Changes to Regulation 2530, *Inventories*

Rule 100 changes are proposed to Regulation 2530 to: revise “Distilled Spirits Taxpayer’s Return” to read “Distilled Spirits Tax Return”; change “tax” to “taxpayer”;¹ replace the references to “regional director (compliance) of the Federal Bureau of Alcohol, Tobacco and Firearms” with references to the “Federal Alcohol and Tobacco Tax and Trade Bureau (TTB)” or “TTB”; and change “reads” to “read.”

Rule 100 changes are also proposed to add citations to Revenue and Taxation Code sections 32201 and 32220 and commas after “32201”, “32211”, and “32220”, to the references for Regulation 2530.

12. Rule 100 Changes to Regulation 2535, *Distilled Spirits*

Rule 100 changes are proposed to Regulation 2535 to: replace the references to SBE Forms 241A, 242A, 243B, and 244B with their current designations, “forms BOE-241-A, BOE-242-A, BOE-243-B, and BOE-244-B”, respectively; and delete “as required by Article 1” due to the lack of clarity in the reference.

A Rule 100 change is also proposed to add a citation to Revenue and Taxation Code section 32220 and a comma after “32220” to the references for Regulation 2535.

13. Rule 100 Changes to Regulation 2536, *Beer Manufacturers*

Rule 100 changes are proposed to Regulation 2536 to: delete the comma following “Sacramento”; and replace the reference to Federal Form 5130.9 with its current designation, TTB F 5130.9.

A Rule 100 change is also proposed to add a citation to Revenue and Taxation Code section 32220 and a comma after “32220” to the references for Regulation 2536.

14. Rule 100 Change to Regulation 2537, *Wine Growers*

Rule 100 changes are proposed to Regulation 2537 to: delete the comma following “Sacramento”; and replace the reference to Federal Form 5120.17 (702) with its current designation, TTB F 5120.17.

A Rule 100 change is also proposed to add a citation to Revenue and Taxation Code section 32220 and a comma after “32220” to the references for Regulation 2537.

15. Rule 100 Changes to Regulation 2538, *Beer and Wine Importers*

Rule 100 changes are proposed to Regulation 2538 to: delete the comma following “Sacramento”; replace the phrase “Winegrower’s Tax Return”. with the phrase “Winegrower Tax Return.”; replace the phrase “Tax Return of Beer Manufacturer”. with the phrase “Beer

¹ This term reads correctly as “taxpayer” in the First Quarter, 2009 edition of volume 3 of the Business Taxes Law Guide (BTLG), but it is incorrect in the official version of the regulation published in Barclays Official California Code of Regulations, so a Rule 100 correction of the term is included here.

Manufacturer Tax Return.”; replace “Tax Return of Beer and Wine Importer” with “Beer and Wine Importer Tax Return”; and replace the reference to “BOE 269-A” with a reference to “form BOE-269-A.”

A Rule 100 change is also proposed to add a citation to Revenue and Taxation Code section 32220 and a comma after “32220” to the references for Regulation 2538.

16. Rule 100 Changes to Regulation 2540, *Common Carrier Receipts and Delivery Reports*

Rule 100 changes are proposed to add citations to Revenue and Taxation Code sections 32171, 32173, 32211, and 32452, the references for Regulation 2540.

17. Rule 100 Change to Regulation 2541, *Common Carrier Tax Reports*

A Rule 100 change is proposed to Regulations 2541 to delete the comma following “Sacramento”.

18. Rule 100 Changes to Regulation 2542, *Public Warehouses*

Rule 100 changes are proposed to add citations to Revenue and Taxation Code sections 32451 and 32452, the authorities for Regulation 2542, and citations to sections 32211 and 32452, the references for Regulation 2542.

19. Rule 100 Changes to Regulation 2543, *Customs Brokers*

Rule 100 changes are proposed to add citations to Revenue and Taxation Code sections 32171, 32173, 32211, and 32452, the references for Regulation 2543.

20. Rule 100 Change to Regulation 2544, *Conversion of Liters to Gallons*

A Rule 100 change is proposed to replace the reference to the “Bureau of Alcohol, Tobacco and Firearms” with a reference to the “Alcohol and Tobacco Tax and Trade Bureau (TTB)” and “Bureau” with “TTB” in Regulation 2544.

A Rule 100 change is also proposed to add a comma and delete “and” after “32152”, add “and” and a citation to Revenue and Taxation Code section 32220, and add a comma after “32220” to the references for Regulation 2544.

21. Rule 100 Change to Regulation 2557, *Powdered Distilled Spirits*

A Rule 100 change is proposed to replace the general Revenue and Taxation Code sections cited as references for Regulation 2557, sections 32001-32556, with more specific citations to sections 32211 and 32452.

22. Rule 100 Changes to Regulation 2560, *Treated as Sales*

Rule 100 changes are proposed to Regulation 2560 to replace the references to SBE Form 241A and SBE Form 242A with their current designations, form BOE-241-A and form BOE-242-A, respectively.

A Rule 100 change is also proposed to add a citation to Revenue and Taxation Code section 32220 and add “and” before and a comma after “32220” to the references for Regulation 2560.

23. Rule 100 Change to Regulation 2561, *Exports and Sales for Export*

A Rule 100 change is proposed to Regulation 2561 to replace the reference to Form BT-260, which has been discontinued, with the word “documentation.”

The foregoing changes are appropriate for processing under Rule 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, the changes are necessary to bring the regulations into conformity with current forms designations and federal references, to correct minor grammatical errors in the text, and to provide current citations to the authorities and references for each regulation.

PROPOSED AMENDMENTS

1. Amend Regulation 2504 (Distilled Spirits Produced, Packaged, or Bottled) to read as follows:

Regulation 2504. Distilled Spirits Produced, Packaged, or Bottled.

Every distilled spirits manufacturer, manufacturer's agent, brandy manufacturer, and rectifier shall keep and preserve a record of all distilled spirits produced, manufactured, cut, blended, rectified, bottled, packaged, or otherwise acquired in this State. A daily record of such acquisitions shall be made in book forms prescribed by the board. All distilled spirits received from licensee's own bottling or packaging department shall be recorded in ~~SBE Form 240A~~ form BOE-240-A. Receipts from the bottling or packaging department shall include all distilled spirits bottled or packaged, whether or not the distilled spirits are owned by the licensee.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~ 32211 and 32452, Revenue and Taxation Code.

2. Amend Regulation 2505 (Bottled or Packaged Distilled Spirits Acquired in California) to read as follows:

Regulation 2505. Bottled or Packaged Distilled Spirits Acquired in California.

Every distilled spirits taxpayer shall keep a record in ~~SBE Form 241A~~ form BOE-241-A of all bottled or packaged distilled spirits acquired from other distilled spirits taxpayers in California and of all distilled spirits received from licensee's own branches in California.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~ 32211 and 32452, Revenue and Taxation Code.

3. Amend Regulation 2506 (Bottled or Packaged Distilled Spirits Imported) to read as follows:

Regulation 2506. Bottled or Packaged Distilled Spirits Imported.

Every distilled spirits or brandy importer shall keep a record in ~~SBE Form 242A~~ form BOE-242-A of all bottled or packaged distilled spirits acquired by direct importation from without the State.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~ 32211 and 32452, Revenue and Taxation Code.

4. Amend Regulation 2507 (Distilled Spirits Sold or Exported) to read as follows:

Regulation 2507. Distilled Spirits Sold or Exported.

Every distilled spirits taxpayer shall keep a record of all distilled spirits sold, and in addition thereto, shall make a daily record in book forms prescribed by the board covering all distilled spirits sold or delivered to other taxpayers in California and all distilled spirits exported or sold for export from California, as follows:

(a) All sales or deliveries of distilled spirits to other California distilled spirits taxpayers, all transfers of distilled spirits to licensee's own branches in California, and all returns of distilled spirits to original vendors in California, shall be recorded in ~~SBE Form 243B~~form BOE-243-B.

(b) All sales of distilled spirits exported or sold for export from California and actually exported and all sales of distilled spirits to common carriers engaged in interstate or foreign passenger service, shall be recorded in ~~SBE Form 244B~~form BOE-244-B.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32211 and 32452, Revenue and Taxation Code.

5. Amend Regulation 2508 (Distilled Spirits Invoices and Bottling or Packaging Records) to read as follows:

Regulation 2508. Distilled Spirits Invoices and Bottling or Packaging Records.

All purchase invoices and bottling or packaging records covering distilled spirits acquisitions and all sales invoices, credit memoranda, or other data supporting such sales or deliveries, must be retained by the licensee and filed in such manner as to be readily available for verification by employees of the board.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~32211 and 32452, Revenue and Taxation Code.

6. Amend Regulation 2509 (Prepayment of Distilled Spirits Tax; Consolidated Returns) to read as follows:

Regulation 2509. Prepayment of Distilled Spirits Tax; Consolidated Returns.

Any distilled spirits wholesaler may make an application to the board for permission to prepay the distilled spirits excise tax on his inventory of distilled spirits on hand as of the first day of any calendar month, and for permission thereafter to pay the excise tax levied on sales of distilled spirits on the basis of subsequent purchases and acquisitions of distilled spirits by him. Any wholesaler who has been granted such permission and who operates more than one location for which distilled spirits wholesalers' licenses are issued and who elects to file a consolidated tax return covering distilled spirits transactions for all of his branch premises, need not include in his ~~SBE Forms 241A and 243B~~forms BOE-241-A and BOE-243-B transfers of distilled spirits between his own premises as otherwise provided in this article.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32211 and 32452, Revenue and Taxation Code.

7. Amend Regulation 2512 (Beer and Wine Production; Beer Bottling; Wholesalers' Beer and Wine Purchases) to read as follows:

Regulation 2512. Beer and Wine Production; Beer Bottling; Wholesalers' Beer and Wine Purchases.

Every beer manufacturer or wine grower shall keep and preserve a record of all beer or wine manufactured or produced in this State. Such record must show the quantity produced and the disposition thereof. Duplicates of federal production and bottling records, if available to employees of the board, shall suffice to comply with this regulation.

Every beer manufacturer shall keep and preserve separately a record of all beer received by the bottling, canning, and cooperage departments and packaged therein.

Every beer and wine wholesaler shall keep and preserve a record of all beer and wine purchased in this State. This record must show the kind and quantity of beer or wine purchased, the name and address of the person from whom purchased, and the date received. Purchase invoices containing all of the above information, if filed so as to be readily accessible for verification by employees of the board, shall suffice to comply with this regulation.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32171, 32173, and 32452, Revenue and Taxation Code.

8. Amend Regulation 2513 (Beer and Wine Imported) to read as follows:

Regulation 2513. Beer and Wine Imported.

Every importer of beer and wine shall keep a record in ~~SBE Form 269A~~ form BOE-269-A of all beer and wine imported into this State. This record must be supported by purchase invoices filed in such manner as to be readily accessible for verification by employees of the board.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32175 and 32452, Revenue and Taxation Code.

9. Amend Regulation 2514 (Beer and Wine Sold) to read as follows:

Regulation 2514. Beer and Wine Sold.

Every manufacturer, wine grower, importer, and beer and wine wholesaler shall keep and preserve a record of all beer and wine sold. This record must show the name and address of the purchaser, the date sold, the kind and quantity, the size and capacity of packages of beer or wine sold, the price, container charges or deposits and any discount offered.

Sales invoices containing all of the above information, if filed so as to be readily accessible for verification by employees of the board, shall suffice to comply with this regulation.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32171, 32173, and 32452, Revenue and Taxation Code.

10. Amend Regulation 2525 (Contents) to read as follows:

Regulation 2525. Contents.

(a) Every sale or delivery of alcoholic beverages, except beer, from one licensee to another licensee must be recorded on a sales invoice, whether or not consideration is involved.

Invoices covering the sale or purchase of alcoholic beverages must be filed in such manner as to be readily accessible for examination by employees of the board and shall not be commingled with invoices covering commodities other than alcoholic beverages.

Each sales invoice shall have printed thereon the name and address of the seller and shall show the following information:

(1) Name and address of the purchaser.

(2) Date of sale and invoice number.

(3) Kind, quantity, size, and capacity of packages of alcoholic beverages sold.

(4) The cost to the purchaser, together with any discount which at any time is to be given on or from the price as shown on the invoice.

(5) The place from which delivery of the alcoholic beverages was made unless delivery was made from the premises of the licensee or from a public warehouse located in the same county.

(6) Invoices covering sales of distilled spirits by distilled spirits taxpayers to other distilled spirits taxpayers shall show, in addition to the above, the total number of wine gallons covered by the invoice.

(b) Invoices covering sales of wine in internal revenue bond by a wine grower to another wine grower must also show that delivery was made "in bond."

(c) Invoices covering sales of alcoholic beverages for use in trades, professions, or industries, and not for beverage use, must be marked or stamped: "No state tax-not for beverage use."

(d) Invoices covering the sale of alcoholic beverages for export must be marked or stamped: "Sold for export."

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32173, 32211, and 32452, Revenue and Taxation Code.

11. Amend Regulation 2530 (Inventories) to read as follows:

Regulation 2530. Inventories.

(a) Distilled Spirits. Every distilled spirits taxpayer shall furnish to the board a statement of the gallonage of finished packaged distilled spirits on hand at the end of each month, or other reporting period authorized by the board.

This statement shall be made on the Distilled Spirits ~~Taxpayer's Tax~~ Return. Except as provided below, at least two of these statements shall be prepared from semi-annual physical inventories, a detailed record of which must be available at all times for verification by employees of the board. For taxpayers reporting on an annual basis, the statement shall be prepared from the December semi-annual physical inventory. A detailed record of the semi-annual physical inventories must be available at all times for verification by employees of the board.

A distilled spirits ~~tax~~taxpayer shall be relieved of the requirement of taking one of the required semi-annual physical inventories upon the filing with the board of a copy of an order of the ~~regional director (compliance) of the Federal Bureau of Alcohol, Tobacco and Firearms~~Alcohol and Tobacco Tax and Trade Bureau (TTB) waiving the taking of such inventory and approving the taxpayer's taking of physical inventories on an annual basis. Said taxpayer may continue to take physical inventories on an annual basis until such waiver is rescinded by the board or by the ~~federal regional director (compliance)~~TTB. The board may rescind the waiver and reimpose the requirement of semi-annual physical inventories if it finds that such semi-annual physical inventories are necessary to law enforcement or protection of the revenue. A distilled spirits taxpayer shall furnish to the board a copy of any order of the ~~federal regional director (compliance)~~TTB affecting the taking of physical inventories by such taxpayer within 10 days of the taxpayer's receipt of such order.

(b) Beer. Every licensed beer manufacturer shall take a physical inventory monthly of bulk and bottled beer in the brewery bottling house in such manner as provided in Title 27, Code of Federal Regulations, Section 25.294 as it reads on April 1, 1989.

(c) Wine. Every licensed wine grower shall take a physical inventory of all wine and distilling material on hand in United States internal revenue bond on June 30th of each year or, if an annual inventory period ending on other than June 30 has been approved by the ~~regional director (compliance) of the Bureau of Alcohol, Tobacco, and Firearms~~TTB, then the inventory shall be taken at the end of such annual inventory period.

(d) Supporting Records. All records used in preparing inventories for certification to the board shall be kept at the licensee's premises for verification by employees of the board.

Note: Authority cited: Sections 32152 and 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, 32201, 32211, 32220, and 32452, Revenue and Taxation Code.

12. Amend Regulation 2535 (Distilled Spirits) to read as follows:

Regulation 2535. Distilled Spirits.

Every distilled spirits taxpayer shall, on or before the fifteenth day of each and every month, or, on or before the fifteenth day of the month following the close of such other reporting period authorized by the board, file with the board at Sacramento a tax return on the form prescribed by the board of all sales of distilled spirits for the reporting period, together with such other information as is required on said form.

Every distilled spirits taxpayer shall, immediately following the close of business on the last day of each month, forward the original page, or pages, of ~~SBE Forms 241A, 242A, 243B, and 244B~~forms BOE-241-A, BOE-242-A, BOE-243-B, and BOE-244-B to the board at Sacramento,

provided that additional entries in these forms as required by Article 1 have been made since the last reporting date.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32201, 32211, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

13. Amend Regulation 2536 (Beer Manufacturers) to read as follows:

Regulation 2536. Beer Manufacturers.

Every licensed beer manufacturer shall, on or before the fifteenth of each and every month, or, on or before the fifteenth day of the month following the close of such other reporting period authorized by the board, file with the board at Sacramento, a tax return on forms prescribed by the board of all sales of beer for the preceding reporting period together with such other information as is required on said forms.

In determining the tax due on the sale of beer in bottles or cans, the quantity sold shall be computed in accordance with the following table:

Number of Bottles or Cans Per Case	Fluid Contents (Ounces) of Each Bottle or Can	Barrel Equivalent
4.....	64	0.06452
6.....	64	.09677
12.....	6	.01815
12.....	7	.02117
12.....	8	.02419
12.....	12	.03629
12.....	14	.04234
12.....	30	.09073
12.....	32	.09677
24.....	6	.03629
24.....	7	.04234
24.....	8	.04839
24.....	9	.05444
24.....	10	.06048
24.....	11	.06653
24.....	12	.07258
24.....	13	.07863
24.....	14	.08468
24.....	15	.09073
24.....	16	.09677
36.....	6	.05444
36.....	7	.06351
36.....	8	.07258
48.....	12	.14516
50.....	12	.15120

Since the determination of tax liability is based upon a count of cases of bottles or cans, only bottles or cans of uniform size and content may be packaged in the same case or shipping container.

If beer is to be packaged in cases of sizes other than those shown above, the beer manufacturer shall notify the board in advance and request to be advised of the proper fractional barrel equivalent of the proposed container.

Reports of inventories required to be made on each tax return shall be in agreement with Federal Form TTB F 5130.9.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, 32175, 32176, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

14. Amend Regulation 2537 (Wine Growers) to read as follows:

Regulation 2537. Wine Growers.

Every licensed wine grower shall, on or before the fifteenth day of each and every month, or, on or before the fifteenth day of the month following the close of such other reporting period authorized by the board, file with the board at Sacramento, a tax return on forms prescribed by the board of all sales of wine for the preceding reporting period, together with such other information as is required on said form.

Reports of inventories required to be made on each tax return must be in agreement with the data on Federal ~~Report~~ Form TTB F 5120.17-(702). The amounts reported must be book inventories for all months except for the end of the annual inventory period as described in Regulation 2530. The inventory reported in that month must be a physical inventory.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, 32173, 32174, 32175, 32176, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

15. Amend Regulation 2538 (Beer and Wine Importers) to read as follows:

Regulation 2538. Beer and Wine Importers.

Every licensed beer and wine importer shall, on or before the fifteenth day of each and every month, or, on or before the fifteenth day of the month following the close of such other reporting period authorized by the board, file with the board at Sacramento, a tax return on the form prescribed by the board of all sales of beer or wine for the preceding reporting period, together with such other information as is required on such form.

A wine grower holding both a winegrower's license and a beer and wine importer's license shall include the total imports of wine for the reporting period on the "~~Winegrower's Tax Return~~", "Winegrower Tax Return."

A beer manufacturer holding both a beer manufacturer's license and a beer and wine importer's license shall include the total imports of beer on the ~~"Tax Return of Beer Manufacturer"~~; "Beer Manufacturer Tax Return."

Every licensed beer and wine importer shall on or before the fifteenth day of the month following the close of each reporting period, file ~~BOE-269-A~~ form BOE-269-A.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32171, 32173, 32174, 32175, 32176, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

16. Amend Regulation 2540 (Common Carrier Receipts and Delivery Reports) to read as follows:

Regulation 2540. Common Carrier Receipts and Delivery Reports.

Common carriers and holders of interstate alcoholic beverage transporters' permits, transporting alcoholic beverages into this State from without this State for delivery or use within this State, shall obtain from the licensed importer or customs broker a receipt for the alcoholic beverages so transported and delivered. This receipt must show the following information:

Name of shipper, point of origin, name of importer or customs broker to whom delivery is made, place of delivery, name of carrier making delivery, a complete description of the shipment, and the number of the waybill covering the shipments. In the case of rail shipments the receipt shall show also the car number and in the case of water shipments the receipt shall show also the name of the vessel and the number of the steamship bill of lading.

A copy of the freight bill or other shipping document containing all of this information shall be deemed to be compliance with this requirement. A copy of such receipt must be delivered to the importer or customs broker to whom delivery is made. With respect to pool shipments in which more than one licensed importer or customs broker participates, the common carrier shall furnish a copy of the receipt to each participating importer or customs broker.

All deliveries of alcoholic beverages, shipment of which originated outside California, made to California importers or customs brokers, shall be reported to the board at Sacramento by common carriers and holders of interstate alcoholic beverage transporters' permits. Such report shall be filed with the board on forms prescribed by the board not later than the fifteenth day of each month covering such deliveries made in the previous calendar month.

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32171, 32173, 32211, and 32452, Revenue and Taxation Code.

17. Amend Regulation 2541 (Common Carrier Tax Reports) to read as follows:

Regulation 2541. Common Carrier Tax Reports.

Every common carrier engaged in interstate or foreign passenger service making sales of distilled spirits in California and every person licensed to sell distilled spirits aboard such a carrier, shall, on or before the first day of the second calendar month following the close of each

calendar month, or such other reporting period as is authorized by the Board, file with the Board at Sacramento, a report of all sales of distilled spirits in California for the preceding reporting period. The report shall be in such form as the Board shall prescribe and shall be accompanied by a remittance of the amount of tax due for the period covered by the report.

For the purpose of making these reports, such common carrier or other licensed person may compute its sales of distilled spirits in California by allocating a portion of the total distilled spirits sales for the entire system served by the reporting taxpayer to California based on the ratio that passenger miles in California bears to total passenger miles for the entire system served by the reporting taxpayer. The ratio of passenger miles in California to total passenger miles may be determined by tests. New tests should be made when there is any significant change in routes, schedules, or other operating conditions. The tests will be made by the reporting taxpayer and will be subject to review by the Board. All detail and test data should be retained for inspection by the Board.

This method of computing sales of distilled spirits in California is authorized only for the purpose of making reports under this regulation. Determinations may be imposed or refunds granted if the Board, upon audit of the taxpayer's accounts and records, or upon the basis of tests or other information, determines that the report did not disclose the correct amount of tax due.

A report must be filed for each reporting period even though no sales of distilled spirits were made in California during that period. Any person who fails to file a timely report and pay any tax that may be due shall be required to pay the applicable penalties and interest as provided by the Alcoholic Beverage Tax Law.

18. Amend Regulation 2542 (Public Warehouses) to read as follows:

Regulation 2542. Public Warehouses.

Licensed public warehouses shall report on or before January 15th and July 15th of each year, all distilled spirits held in storage by them, in bottled form, at the close of business on December 31st and June 30th. Such reports shall be filed with the board at Sacramento on forms prescribed by the board, and shall show the name of each person for whom distilled spirits are stored, the size of containers, number of cases, and the units per case stored for each such person.

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32211 and 32452, Revenue and Taxation Code.

19. Amend Regulation 2543 (Customs Brokers) to read as follows:

Regulation 2543. Customs Brokers.

Every person holding a Federal customhouse broker's license and making customs entries in connection with original importations of alcoholic beverages into California in customs bond for California licensed importers shall, on or before the fifteenth day of each month, report to the board in Sacramento on forms prescribed by the board, every such importation of alcoholic beverages handled by him as a customhouse broker during the preceding calendar month.

Every person holding a customs broker's license under the Alcoholic Beverage Control Act and making customs entries in connection with the importation of alcoholic beverages in customs bond into California for a person who does not hold the appropriate importer's license under the Alcoholic Beverage Control Act shall, on or before the fifteenth day of each month, report to the board in Sacramento on forms prescribed by the board, every such transaction in alcoholic beverages handled by him as a customs broker during the preceding calendar month.

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32171, 32173, 32211, and 32452, Revenue and Taxation Code.

20. Amend Regulation 2544 (Conversion of Liters to Gallons) to read as follows:

Regulation 2544. Conversion of Liters to Gallons.

The Federal ~~Bureau of Alcohol, Tobacco and Firearms~~ Alcohol and Tobacco Tax and Trade Bureau (TTB) has authorized the bottling of wine and distilled spirits in standard metric sizes. Reports of California licensees must be in wine gallons. To convert liters to wine gallons for reporting purposes, licensees shall use the standards established by the ~~Bureau~~ TTB. These are:

(a) For wine, to convert liters to wine gallons on any record or report, the quantity in liters shall be multiplied by 0.26417 to determine the equivalent quantity in wine gallons. The resulting figure shall be rounded to the nearest one-hundredth of a gallon.

(b) For distilled spirits, to convert liters to wine gallons on any record or report, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. The resulting figure shall be rounded to the nearest one-hundredth of a gallon.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, ~~and~~ 32201, and 32220, Revenue and Taxation Code.

21. Amend Regulation 2557 (Powdered Distilled Spirits) to read as follows:

Regulation 2557. Powdered Distilled Spirits.

(a) In General. The Alcoholic Beverage Tax Law and Alcoholic Beverage Tax Regulations apply with respect to powdered distilled spirits in the same manner and to the same extent as with respect to other distilled spirits. Tax will be paid at the same rate per wine gallon, and at a proportionate rate for any quantity, as for distilled spirits of the same proof strength in liquid form.

(b) Records and Reports. Transactions involving powdered distilled spirits, including any powdered alcoholic beverage containing powdered distilled spirits, must be stated by volume in wine gallons to the nearest one-hundredth of a gallon in all required records and reports. The importer, in the case of powdered distilled spirits imported into California packaged in containers for sale to the general public, and the rectifier in the case of powdered distilled spirits packaged within California shall:

(1) Label the outside of each case with the volume in wine gallons of the powdered product contained in the case and of the powdered product contained in each individual package within the case.

(2) Print on each invoice, credit memorandum, or similar document the total volume in wine gallons of the powdered product or products listed on that document.

(3) Print on each invoice, credit memorandum, or similar document the volume in wine gallons of the powdered product contained in each size case and in each individual package listed on that document.

(c) Conversion of Weight to Volume. The weight of powdered distilled spirits, and powdered distilled spirits products, shall be converted to volume as follows:

(1) One pound equals .16 wine gallons;

(2) One ounce equals .01 wine gallons;

(3) One gram equals .000353 wine gallons.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~32201, 32211, and 32452, Revenue and Taxation Code.

22. Amend Regulation 2560 (Treated as Sales) to read as follows:

Regulation 2560. Treated As Sales.

Samples and donations of alcoholic beverages shall be reported as sales.

Each transfer of samples between licensees authorized to possess alcoholic beverages on which the California state alcoholic beverages taxes have not been paid (manufacturers, manufacturers' agents, distilled spirits wholesalers and rectifiers) shall be on an ex-tax basis, and shall be recorded on an invoice marked: "Samples."

Distilled spirits taxpayers receiving samples from other licensees in California shall record the receipt in ~~SBE Form 241A~~form BOE-241-A. Samples received by direct importation shall be recorded in ~~SBE Form 242A~~form BOE-242-A.

Distilled spirits picked up at the licensed premises of a distilled spirits rectifier or wholesaler by a representative of a manufacturer or of a manufacturer's agent to be used by him for sampling purposes, shall not be considered to be a transfer of samples between the licensees referred to in the second paragraph of this rule. Such deliveries of distilled spirits shall be reported as taxable sales by the rectifier or wholesaler.

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32003, 32151, 32201, and 32220, Revenue and Taxation Code.

23. Amend Regulation 2561 (Exports and Sales for Export) to read as follows:

Regulation 2561. Exports and Sales for Export.

(a) Proof of Claim for Exemption for Exports and Sales for Export. The claim for exemption from tax for exports of alcoholic beverages or sales of alcoholic beverages for export shall be allowed only when the alcoholic beverages are actually exported to a point outside this state (and, in the case of distilled spirits sold for export, actually exported to a point outside this state within 90 days from the date of the sale) and one or more of the following conditions is met:

(1) The beverages are delivered to an armed force of the United States at a depot of the armed force in this state for transport out of the state, and the taxpayer's record of such sales is supported by a copy of the official purchase order and documentary evidence of export.

(2) The beverages are shipped to a point in a foreign country, and the federal tax on alcoholic beverages is not imposed or is refunded.

(3) The beverages are shipped to a point outside this state by a carrier who is independent of the buyer and the seller and the claim for tax exemption is supported by a copy of the shipping documents receipted for by the carrier. For purposes of this regulation, the term "carrier" means a person or firm regularly engaged in the business of transporting for compensation property owned by other persons.

(4) The beverages are shipped to or delivered to a point outside this state by any means, and the claim for tax exemption is supported by ~~Form BT-260~~ documentation signed by the purchaser and containing the certificate of the appropriate liquor control or tax authority of the state in which the beverages have been delivered to the effect that receipt of the delivery of the beverages has been reported to such authority by the purchaser.

(b) Sales Which Are Not Exports. Alcoholic beverages on which federal taxes have been paid and which are sold to persons operating commercial fishing boats or private carrier freight vessels for use as ships' stores outside of the state upon the high seas are not exports and are subject to tax.