

Initial Statement of Reasons

Proposed Amendments to California Code of Regulations, Title 18, Sections:

***5237, Board Approval Required for Refunds Over \$50,000; and
5266, Appeals Staff Recommendations; Requests for
Reconsideration; Requests for Oral Hearings***

SPECIFIC PURPOSE AND NECESSITY

On May 27, 2009, the Board voted to delegate authority to Board staff to grant or deny refunds of taxes and fees authorized by Revenue and Taxation Code sections 6901, 8126, 9151, 12977, 30361, 32401, 38601, 40111, 41100, 43451, 45651, 46501, 50139, 55221, and 60521, unless the refunds exceed \$100,000. The specific purpose of the proposed amendments to California Code of Regulations, title 18, section (Regulation) 5237 is to clarify that, as a result of the May 27, 2009, vote, the Board has delegated authority to staff in the Board's Sales and Use Tax Department and Property and Special Taxes Department to grant or deny the specified refunds, without further approval from the Board Members. The specific purpose of the proposed amendments to California Code of Regulations, title 18, section (Regulation) 5266 is to clarify that, as a result of the May 27, 2009, vote, the Board has also delegated authority to Appeals Division staff to grant or deny petitions, claims for refund, and requests for relief, and cancel previously issued assessments, unless the amount granted exceeds \$100,000. The Board has determined that the proposed amendments to Regulations 5237 and 5266 are reasonably necessary to make the regulations consistent with the Board's current delegation of authority to Board staff to grant or deny the specified refunds.

DOCUMENTS RELIED UPON

The Board relied upon a May 7, 2009, memorandum from Ms. Randy L. Henry, the Deputy Director of the Board's Sales and Use Tax Department, to Mr. Raymond J. Hirsig, the Board's Executive Director, in deciding to delegate additional authority to Board staff to grant or deny claims for refund and proposing that Regulations 5237 and 5266 be amended to make them consistent with the new delegation. The memorandum contained background information regarding the Board's prior, 1989 delegation of authority to Board staff to grant or deny refunds, unless the refunds exceed \$50,000, and the memorandum is available on the Board's Website at http://www.boe.ca.gov/meetings/pdf/Item_P3a1_052709.pdf.

ALTERNATIVES CONSIDERED

The Board considered, but did not approve, three alternative delegations of authority to Board staff and three conforming regulatory actions, on May 27, 2009. The first alternative would have delegated authority to Board staff to grant or deny refunds authorized by Revenue and Taxation Code sections 6901, 8126, 9151, 11551, 12977, 30361, 32401, 38601, 40111, 41100, 43451, 45651, 46501, 50139, 55221, and 60521, unless the refunds exceed \$250,000. The second alternative would have delegated authority to Board staff to grant or deny such refunds regardless of the dollar amount. The third alternative would have made no change to the Board's prior, 1989 delegation of authority to Board staff to grant or deny refunds, unless the refunds exceed \$50,000. (The alternatives are described in more detail in the May 7, 2009, memorandum.)

The Board did not approve the third alternative, which would have left the 1989 delegation of authority and Regulations 5237 and 5266 unchanged, because the \$50,000 limit on the 1989 delegation of authority needed to be increased to account for inflation. The Board did not approve the first and second alternatives, which would have increased the \$50,000 limit on the Board's 1989 delegation of authority to \$250,000 or eliminated the \$50,000 limit, respectively, because the Board wanted to increase Board staff's delegated authority more incrementally.

NO ADVERSE ECONOMIC IMPACT ON BUSINESS

The proposed amendments make Regulations 5237 and 5266 consistent with the Board's May 27, 2009, delegation of authority to Board staff to grant or deny specified refunds of taxes and fees. Therefore, the Board has determined that the proposed amendments make the Board's internal processing of refunds more efficient and will not have a significant adverse economic impact on business.