Rulemaking File Index

Title 18. Public Revenue

Sales and Use Tax

Regulation 1506 *Miscellaneous Service Enterprise*

OAL Approval

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State of California
Office of Administrative Law

In re: **Board of Equalization**	**NOTICE OF APPROVAL OF REGULATORY ACTION**
Regulatory Action:	**Government Code Section 11349.3**
Title 18, California Code of Regulations	**OAL File No. 2011-0104-03 S**
Adopt sections: **Amend sections: 1506** **Repeal sections:**	

In this regulatory action, the Board of Equalization amends a Sales and Use Tax regulation entitled "Miscellaneous Service Enterprises." The amendments relate to the "camps" provision and clarify when a camp qualifies as a school or educational institution (under Revenue and Taxation Code section 6363) and therefore when sales of student meals at a camp are not subject to tax.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 3/2/2011.

Date: 1/31/2011

Bradley J. Norris
Senior Staff Counsel

For: DEBRA M. CORNEZ
Assistant Chief Counsel/
Acting Director

Original: Ramon Hirsig
Copy: Richard Bennion

STATE OF CALIFORNIA EDMUND G. BROWN, Jr., Governor

OFFICE OF ADMINISTRATIVE LAW
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826

DEBRA M. CORNEZ
Assistant Chief Counsel/Acting Director

MEMORANDUM

TO: Richard Bennion
FROM: OAL Front Desk
DATE: 2/1/2011
RE: Return of Approved Rulemaking Materials
OAL File No. 2011-0104-03S

OAL hereby returns this file your agency submitted for our review (OAL File No. 2011-0104-03S regarding Miscellaneous Service Enterprises).

If this is an approved file, it contains a copy of the regulation(s) stamped "ENDORSED APPROVED" by the Office of Administrative Law and "ENDORSED FILED" by the Secretary of State. The effective date of an approved file is specified on the Form 400 (see item B.5). (Please Note: The 30th Day after filing with the Secretary of State is calculated from the date the Form 400 was stamped "ENDORSED FILED" by the Secretary of State.)

DO NOT DISCARD OR DESTROY THIS FILE

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "....no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq.) regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATORY SUBMISSION

REGULAR

See instructions on reverse

STD. 400 (REV. 01-09)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-2010-1004-01	2011-0104-03S	

For use by Office of Administrative Law (OAL) only

2011 JAN -4 PM 12:10

OFFICE OF ADMINISTRATIVE LAW

ENDORSED FILED IN THE OFFICE OF THE SECRETARY OF STATE

2011 JAN 31 PM 2:09

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY: State Board of Equalization

AGENCY FILE NUMBER (If any):

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE:
TITLE(S):
FIRST SECTION AFFECTED:
2. REQUESTED PUBLICATION DATE:

3. NOTICE TYPE: ☐ Notice re Proposed Regulatory Action ☐ Other
4. AGENCY CONTACT PERSON:
TELEPHONE NUMBER:
FAX NUMBER (Optional):

OAL USE ONLY — ACTION ON PROPOSED NOTICE: ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn
NOTICE REGISTER NUMBER: 2010, #44-Z
PUBLICATION DATE: 10-15-2010

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S): Miscellaneous Service Enterprise

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S):

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)

ADOPT:

AMEND: 1506

TITLE(S): 18

REPEAL:

3. TYPE OF FILING

- ☒ Regular Rulemaking (Gov. Code §11346)
- ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
- ☐ Emergency (Gov. Code, §11346.1(b))
- ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
- ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
- ☐ Emergency Readopt (Gov. Code, §11346.1(h))
- ☐ File & Print
- ☐ Other (Specify) _____
- ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
- ☐ Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

- ☒ Effective 30th day after filing with Secretary of State
- ☐ Effective on filing with Secretary of State
- ☐ §100 Changes Without Regulatory Effect
- ☐ Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☐ Department of Finance (Form STD. 399) (SAM §6660)
- ☐ Fair Political Practices Commission
- ☐ State Fire Marshal
- ☐ Other (Specify) _____

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
Richard E. Bennion	(916) 445-2130	(916) 324-3984	rbennion@boe.ca.gov

8. **I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

SIGNATURE OF AGENCY HEAD OR DESIGNEE: Diane G. Olson

DATE: January 3, 2011

TYPED NAME AND TITLE OF SIGNATORY: Diane G. Olson, Chief, Board Proceedings Division

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JAN 31 2011

Office of Administrative Law

Final Text of
California Code of Regulations,
Title 18,

Regulation 1506. Miscellaneous Service Enterprises.

(a) Licensed Architects.

(1) In General. Fees paid to licensed architects for their ability to design, conceive or communicate ideas, concepts, designs, and specifications are not subject to tax. Any plans, specifications, renderings or models or other instruments of service provided by a licensed architect under a licensed architect's contract or commission are integral to the licensed architect's services and are not subject to tax. The licensed architect is the consumer of any tangible personal property, including plans, specifications, renderings or models, used or transferred in the performance of professional services notwithstanding the fact that a fee may be added to the cost of the property and separately stated on a billing to the customer. If after the completion of the contract or commission the licensed architect provides additional copies of the original plans or specifications, or any models or renderings of an existing structure, the architect is regarded as making a sale of such copies, models or renderings.

(2) Licensed Architect. A "licensed architect" is defined under the Business and Professions Code Chapter 3, Division 3, Section 5500 as follows:

"As used in this chapter, architect means a person who is licensed to practice architecture in this state under the authority of this chapter."

A licensed architect preparing or being in responsible control of plans, specifications, and instruments of service is required to affix to those plans, specifications, and instruments of service their stamp or seal which bears the licensee's name, his or her license number, the legend "Licensed Architect" and the legend "State of California," and which shall provide a means of indicating the renewal date of the license.

(3) Architectural Perspectivists and Modelers. Architectural perspectivists do not act as "licensed architects." Architectural perspectivists are the retailers of renderings, prints and drawings they provide to architects or other consumers and tax applies to their entire charge for such items. Modelers do not act as "licensed architects." Modelers are the retailers of models they provide to architects or other consumers, and tax applies to their entire charge for such items.

(4) Licensed architects who produce renderings, prints, drawings or models pursuant to a contract that includes professional architectural services are not retailers of the renderings, prints, drawings or models they provide pursuant to that contract for architectural services. Tax does not apply to their charge for such items.

(b) Barbers, Beauty Shop Operators, and Shoe Polishers. Barbers, beauty shop operators, and shoe polishers are the consumers of the supplies and other property used in performing their services, and tax applies with respect to the sale to them of the supplies and other property. They are retailers, however, of supplies, used articles, or other tangible personal property, which they sell to customers in the regular course of business, and tax applies to the gross receipts from such sales.

(c) Clothes Cleaners and Dyers

(1) Clothes Cleaning - In General. Persons who provide clothes-cleaning services are consumers of the supplies and other materials used in performing their cleaning services, and tax applies to the sale to them of the supplies and other materials and not to their charges for such services.

(2) Rentals. Clothes cleaners are the consumers of linen supplies and similar articles, including towels, uniforms, coveralls, shop coats, dust cloths, and similar items, rented to others when an essential part of the rental contract is the furnishing of the recurring service of laundering or cleaning of the articles rented, and tax applies with respect to the sale to them of such articles.

(3) Clothes Dyeing - In General. Persons who provide dyeing services are retailers, not consumers, when their charges are for the dyeing of new fabrics, garments, or other such items and tax applies to their gross receipts from such sales. Persons who dye new items are required to hold a seller's permit.

Dyers are consumers of the supplies and other materials used in dyeing used fabrics, garments, or other such items and tax applies to the sale to them of the supplies and other materials and not to their charges for their dyeing services.

(4) Alteration of Garments - In General. For the purposes of this subdivision (c), alteration of garments means and includes any work performed upon new or used men's, women's and children's clothing to meet the requirements of the customer whether the work involves the addition of material to the garment, removal of material, refitting, or repairing. Alteration of garments does not mean or include the process of dyeing garments. Alteration of garments also does not mean or include work performed upon new or used personal and household items such as handbags, stuffed animals, bedding, and draperies. The application of tax to a clothes cleaner's or a dyer's charges for the alteration of personal or household items is explained in Regulation 1524.

(A) Alteration of Garments by Clothes Cleaning or Dyeing Establishments. A clothes cleaning or dyeing establishment, including wet cleaners (e.g., launderers) and dry cleaners, means and includes a clothes cleaner or dyer who (1) operates a location or locations as a pickup and delivery point for garment cleaning, or (2) provides spotting and pressing services on the premises, but not garment cleaning, or (3) operates a garment cleaning or dyeing plant on the premises.

A clothes cleaner or dyeing establishment described above is the consumer of property used or furnished in the alteration of new or used garments provided that:

1. Seventy-five percent (75%) or more of the establishment's total gross receipts represent charges for garment cleaning or dyeing services, and

2. No more than twenty percent (20%) of the establishment's total gross receipts during the preceding calendar year were from the alteration of garments.

If a clothes cleaner or dyer is not an establishment as described or does not meet the requirements of this paragraph (A), tax applies to the clothes cleaner's or the dyer's charges for the alteration of garments as explained in Regulation 1524.

(B) Alteration of Garments by a Third Party. When a clothes cleaner or dyer who meets the requirements of subdivision (c)(4)(A) contracts with a third party such as a tailor for the alteration of garments instead of performing such alterations itself, the clothes cleaner or dyer is a consumer, not a retailer, of the alterations provided by the third party and may not issue a resale certificate to the third party for such alterations. Tax applies to the third party's charges to the clothes cleaner or dyer for such alterations as explained in Regulation 1524.

(5) Miscellaneous Sale of Items. Clothes cleaners and dyers, whether or not they meet the requirements of subdivision (c)(4)(A), are retailers of any supplies, used items, or other tangible personal property such as lint brushes, abandoned garments, wood hangers, or novelty items, which they sell to customers in the regular course of business, and tax applies to the gross receipts from such sales. As retailers of tangible personal property, such persons are required to hold a seller's permit.

(d) Circulating Libraries. When circulating libraries, which are engaged in the business of renting books to others, pay tax measured by the purchase price of such books either to the person from whom the books are purchased or to the board, tax does not apply to the amount charged for the rental of such books. Such libraries are retailers of new or used books which they sell to consumers in the regular course of business, and tax applies to the gross receipts from such sales.

(e) Dentists and Dental Laboratories. Dentists are consumers of the materials, supplies, dental laboratory products and other tangible personal property which they use in performing their services. Tax, accordingly, applies to the sale of the tangible personal property to them.

Dental laboratories are the retailers of the plates, inlays and other products which they manufacture for dentists or other consumers. Tax applies to their entire charges for such

products regardless of whether a separate charge or billing is made for materials and manufacturing services.

(f) Gun Clubs. Gun clubs are consumers, not retailers, of clay pigeons or blue rocks furnished to members or patrons in connection with trapshooting or similar sports even though the charge for the service is measured by the number of clay pigeons or blue rocks used. The tax applies with respect to the sale of such property to the clubs.

(g) Licensed Hearing Aid Dispensers. Persons licensed as hearing aid dispensers by the Department of Consumer Affairs, Hearing Aid Dispensers Examining Committee, are consumers of hearing aids furnished or sold by them. The term "hearing aid" includes any necessary accessory or component part of the hearing aid which is fully worn on the body of the user such as cords, connector tubing, ear molds, or batteries, whether the part is sold or furnished separately or in conjunction with the hearing aid. The term also includes replacement and repair parts. Tax applies with respect to the sale of such products to licensed hearing aid dispensers.

Tax applies to the retail sale of such products by persons who are not licensed hearing aid dispensers.

(h) ~~Summer~~Organized Camps.

(1) Camps in General. The tax applies to gross receipts from the sale of meals or other tangible personal property at ~~summer~~ camps, whether operated by municipal or private corporations, or other parties.

(2) Camps Qualifying as Schools or Educational Institutions. When a camp qualifies as a school or educational institution, the camp's sales of student meals are not subject to tax~~, with respect to meals, applies in the same manner as to schools and educational institutions~~. ~~To qualify as a school or educational institution for purposes of this regulation, the camp must conduct regularly scheduled classes, with required attendance, in charge of qualified instructors.~~If a camp meets all of the following conditions, the camp will qualify as a school or educational institution for purposes of this regulation:

(A) The camp conducts regularly scheduled classes,
(B) Students are required to attend the classes,
(C) Qualified instructors are in charge of the classes, and
(D) The camp is an "organized camp" as defined in California Health and Safety Code section 18897.

An example of a camp that qualifies as a school or education institution includes, but is not limited to the following: A camp offers a session where campers have a schedule of daily activities they are required to attend. These activities include team-building exercises, guided nature hikes, and wilderness survival techniques. The

activities are led by staff that the camp determined to have sufficient training and experience to lead the activities.

An example of a camp that does not qualify as a school or educational institution includes, but is not limited to the following: A camp offers a session that includes activities that are regularly scheduled. Participants are required to attend a camp orientation on the first day, but during the rest of the camp they can attend as many of the scheduled activities as they want, or they can elect to attend no activities.

If a single charge is made for all of the privileges extended by the camp, a segregation must be made ~~and the tax returned~~ on that portion of the total charge representing taxable receipts from the sale of meals or other tangible personal property. In the absence of such a segregation, the taxable receipts from the sale of meals or other tangible personal property shall be determined by the board based on information available to it.

(i) Taxidermists. Taxidermists are consumers of the materials used in repairing, stuffing and mounting skins, heads, etc., of animals, birds, fish, and the like furnished by their customers, and tax applies with respect to the sale of such property to them. If, however, a separate charge for such property is made on the invoices to the customers at the fair retail selling price, the taxidermist is the retailer of the property and tax applies to such separate charge.

Tax applies to retail sales by taxidermists of skins, heads, mountings or other tangible personal property.

(j) Licensed Veterinarians.

(1) Definitions. As used herein:

(A) The term "licensed veterinarian" means any person licensed as a veterinarian by the California Department of Consumer Affairs, Board of Examiners in Veterinary Medicine.

(B) The term "drugs and medicines" includes substances or preparations intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals and which is commonly recognized as a substance or preparation intended for this use. The term includes legend drugs, pills and capsules (other than vitamins), liquid medications, injected drugs, ointments, vaccines, intravenous fluids, and medicated soaps if those soaps are available only to veterinarians. The term does not include vitamins, shampoos, pet foods, prescription diet foods, artificial diets, flea powders, and flea sprays.

(C) The term "professional services" includes the diagnosis and treatment of disease or trauma in animal life. It also includes the administration of drugs and

medicines by means of, for example, injection, intravenous solution, or oral or bodily application.

(2) Application of Tax.

(A) Licensed veterinarians are consumers of drugs and medicines which they use or furnish in the performance of their professional services. Accordingly, tax does not apply to a licensed veterinarian's charges to clients for such drugs and medicines, whether or not separately stated. Licensed veterinarians are also consumers of tangible personal property, other than drugs and medicines, which they use or which they furnish to clients without a separately stated charge. Tax applies to the sale of such drugs, medicines and other items to licensed veterinarians except:

1. Operative April 1, 1996, drugs or medicines which are purchased to be administered to animal life as an additive to feed or drinking water of food animals (as defined in Regulation 1587 (18 CCR 1587), "Animal Life, Feed, Drugs and Medicines") or of non-food animals which are being held for sale in the regular course of business, and the primary purpose of the drugs or medicines is the prevention and control of disease, or

2. Operative January 1, 1997, drugs or medicines which are purchased to be administered directly (e.g., orally, by injection, or by application to the body) to food animals and the primary purpose of the drugs or medicines is the prevention or control of disease of the food animals. Veterinarians remain consumers of drugs and medicines administered directly to non-food animals.

(B) Licensed veterinarians are retailers of drugs and medicines which they furnish for a consideration without performing specific related professional services. Licensed veterinarians are also retailers of tangible personal property, other than drugs and medicines, which they furnish to clients for a separately stated charge. Unless otherwise exempt, tax applies to charges made by licensed veterinarians to clients for such drugs, medicines and other items. See Regulation 1587 (18 CCR 1587), "Animal Life, Feed, Drugs and Medicines" for exemption for sales of feed, drugs, or medicines for certain animals. Tax applies to separately stated charges made for X-rays if the X-rays are delivered to clients.

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Sections 6006, 6007, 6015, 6018.1, 6018.7, 6358, 6358.4 and 6363, Revenue and Taxation Code.

Rulemaking File Index

Title 18. Public Revenue

Sales and Use Tax

Regulation 1506 *Miscellaneous Service Enterprise*

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3. *Business Tax Committee Minutes, September 15, 2010*
   - Minutes
   - Text of Proposed regulation
   - BTC Agenda
   - Regulation History
   - Formal Issue Paper Number 10-008
4. *Reporter's Transcript Business Taxes Committee, September 15, 2010*
5. *Estimate of Cost or Savings, October 8, 2010*
6. *Economic and Fiscal Impact Statements, September 30, 2010*
7. *Notice of Publications*
   - Form 400 and notice, Publication Date October 15, 2010
   - Proposed Text of Regulations 1506
   - Email sent to Interested Parties, October 15, 2010
   - CA Regulatory Notice Register 2010, Volume No. 42-Z
8. *Notice to Interested Parties, October 15, 2010*

   The following items are exhibited:

   - Notice of Hearing
   - Initial Statement of Reasons
   - Proposed Text of Regulations 1506
   - Regulation History
9. *Public Comment*
   - Chad Plantenberg, Redwood Glen, October 31, 2010.
10. *Statement of Compliance*
11. *Reporter's Transcript, Item F1, Regulation 1506, Miscellaneous Service Enterprises, December 14, 2010*

12. *Minutes, December 14, 2010, and Exhibits*

The following items are exhibited:

- Notice of Proposed Regulatory Action
- Initial Statement of Reasons
- Proposed Text of Regulations 1506
- Regulation History

VERIFICATION

I, Richard E. Bennion, Regulations Coordinator of the State Board of Equalization, state that the rulemaking file of which the contents as listed in the index is complete, and that the record was closed on January 3, 2011 and that the attached copy is complete.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

January 3, 2011

Richard E. Bennion
Regulations Coordinator
State Board of Equalization

Final Statement of Reasons for

Adoption of Proposed Amendments to California Code of Regulations,

Title 18, Section 1506, Miscellaneous Service Enterprises

Update of Information in the Initial Statement of Reasons

The factual basis, specific purpose, and necessity for the proposed amendments to subdivision (h) of California Code of Regulations, title 18, section (Regulation) 1506, *Miscellaneous Service Enterprises,* are the same as provided in the Initial Statement of Reasons.

The State Board of Equalization (Board) did not rely on any data or any technical, theoretical, or empirical study, report, or similar document in proposing or adopting the amendments to Regulation 1506, subdivision (h) that was not identified in the Initial Statement of Reasons, or which was otherwise not identified or made available for public review prior to the close of the public comment period.

The Board did not reject any reasonable alternatives to the proposed amendments to Regulation 1506, subdivision (h) or any alternatives that would lessen the adverse economic impact on small businesses. No alternative amendments were presented to the Board for consideration.

Furthermore, the Board has determined that the proposed amendments to Regulation 1506, subdivision (h) will not have a significant adverse economic impact on business.

No Mandate on Local Agencies or School Districts

The Board has determined that the proposed amendments to Regulation 1506, subdivision (h) do not impose a mandate on local agencies or school districts.

Response to Public Comment

On October 31, 2010, Chad Plantenberg of Redwood Glen Christian Camp and Conference Center emailed the Board a question regarding the specific application of the proposed amendments to Regulation 1506, subdivision (h) and asked: "What if an organized camp meets the educational qualifications under some of its functions, but not all – are all meals non-taxed then, or just the ones related to the educational function?" Therefore, on November 1, 2010, the Board emailed Mr. Plantenberg the following response to his question:

> Under the proposed revisions to Regulation 1506, a camp's sales of meals to students are nontaxable only when the camp meets the requirements of Regulation 1506(h)(2):
>
> - The camp conducts regularly scheduled classes,

- Students are required to attend the classes,
- Qualified instructors are in charge of the classes, and
- The camp is an "organized camp" as defined in California Health and Safety code section 18897

When the camp does not meet these requirements, sales of meals are generally subject to tax. For example, a camp holds summer camp sessions that meet the requirements of Regulation 1506(h)(2) and weekend retreats that do not meet the requirements (e.g., classes are not regularly scheduled, or campers are not required to attend classes). Meals are served at the camp's dining hall for all events.

In this example, sales of meals to students are not taxable during the summer camp sessions; however, meals sold to non-students, such as meals sold to staff and guests, are taxable. All meals sold during the weekend retreats are taxable.

On December 14, 2010, the Board held a public hearing on the proposed amendments to Regulation 1506, subdivision (h) and unanimously adopted the proposed amendments without any changes. No interested parties asked to speak at the public hearing and no interested parties submitted written comments objecting to the adoption of the proposed amendments or recommending alternative amendments.

Alternatives Considered

By its motion, the Board determined that no alternative to the proposed amendments to Regulation 1506, subdivision (h) would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected private persons than the proposed amendments.

No Federal Mandate

The adoption of the proposed amendments was not mandated by federal statutes or regulations and there is no federal regulation that is similar to Regulation 1506, subdivision (h).

Updated Informative Digest for

Adoption of Proposed Amendments to California Code of Regulations,

Title 18, Section 1506, Miscellaneous Service Enterprises

On December 14, 2010, the State Board of Equalization (Board) held a public hearing regarding the adoption of proposed amendments to California Code of Regulations, title 18, section (Regulation) 1506, *Miscellaneous Service Enterprises*, and unanimously voted to adopt the proposed amendments to subdivision (h) of the regulation without any changes. No interested parties asked to speak at the public hearing and no interested parties submitted written comments objecting to the adoption of the proposed amendments or recommending alternative amendments. However, one interested party did submit a question regarding the specific application of the proposed amendments via email, which is responded to below and in the Final Statement of Reasons.

There have not been any changes to the applicable laws or the general effect of the adoption of the proposed amendments to Regulation 1506, subdivision (h) described in the Informative Digest included in the Notice of Proposed Regulatory Action.

Current Law

Revenue and Taxation Code (RTC) section 6363 provides an exemption from sales and use tax for meals served or furnished to students of a school or educational institution. Regulation 1506, subdivision (h), *Summer Camps*, currently explains that a camp qualifies as a school or educational institution and the exemption for meals served to students, if the camp "conduct[s] regularly scheduled classes, with required attendance, in charge of qualified instructors."

These requirements establish that a camp session must promote an educational program through the conduct of regularly scheduled classes to qualify as a school or educational institution. However, camps may conduct their classes outside a traditional classroom setting and often do. For example, guided nature hikes can teach campers about ecology, conservation, and geology and must be conducted outdoors. In addition, classes in spiritual training or physical education, including, but not limited to, knot tying, archery, marksmanship, swimming, boating, and arts and crafts, are educational. Therefore, all of these types of classes will meet the first requirement of the Regulation 1506, subdivision (h) test if they are regularly scheduled.

Further, camps may allow campers to select the classes they wish to participate in and still have required participation. For example, a camp may allow a camper working on a merit badge for archery to choose to attend classes on range safety and archery practice, and allow a camper working on a hiking badge to attend classes in first aid and wilderness survival and still satisfy the "required attendance" test so long as the camper must attend his or her selected classes. However, a camp will not satisfy the "required attendance" test if it offers a variety of classes and recreational activities, requires campers to attend an orientation on the first day, but otherwise allows campers to choose

to attend as many of the scheduled class or activities as they want or choose not to attend any class or activities during the rest of the camp session. In general, most youth camps include activities that qualify as regularly scheduled classes with required attendance, but camps should document that attendance is required in their camp brochures, registration materials, website information, camper rule agreements, and other materials in order to substantiate that they qualify for the exemption.

Furthermore, a class is taught by a qualified instructor when the instructor has the formal training or sufficient experience to adequately prepare the instructor to teach his or her subject. Therefore, the level of training and experience needed to be a qualified instructor depends on the class being taught. For example, an instructor may need certification by the American Heart Association or Red Cross to be "qualified" to teach CPR or general first aid and a kayaking instructor may need to have years of experience in kayaking and water safety training to be "qualified" to teach kayaking. In general, if the camp determines that an instructor is reasonably qualified to lead a class, then the camp will have met this requirement of the regulation. However, camps should maintain records that show their instructors' level of training and/or experience related to the area they teach to substantiate that they qualify for the exemption.

Proposed Amendments

Young Life Appeal

On February 24, 2010, the Board conducted an oral hearing regarding a sales and use tax appeal involving the issue of whether the exemption provided by RTC section 6363 and Regulation 1506, subdivision (h) applied to sales of meals at a Young Life camp facility. Therefore, the Board had to decide whether the camp qualified as a school or educational institution because it conducted regularly scheduled classes, with required attendance, in charge of qualified instructors.

The camp did not conduct traditional classes in classrooms. However, the camp established that it was a traditional camp and conducted an educational program with scheduled activities including religious, leadership, and life skills training, and that campers were required to attend scheduled activities which were taught by qualified instructors. Therefore, the Board concluded that the camp qualified as a school or educational institution within the meaning of Regulation 1506, subdivision (h) and that its sales of student meals were exempt from sales and use tax. In addition, the Board referred Regulation 1506, subdivision (h) to its Business Taxes Committee and directed committee staff to work with interested parties to draft clarifying amendments that would help taxpayers and Board staff more easily determine whether camps qualify as schools or educational institutions.

Interested Parties Process

Accordingly, Board staff met with interested parties on May 19, 2010, and July 7, 2010, to discuss potential revisions to Regulation 1506. Board staff also had the opportunity in

July to visit a traditional camp, which qualified as an "organized camp" under Health and Safety Code section 18897, to gain a better understanding of how traditional camps currently operate.

During the interested parties process, Board staff determined that the provisions of Regulation 1506, subdivision (h) are intended to apply to traditional camps, similar to those operated by the Young Life organization, YMCA, YWCA, Girl Scouts, Boy Scouts, camps accredited by or affiliated with the American Camp Association, and camps that are approved members of the Christian Camp and Conference Association. Board staff determined that the provisions in Regulation 1506, subdivision (h) are not intended to apply to resorts, other hotel and lodging establishments, or businesses that provide all inclusive outdoor recreation packages outside a traditional camp setting.

During the interested parties process, Board staff concluded that the types of traditional camps that may qualify as schools or educational institutions also qualify as "organized camps," as defined in Health and Safety Code section 18897, subdivision (a), which provides that:

> (a) "Organized camp" means a site with program and facilities established for the primary purposes of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives, for five days[1] or more during one or more seasons of the year.

Board staff also concluded that many of the types of businesses that might seem similar to camps, but which are not traditional camps that are intended to be able to qualify as schools or educational institutions, cannot qualify as "organized camps," as defined in Health and Safety Code section 18897, subdivision (a). This is because the term "does not include a motel, tourist camp, trailer park, resort, hunting camp, auto court, labor camp, penal or correctional camp and does not include a child care institution or home-finding agency. The term 'organized camp' also does not include any charitable or recreational organization that complies with the rules and regulations for recreational trailer parks." (Health & Saf. Code, § 18897, subds. (b) and (c).)

Therefore, staff recommended that the Board amend the provisions of Regulation 1506, subdivision (h) to require that a camp be an "organized camp" as defined in Health and Safety Code section 18897 to qualify as a school or educational institution and to provide examples of camps that do and do not qualify as schools or educational institutions.

Furthermore, during the interested parties process, Board staff learned that many traditional camps now operate year-round by offering sessions to campers that attend

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[1] The Board interprets this provision to mean that a camp organization meeting the 5-day requirement for one camp session continues to meet the requirement even if it also conducts some shorter camp sessions. That is, staff would evaluate the camp year, rather than any one camp session. For example, a camp offers 5-day outdoor education camps for 6th graders and also provides 3-day outdoor education camps for 4th graders. Because the camp meets the 5-day requirement with the 6th grade camp sessions, the camp is still considered an "organized camp" during the 3-day camp sessions.

schools that are not on a traditional calendar year and offering camp sessions during the school year. Therefore, Board staff recommended that the Board change the name of subdivision (h) from "summer camps" to "organized camps."

In addition, Board staff recommended restructuring subdivision (h) so that the first sentence becomes paragraph (1) and all of the remaining text becomes paragraph (2). Board staff recommended amending the first sentence in new paragraph (1) so that it applies to "camps," in general, not just "summer camps," and amending new paragraph (2) so that it clearly applies to camps qualifying as schools or educational institutions. Board staff recommended revising the text of the first sentence in new paragraph (2) to make it read more clearly and expressly state that a qualifying "camp's sales of student meals are not subject to tax." Board staff recommended deleting the second sentence in new paragraph (2) and replacing it with a new sentence that clearly enumerates the requirements a camp must meet in order to qualify as a school or educational institution. Finally, staff recommended that the words "and the tax returned" be deleted from the second to last sentence in Regulation 1506, subdivision (h) because the words are awkward and confusing.

Business Taxes Committee

Board staff incorporated its recommendations into Formal Issue Paper 10-008 and submitted the issue paper to the Board for consideration along with three letters of support from the: California State Alliance of YMCAs and the California Collaboration for Youth; the American Camp Association, Southern California/Hawaii; and the Christian camps in California that are approved members of the National Christian Camp and Conference Association (CCCA). During the Board's Business Taxes Committee meeting on September 15, 2010, the Board determined that staff's recommended amendments were necessary to:

- Clarify that Regulation 1506, subdivision (h)'s exemption for student meals provided by camps that qualify as schools or educational institutions may only apply to traditional camps that qualify as "organized camps" as defined in Health and Safety Code section 18897;
- Provide examples that will help taxpayers and Board staff identify camps that qualify as schools and educational institutions and other types of similar businesses that do not qualify; and
- Revise the current language in the first, second, and fourth sentences in subdivision (h) so that they do not read awkwardly and clearly specify the application of tax.

Therefore, the Board approved staff's recommendations and authorized staff to begin the formal rulemaking process to incorporate the recommended amendments into Regulation 1506, subdivision (h), for the specific purposes of clarifying the requirements for a camp to qualify as a school or educational institution and clarifying how tax applies to sales of tangible personal property by camps, including sales of student meals.

Public Hearing

On December 14, 2010, the Board conducted a public hearing and unanimously voted to adopt the proposed amendments to Regulation 1506, subdivision (h) for the specific purposes of clarifying the requirements for a camp to qualify as a school or educational institution and clarifying how tax applies to sales of tangible personal property by camps, including sales of student meals. No interested parties asked to speak at the public hearing and no interested parties submitted written comments objecting to the adoption of the proposed amendments or recommending alternative amendments.

Interested Parties Question

On October 31, 2010, Chad Plantenberg of Redwood Glen Christian Camp and Conference Center emailed the Board a question regarding the specific application of the proposed amendments to Regulation 1506, subdivision (h) and asked: "What if an organized camp meets the educational qualifications under some of its functions, but not all – are all meals non-taxed then, or just the ones related to the educational function?" On November 1, 2010, the Board emailed Mr. Plantenberg the following response to his question:

> Under the proposed revisions to Regulation 1506, a camp's sales of meals to students are nontaxable only when the camp meets the requirements of Regulation 1506(h)(2):
>
> - The camp conducts regularly scheduled classes,
> - Students are required to attend the classes,
> - Qualified instructors are in charge of the classes, and
> - The camp is an "organized camp" as defined in California Health and Safety code section 18897
>
> When the camp does not meet these requirements, sales of meals are generally subject to tax. For example, a camp holds summer camp sessions that meet the requirements of Regulation 1506(h)(2) and weekend retreats that do not meet the requirements (e.g., classes are not regularly scheduled, or campers are not required to attend classes). Meals are served at the camp's dining hall for all events.
>
> In this example, sales of meals to students are not taxable during the summer camp sessions; however, meals sold to non-students, such as meals sold to staff and guests, are taxable. All meals sold during the weekend retreats are taxable.

No Comparable Federal Regulations

There are no comparable federal regulations or statutes to Regulation 1506, subdivision (h).

BOARD OF EQUALIZATION
BUSINESS TAXES COMMITTEE MEETING MINUTES

HONORABLE BETTY T. YEE, COMMITTEE CHAIR
450 N STREET, SACRAMENTO
MEETING DATE: SEPTEMBER 15, 2010, TIME: 9:30 A.M.

ACTION ITEMS & STATUS REPORT ITEMS

Agenda Item No: 1

Title: Proposed regulatory changes regarding sales of meals at summer camps

Issue/Topic:

Should Regulation 1506, *Miscellaneous Service Enterprises*, be revised to clarify when organized camps' sales of meals are nontaxable sales of student meals?

Committee Discussion:

Staff described the proposed changes to the regulation, and interested parties addressed the Committee supporting staff's recommendation. Staff also explained that following approval of the proposed revisions, outreach efforts are planned to explain how tax applies to camps' sales of meals and to make camps aware of their need to obtain seller's permits.

Committee Action/Recommendation/Direction:

Upon motion by Ms. Alby, seconded by Ms. Mandel, the Committee unanimously approved and authorized for publication Alternative 1 – Staff Recommendation. There is no operative date, and implementation will take place 30 days after approval by the Office of Administrative Law. A copy of the proposed revisions to Regulation 1506 is attached.

Agenda Item No: 2

Title: Suggested revisions to Regulation 1807, *Petitions for Reallocation of Local Tax*

Issue/Topic:

Interested parties addressed the Board suggesting revisions to BOE procedures for handling petitions for local tax reallocation.

Committee Discussion:

Interested parties discussed the proposal to revise Regulation 1807 to speed up the petition process.

Committee Action/Recommendation/Direction:

Upon motion by Ms. Yee, seconded by Mr. Horton, the matter was referred to the Business Taxes Committee for further discussion and possible action through the interested parties process. Board Members asked staff to provide in its initial discussion paper an update of the status of local tax appeal cases including whether those cases arose under prior or current rules for local tax appeals.

/s/ Betty T. Yee
Honorable Betty T. Yee, Committee Chair

/s/ Ramon J. Hirsig
Ramon J. Hirsig, Executive Director

BOARD APPROVED
at the September 15, 2010 Board Meeting

/s/ Diane Olson
Diane Olson, Chief
Board Proceedings Division

Regulation 1506. Miscellaneous Service Enterprises.

(a) LICENSED ARCHITECTS.

(1) IN GENERAL. Fees paid to licensed architects for their ability to design, conceive or communicate ideas, concepts, designs, and specifications are not subject to tax. Any plans, specifications, renderings or models or other instruments of service provided by a licensed architect under a licensed architect's contract or commission are integral to the licensed architect's services and are not subject to tax. The licensed architect is the consumer of any tangible personal property, including plans, specifications, renderings or models, used or transferred in the performance of professional services notwithstanding the fact that a fee may be added to the cost of the property and separately stated on a billing to the customer. If after the completion of the contract or commission the licensed architect provides additional copies of the original plans or specifications, or any models or renderings of an existing structure, the architect is regarded as making a sale of such copies, models or renderings.

(2) LICENSED ARCHITECT. A "licensed architect" is defined under the Business and Professions Code Chapter 3, Division 3, Section 5500 as follows:

> "As used in this chapter, architect means a person who is licensed to practice architecture in this state under the authority of this chapter."

A licensed architect preparing or being in responsible control of plans, specifications, and instruments of service is required to affix to those plans, specifications, and instruments of service their stamp or seal which bears the licensee's name, his or her license number, the legend "Licensed Architect" and the legend "State of California," and which shall provide a means of indicating the renewal date of the license.

(3) ARCHITECTURAL PERSPECTIVISTS AND MODELERS. Architectural perspectivists do not act as "licensed architects." Architectural perspectivists are the retailers of renderings, prints and drawings they provide to architects or other consumers and tax applies to their entire charge for such items. Modelers do not act as "licensed architects." Modelers are the retailers of models they provide to architects or other consumers, and tax applies to their entire charge for such items.

(4) Licensed architects who produce renderings, prints, drawings or models pursuant to a contract that includes professional architectural services are not retailers of the renderings, prints, drawings or models they provide pursuant to that contract for architectural services. Tax does not apply to their charge for such items.

(b) BARBERS, BEAUTY SHOP OPERATORS, AND SHOE POLISHERS Barbers, beauty shop operators, and shoe polishers are the consumers of the supplies and other property used in performing their services, and tax applies with respect to the sale to them of the supplies and other property. They are retailers, however, of supplies, used articles, or other tangible personal property, which they sell to customers in the regular course of business, and tax applies to the gross receipts from such sales.

(c) CLOTHES CLEANERS AND DYERS

(1) CLOTHES CLEANING – IN GENERAL. Persons who provide clothes-cleaning services are consumers of the supplies and other materials used in performing their cleaning services, and tax applies to the sale to them of the supplies and other materials and not to their charges for such services.

(2) RENTALS. Clothes cleaners are the consumers of linen supplies and similar articles, including towels, uniforms, coveralls, shop coats, dust cloths, and similar items, rented to others when an essential part of the rental contract is the furnishing of the recurring service of laundering or cleaning of the articles rented, and tax applies with respect to the sale to them of such articles.

(3) CLOTHES DYEING – IN GENERAL. Persons who provide dyeing services are retailers, not consumers, when their charges are for the dyeing of new fabrics, garments, or other such items and tax applies to their gross receipts from such sales. Persons who dye new items are required to hold a seller's permit.

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The proposed amendments contained in this document may not be adopted. Any revisions that are adopted may differ from this text.

Dyers are consumers of the supplies and other materials used in dyeing used fabrics, garments, or other such items and tax applies to the sale to them of the supplies and other materials and not to their charges for their dyeing services.

(4) ALTERATION OF GARMENTS – IN GENERAL. For the purposes of this subdivision (c), alteration of garments means and includes any work performed upon new or used men's, women's and children's clothing to meet the requirements of the customer whether the work involves the addition of material to the garment, removal of material, refitting, or repairing. Alteration of garments does not mean or include the process of dyeing garments. Alteration of garments also does not mean or include work performed upon new or used personal and household items such as handbags, stuffed animals, bedding, and draperies. The application of tax to a clothes cleaner's or a dyer's charges for the alteration of personal or household items is explained in Regulation 1524.

(A) Alteration of Garments by Clothes Cleaning or Dyeing Establishments. A clothes cleaning or dyeing establishment, including wet cleaners (e.g., launderers) and dry cleaners, means and includes a clothes cleaner or dyer who (1) operates a location or locations as a pickup and delivery point for garment cleaning, or (2) provides spotting and pressing services on the premises, but not garment cleaning, or (3) operates a garment cleaning or dyeing plant on the premises.

A clothes cleaner or dyeing establishment described above is the consumer of property used or furnished in the alteration of new or used garments provided that:

1. Seventy-five percent (75%) or more of the establishment's total gross receipts represent charges for garment cleaning or dyeing services, and

2. No more than twenty percent (20%) of the establishment's total gross receipts during the preceding calendar year were from the alteration of garments.

If a clothes cleaner or dyer is not an establishment as described or does not meet the requirements of this paragraph (A), tax applies to the clothes cleaner's or the dyer's charges for the alteration of garments as explained in Regulation 1524.

(B) Alteration of Garments by a Third Party. When a clothes cleaner or dyer who meets the requirements of subdivision (c)(4)(A) contracts with a third party such as a tailor for the alteration of garments instead of performing such alterations itself, the clothes cleaner or dyer is a consumer, not a retailer, of the alterations provided by the third party and may not issue a resale certificate to the third party for such alterations. Tax applies to the third party's charges to the clothes cleaner or dyer for such alterations as explained in Regulation 1524.

(5) MISCELLANEOUS SALE OF ITEMS. Clothes cleaners and dyers, whether or not they meet the requirements of subdivision (c)(4)(A), are retailers of any supplies, used items, or other tangible personal property such as lint brushes, abandoned garments, wood hangers, or novelty items, which they sell to customers in the regular course of business, and tax applies to the gross receipts from such sales. As retailers of tangible personal property, such persons are required to hold a seller's permit.

(**d**) **CIRCULATING LIBRARIES**. When circulating libraries, which are engaged in the business of renting books to others, pay tax measured by the purchase price of such books either to the person from whom the books are purchased or to the board, tax does not apply to the amount charged for the rental of such books. Such libraries are retailers of new or used books, which they sell to consumers in the regular course of business, and tax applies to the gross receipts from such sales.

(e) DENTISTS AND DENTAL LABORATORIES. Dentists are consumers of the materials, supplies, dental laboratory products and other tangible personal property which they use in performing their services. Tax, accordingly, applies to the sale of the tangible personal property to them.

Dental laboratories are the retailers of the plates, inlays and other products which they manufacture for dentists or other consumers. Tax applies to their entire charges for such products regardless of whether a separate charge or billing is made for materials and manufacturing services.

(f) GUN CLUBS. Gun clubs are consumers, not retailers, of clay pigeons or blue rocks furnished to members or patrons in connection with trapshooting or similar sports even though the charge for the

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service is measured by the number of clay pigeons or blue rocks used. The tax applies with respect to the sale of such property to the clubs.

(g) LICENSED HEARING AID DISPENSERS. Persons licensed as hearing aid dispensers by the Department of Consumer Affairs, Hearing Aid Dispensers Examining Committee, are consumers of hearing aids furnished or sold by them. The term "hearing aid" includes any necessary accessory or component part of the hearing aid which is fully worn on the body of the user such as cords, connector tubing, ear molds, or batteries, whether the part is sold or furnished separately or in conjunction with the hearing aid. The term also includes replacement and repair parts. Tax applies with respect to the sale of such products to licensed hearing aid dispensers.

Tax applies to the retail sale of such products by persons who are not licensed hearing aid dispensers.

(h) ~~SUMMER~~ ORGANIZED CAMPS.

(1) CAMPS IN GENERAL. The tax applies to gross receipts from the sale of meals or other tangible personal property at ~~summer~~ camps, whether operated by municipal or private corporations, or other parties.

(2) CAMPS QUALIFYING AS SCHOOLS OR EDUCATIONAL INSTITUTIONS. When a camp qualifies as a school or educational institution, ~~tax, with respect to meals, applies in the same manner as to schools and educational institutions~~ the camp's sales of student meals are not subject to tax. If a camp meets all of the following conditions, the camp will qualify as a school or educational facility for purposes of this regulation:

(A) The camp conducts regularly scheduled classes,

(B) Students are required to attend the classes,

(C) Qualified instructors are in charge of the classes, and

(D) The camp is an "organized camp" as defined in California Health and Safety Code section 18897.

~~To qualify as a school or educational institution for purposes of this regulation, the camp must conduct regularly scheduled classes, with required attendance, in charge of qualified instructors.~~

An example of a camp that qualifies as a school or education institution includes, but is not limited to the following: A camp offers a session where campers have a schedule of daily activities they are required to attend. These activities include team-building exercises, guided nature hikes, and wilderness survival techniques. The activities are led by staff that the camp determined to have sufficient training and experience to lead the activities.

An example of a camp that does not qualify as a school or educational institution includes, but is not limited to the following: A camp offers a session that includes activities that are regularly scheduled. Participants are required to attend a camp orientation on the first day, but during the rest of the camp they can attend as many of the scheduled activities as they want, or they can elect to attend no activities.

If a single charge is made for all of the privileges extended by the camp, a segregation must be made ~~and the tax returned~~ on that portion of the total charge representing taxable receipts from the sale of meals or other tangible personal property. In the absence of such a segregation, the taxable receipts from the sale of meals or other tangible personal property shall be determined by the board based on information available to it.

(i) TAXIDERMISTS. Taxidermists are consumers of the materials used in repairing, stuffing and mounting skins, heads, etc., of animals, birds, fish, and the like furnished by their customers, and tax applies with respect to the sale of such property to them. If, however, a separate charge for such property is made on the invoices to the customers at the fair retail selling price, the taxidermist is the retailer of the property and tax applies to such separate charge.

Tax applies to retail sales by taxidermists of skins, heads, mountings or other tangible personal property.

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(j) LICENSED VETERINARIANS.

(1) DEFINITIONS. As used herein:

(A) The term "licensed veterinarian" means any person licensed as a veterinarian by the California Department of Consumer Affairs, Board of Examiners in Veterinary Medicine.

(B) The term "drugs and medicines" includes substances or preparations intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals and which is commonly recognized as a substance or preparation intended for this use. The term includes legend drugs, pills and capsules (other than vitamins), liquid medications, injected drugs, ointments, vaccines, intravenous fluids, and medicated soaps if those soaps are available only to veterinarians. The term does not include vitamins, shampoos, pet foods, prescription diet foods, artificial diets, flea powders, and flea sprays.

(C) The term "professional services" includes the diagnosis and treatment of disease or trauma in animal life. It also includes the administration of drugs and medicines by means of, for example, injection, intravenous solution, or oral or bodily application.

(2) APPLICATION OF TAX.

(A) Licensed veterinarians are consumers of drugs and medicines which they use or furnish in the performance of their professional services. Accordingly, tax does not apply to a licensed veterinarian's charges to clients for such drugs and medicines, whether or not separately stated. Licensed veterinarians are also consumers of tangible personal property, other than drugs and medicines, which they use or which they furnish to clients without a separately stated charge. Tax applies to the sale of such drugs, medicines and other items to licensed veterinarians except:

1. Operative April 1, 1996, drugs or medicines which are purchased to be administered to animal life as an additive to feed or drinking water of food animals (as defined in Regulation 1587 (18 CCR 1587), "Animal Life, Feed, Drugs and Medicines") or of non-food animals which are being held for sale in the regular course of business, and the primary purpose of the drugs or medicines is the prevention and control of disease, or

2. Operative January 1, 1997, drugs or medicines which are purchased to be administered directly (e.g., orally, by injection, or by application to the body) to food animals and the primary purpose of the drugs or medicines is the prevention or control of disease of the food animals. Veterinarians remain consumers of drugs and medicines administered directly to non-food animals.

(B) Licensed veterinarians are retailers of drugs and medicines which they furnish for a consideration without performing specific related professional services. Licensed veterinarians are also retailers of tangible personal property, other than drugs and medicines, which they furnish to clients for a separately stated charge. Unless otherwise exempt, tax applies to charges made by licensed veterinarians to clients for such drugs, medicines and other items. See Regulation 1587(18 CCR 1587), "Animal Life, Feed, Drugs and Medicines" for exemption for sales of feed, drugs, or medicines for certain animals. Tax applies to separately stated charges made for X-rays if the X-rays are delivered to clients.

References: Sections 6006, 6007, 6015, 6018.1, 6018.7, 6358, 6358.4 and 6363, Revenue and Taxation Code.

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The proposed amendments contained in this document may not be adopted. Any revisions that are adopted may differ from this text.

AGENDA — September 15, 2010 Business Taxes Committee Meeting
Proposed regulatory changes regarding sales of meals at summer camps

Action 1 — Proposed Revisions to Regulation 1506, *Miscellaneous Service Enterprises*	
Issue Paper Alternative 1 – Staff Recommendation Agenda, page 2	Approve and authorize publication of proposed revisions to Regulation 1506(h).
	OR
Issue Paper Alternative 2 – Do not amend Regulation 1506	Do not approve proposed revisions.

AGENDA — September 15, 2010 Business Taxes Committee Meeting

Proposed regulatory changes regarding sales of meals at summer camps

Action 1 — Proposed Revisions to Regulation 1506(h)	**(h) ~~SUMMER~~ ORGANIZED CAMPS.** (1) CAMPS IN GENERAL. The tax applies to gross receipts from the sale of meals or other tangible personal property at ~~summer~~ camps, whether operated by municipal or private corporations, or other parties. (2) CAMPS QUALIFYING AS SCHOOLS OR EDUCATIONAL INSTITUTIONS. When a camp qualifies as a school or educational institution, ~~tax, with respect to meals, applies in the same manner as to schools and educational institutions~~ the camp's sales of student meals are not subject to tax. If a camp meets all of the following conditions, the camp will qualify as a school or educational facility for purposes of this regulation: (A) The camp conducts regularly scheduled classes, (B) Students are required to attend the classes, (C) Qualified instructors are in charge of the classes, and (D) The camp is an "organized camp" as defined in California Health and Safety Code section 18897. ~~To qualify as a school or educational institution for purposes of this regulation, the camp must conduct regularly scheduled classes, with required attendance, in charge of qualified instructors.~~ An example of a camp that qualifies as a school or education institution includes, but is not limited to the following: A camp offers a session where campers have a schedule of daily activities they are required to attend. These activities include team-building exercises, guided nature hikes, and wilderness survival techniques. The activities are led by staff that the camp determined to have sufficient training and experience to lead the activities. An example of a camp that does not qualify as a school or educational institution includes, but is not limited to the following: A camp offers a session that includes activities that are regularly scheduled. Participants are required to attend a camp orientation on the first day, but during the rest of the camp they can attend as many of the scheduled activities as they want, or they can elect to attend no activities. If a single charge is made for all of the privileges extended by the camp, a segregation must be made ~~and the tax returned~~ on that portion of the total charge representing taxable receipts from the sale of meals or other tangible personal property. In the absence of such a segregation, the taxable receipts from the sale of meals or other tangible personal property shall be determined by the board based on information available to it.

REGULATION HISTORY

TYPE OF REGULATION: Sales and Use Tax

REGULATION: **1506**

TITLE: *Miscellaneous Service Enterprises*

PREPARATION: Lynn Whitaker/Cecilia Watkins
LEGAL CONTACT: Cary Huxsoll/Robert Tucker

Proposed revisions to Regulation 1506 regarding sales of meals at summer camps.

HISTORY:

09-15-10: Business Taxes Committee (BTC) Meeting

07-07-10: Second Interested Parties Meeting

05-19-10: First Interested Parties Meeting

03-19-10: Topic Placed on BTC Calendar

Sponsor: None

Support: Sales and Use Tax Department
Ms. Catherine Barankin, California Alliance of YMCAs
Mr. Roger Williams, Sierra Pacific Section Christian Camp and Conference Association
Mr. Rick Benfield and Ms. Michele Branconier, American Camp Association, Southern California/Hawaii

Issue Paper Number **10-008**

- ☐ Board Meeting
- ☒ Business Taxes Committee
- ☐ Customer Services and Administrative Efficiency Committee
- ☐ Legislative Committee
- ☐ Property Tax Committee
- ☐ Other

Proposed regulatory changes regarding sales of meals at summer camps

I. Issue

Should Regulation 1506, *Miscellaneous Service Enterprises*, be revised to clarify when camps' sales of meals are nontaxable sales of student meals?

II. Alternative 1 - Staff Recommendation

Staff recommends the Board approve and authorize publication of proposed revisions to Regulation 1506, *Miscellaneous Service Enterprises*, as provided in Exhibit 2. Staff recommends amending subdivision (h) to add that, in order to qualify as a school or educational institution, a camp must also be an "organized camp" as defined in California Health and Safety Code section 18897. The proposed revisions also update the title of subdivision (h) from "Summer Camps" to "Organized Camps" and provide examples describing camps that meet and do not meet the subdivision (h) requirements for exemption.

Staff's proposed revisions to Regulation 1506 are supported by Catherine Barankin, California Alliance of YMCAs, Roger Williams, Sierra Pacific Section Christian Camp and Conference Association, and Rick Benfield and Michele Branconier from the American Camp Association, Southern California/Hawaii (see Exhibit 5).

III. Other Alternative Considered

Do not amend Regulation 1506.

IV. Background

Exemption for sales of meals to students. Revenue and Taxation Code section 6363 provides a sales and use tax exemption for meals served or furnished to students of a school by public or private schools, school districts, or student organizations. Regulation 1506, subdivision (h) *Summer Camps*, currently explains that camps qualify as schools or educational institutions if the camps "conduct regularly scheduled classes, with required attendance, in charge of qualified instructors."

On February 24, 2010, the Board of Equalization (Board) heard a sales and use tax appeals case regarding the sales of meals at a Young Life camp facility. At issue was whether sales of meals to campers qualified for exemption from tax as student meals under the provisions of Regulation 1506, subdivision (h). The petitioner explained that while classes are not held in a classroom, the camp conducts an educational program with scheduled activities including religious, leadership, and life skills training. Campers are required to attend scheduled activities which are taught by qualified instructors. Accordingly, the petitioner argued that the camp met the requirements for exemption as provided in Regulation 1506, subdivision (h). The Board agreed with the petitioner and instructed staff to amend Regulation 1506 to clarify the regulation.

Staff met with interested parties on May 19, 2010, and July 7, 2010, to discuss the proposed revisions to Regulation 1506. Staff also had the opportunity in July to visit an organized camp to gain a better understanding of how camps operate. The issue is scheduled for discussion at the September 15, 2010, meeting of the Business Taxes Committee.

V. Discussion

What is a "camp"? Staff believes the provisions of Regulation 1506 are intended for organized camps similar to those operated by the Young Life organization. That is, "camp" refers to camp organizations that run traditional camp programs, and not to resorts or other hotel and lodging establishments. Staff further believes that Regulation 1506 was not intended to apply to businesses that provide all inclusive outdoor recreation packages outside a traditional camp. For example, an outdoor adventure company that offers rock climbing packages at various state parks for an all inclusive price (lodging, meals, climbing gear, and instruction) is not a traditional camp.

Based on discussions with interested parties, traditional camps such as those operated by the YMCA, YWCA, Girl Scouts, and Boy Scouts meet the definition of an "organized camp" as provided in section 18897 of the California Health and Safety Code.[1] Camps accredited by, or affiliated with, the American Camp Association and camps that are approved members of the Christian Camp and Conference Association also meet this definition. Furthermore, the statutory definition of an "organized camp" expressly excludes a wide variety of businesses that are not traditional camp organizations, such as tourist camps, trailer parks, resorts, hunting camps, and childcare institutions. Therefore, to focus upon the intended traditional camps, staff proposes amending Regulation 1506 to clarify that, for purposes of the regulation, a camp must be an "organized camp" as defined in California Health and Safety Code section 18897 (see Exhibit 2 and 3) in order to qualify for the student meals exemption.

[1] Section 18897 is further clarified by the California Department of Health Services in California Code of Regulations, title 17, sections 30700 – 30753.

At the meetings with interested parties, staff discussed the provisions of subdivision (a) of section 18897, which provides:

> "Organized camp" means a site with program and facilities established for the primary purposes of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives, for five days or more during one or more seasons of the year.

Staff interprets this provision to mean that a camp organization meeting the 5-day requirement for one camp session continues to meet the requirement even if it also conducts some shorter camp sessions. That is, staff would evaluate the camp year, rather than any one camp session. For example, a camp offers 5-day outdoor education camps for 6th graders and also provides 3-day outdoor education camps for 4th graders. Because the camp provides 5-day requirement with the 6th grade camp sessions, they are still considered an "organized camp" during the 3-day camp sessions.

The name of Regulation 1506, subdivision (h) "summer camps" was also discussed at the interested parties meetings. Many camps operate year-round offering sessions to campers whose schools are not based on a traditional calendar. Some offer camps for students during the school year, such as an outdoor science camp. Therefore, to update the subdivision's name to reflect the operations of the various camps, staff proposes changing the name from "summer camps" to "organized camps."

Requirements for Camp Classes. Regulation 1506, subdivision (h) currently provides three requirements that camps must meet in order for the camp to be considered a school or educational institution under the regulation. The camp must conduct: (1) regularly scheduled classes, (2) with required attendance, (3) in charge of qualified instructors.

<u>"Regularly scheduled classes"</u>

Staff believes that a camp session must promote an educational program, but recognizes that camps typically provide this education outside a traditional classroom setting. For example, ropes course activities teach problem-solving, communication, and leadership skills. Ecology, conservation, and geology can all be taught during a guided nature hike. In addition, classes in spiritual training or physical education, including but not limited to archery, marksmanship, swimming, boating, and arts and crafts, are also educational. Therefore, for purposes of this regulation, all of these types of classes will meet the first requirement of the Regulation 1506, subdivision (h) test if they are regularly scheduled.

Further, some camps regularly schedule a variety of classes and allow campers to select the activity they wish to participate in; these types of regularly scheduled classes will also satisfy the first requirement of the test. For example, a camp may allow a camper working on a merit badge for archery to choose to attend classes on range safety and archery practice, and allow a camper working on a hiking badge to attend classes in first aid and wilderness survival.

In general, most youth camps include activities that qualify as regularly scheduled classes. Conversely, camps or retreats where recreation and fellowship are the primary goals may not meet the "regularly scheduled classes" requirement. The focus of the camp session is rest and relaxation. For example, a "fishing retreat" or "summer concert weekend" where activities may be offered daily, but the focus of the event is recreation, does not conduct regularly scheduled classes.

"Required attendance"

If attendance at classes is not required, a camp's sales of meals are subject to tax. Again, activities at most youth camps meet this requirement as campers are required to attend scheduled activities that qualify as classes. Camps should document that attendance is required in their camp brochures, registration materials, website information, camper rule agreements, and other materials in order to substantiate that they qualify for the exemption.

Camps would not meet this requirement if attendance is optional. For example, a camp would not satisfy the "required attendance" requirement if it offered a variety of classes and recreational activities and required participants to attend a camp orientation on the first day, but otherwise allowed campers to choose to attend as many of the scheduled activities as they want, or choose not to attend any activities during the rest of the camp session.

"In charge of qualified instructors"

Staff believes that an instructor is "qualified" when the instructor has the formal training or sufficient experience to adequately prepare the instructor to teach his or her subject. Therefore, the level of training and experience needed to be a qualified instructor depends on the class being taught. For example, an instructor may need certification by the American Heart Association or Red Cross to be "qualified" to teach CPR and general first aid. A kayaking instructor may have years of experience in kayaking and water safety training.

Staff recognizes that organized camps interview, hire, and train staff to lead camp classes and activities. Often senior staff members guide and supervise less experienced instructors in order to ensure that the newer instructors are "qualified." In general, if the camp determines that the instructor is qualified to lead a class, then the camp will have met this requirement of the regulation. However, camps should maintain records that show their instructors' level of training and/or experience related to the area they teach to substantiate that they qualify for the exemption.

Additional revisions to subdivision (h). Staff recommends restructuring the subdivision to clearly show the requirements a camp must meet in order to qualify as a school or educational institution. Staff also recommends the first sentence in subdivision (h)(2) be revised to expressly state that a qualifying camp's sales of student meals are not subject to tax. Finally, staff believes that the second to last sentence in Regulation 1506, subdivision (h) is awkwardly written. Therefore, staff recommends a few grammatical changes to the sentence to make it read more clearly without changing its meaning or effect.

Other issues. Although not part of the regulation revisions, two other issues regarding camp meals were discussed at the interested parties meetings.

Meals given away at camps

Camps are consumers of meals and nonfood products that are provided free of charge. If a camp prepares its own meals, it will have no tax liability in regard to food products that are consumed in providing free meals[2]. If a camp purchases meals from a food service company, the camp would be the consumer of those meals the camp provides free of charge. Assuming the camp has purchased those meals for resale without payment of tax, the camp will need to report use tax on the cost of the meals that were given away. In addition, if a camp gives away nonfood items (such as carbonated beverages) that the camp purchased for resale without payment of tax, the camp must also pay use tax based on the cost of those items.

[2] Sales and purchases of food products are exempt from sales and use tax as provided in Regulation 1602, *Food Products*.

Meals sold to non-students

While sales of meals to campers that qualify as students are exempt under section 6363, sales of meals to non-students (e.g., instructors, staff, and guests) are taxable. With regard to sales of meals to employees, Regulation 1603, *Taxable Sales of Food Products*, provides in subdivision (k) that tax applies only if a specific charge is made for meals. A specific charge is made if the employee pays cash for meals consumed, the value of the meals is deducted from the employee's paycheck, the employee receives meals in lieu of cash to bring compensation up to legal minimum wage, or the employee has the option to receive cash for meals not consumed. An amount deducted for "room and board" from an employee's wages is considered a specific charge. In the absence of any of these conditions, there is no specific charge when a value is placed on the meals as a means for reporting the fair market value of employees' meals pursuant to state and federal laws or regulations. (See Exhibit 4 for the full provisions of Regulation 1603(k).)

VI. Alternative 1 - Staff Recommendation

Staff recommends the Board approve and authorize publication of proposed revisions to Regulation 1506, *Miscellaneous Service Enterprises*, as proposed in Exhibit 2.

A. Description of Alternative 1

Proposed revisions to Regulation 1506 include:

- Update name of subdivision to "Organized Camps,"
- Add requirement that camps be "organized camps" pursuant to Health and Safety Code section 18897,
- Add examples describing camps that meet and do not meet the requirements in subdivision (h),
- Restructure subdivision (h) to clearly show the requirements camps must meet to qualify as schools or educational institutions,
- Revise the first sentence in subdivision (h)(2) to expressly state that when a camp qualifies as a school or educational institution, its sales of student meals are not subject to tax, and
- Make a minor grammatical change to the second to last sentence in subdivision (h) to clarify the sentence without changing its meaning.

B. Pros of Alternative 1

- The restructured subdivision and addition of examples provide guidance to camps and staff.
- The added requirement that camps be "organized camps" pursuant to Health and Safety Code section 18897 focuses the provisions of the subdivision on the intended taxpayers.
- The updated name of subdivision reflects how camps currently operate.

C. Cons of Alternative 1

Although staff and all interested parties agree that adding the requirement that a camp be an "organized camp" appropriately limits the subdivision provisions to the intended taxpayers, and no one has disagreed with such interpretation, in the future, someone could raise the contention that this requirement does not encompass all qualifying camps.

D. Statutory or Regulatory Change for Alternative 1

No statutory change is required. However, staff's recommendation does require adoption of regulation revisions.

E. Operational Impact of Alternative 1

Staff will notify taxpayers of the new regulation through an article in the Tax Information Bulletin (TIB). Staff also intends to prepare a publication which will provide camps with guidance on other subjects such as the need to hold a seller's permit and report tax on their sales of meals to non-students and other sales of tangible personal property such as photos, videos, t-shirts, and other souvenir items.

F. Administrative Impact of Alternative 1

1. Cost Impact

The workload associated with publishing the regulation, the TIB, and the publication is considered routine. Any corresponding cost would be absorbed within the Board's existing budget.

2. Revenue Impact

None. See Revenue Estimate (Exhibit 1).

G. Taxpayer/Customer Impact of Alternative 1

Staff believes the proposed revisions better explain when a camp's sales of meals qualify for exemption as sales of student meals.

H. Critical Time Frames of Alternative 1

Implementation will begin 30 days following approval of the regulation by the State Office of Administrative Law.

VII. Other Alternatives

A. Description of Alternative 2

Do not revise Regulation 1506.

B. Pros of Alternative 2

The Board would avoid the workload involved with processing and publicizing the revised regulation.

C. Cons of Alternative 2

Not revising Regulation 1506 may result in a continued lack of clarity in this area and lead to inconsistency in taxpayer reporting and staff auditing.

D. Statutory or Regulatory Change for Alternative 2

None.

E. Operational Impact of Alternative 2

Without clarifying language in the regulation, Board staff may not understand when a camp's sales of meals qualify as nontaxable sales to students.

F. Administrative Impact of Alternative 2

1. Cost Impact

None.

2. Revenue Impact

None.

G. Taxpayer/Customer Impact of Alternative 2

Without clarifying language in the regulation, some camps may not understand how tax applies to their sales of meals.

H. Critical Time Frames of Alternative 2

None.

Preparer/Reviewer Information

Prepared by: Tax Policy Division, Sales and Use Tax Department

Current as of: August 31, 2010

BOARD OF EQUALIZATION
REVENUE ESTIMATE

Proposed regulatory changes regarding sales of meals at summer camps

Alternative 1 – Staff Recommendation

Staff recommends the Board approve and authorize publication of proposed revisions to Regulation 1506, *Miscellaneous Service Enterprises.* Staff recommends amending subdivision (h) to add that, in order to qualify as a school or educational institution, a camp must also be an "organized camp" as defined in California Health and Safety Code section 18897. The proposed revisions also update the title of subdivision (h) from "Summer Camps" to "Organized Camps" and provide examples describing camps that meet and do not meet the subdivision (h) requirements for exemption.

Alternative 2 - Other Alternative Considered

Do not amend Regulation 1506.

Background, Methodology, and Assumptions

Alternative 1 – Staff Recommendation

Staff believes the provisions of Regulation 1506 are intended for organized camps similar to those operated by the Young Life organization. That is, "camp" refers to camp organizations that run traditional camp programs, and not to resorts or other hotel and lodging establishments. Staff further believes that Regulation 1506 was not intended to apply to businesses that provide all inclusive outdoor recreation packages outside a traditional camp. Staff proposed amendment to Regulation 1506 clarifies that for purposes of the regulation, a camp must be an "organized camp" as defined in California Health and Safety Code section 18897 in order to qualify for the student meals exemption. There is nothing in the staff recommendation that would impact sales and use tax revenue.

Alternative 2 - Other Alternative – do not amend Regulation 1506

There is nothing in the alternative 2 that would impact sales and use tax revenue.

Revenue Summary

Alternative 1 –staff recommendation should not impact revenue.

Alternative 2 – alternative 2 does not have a revenue impact.

Preparation

Mr. Bill Benson, Jr., Research and Statistics Section, Legislative and Research Division, prepared this revenue estimate. Mr. Robert Ingenito, Chief, Research and Statistics Section, Legislative and Research Division and Mr. Jeff McGuire, Tax Policy Manager, Sales and Use Tax Department, reviewed this revenue estimate. For additional information, please contact Mr. Benson at 916-445-0840.

Current as of August 23, 2010.

(NOTE: Only the relevant subdivision of the regulation is contained in this Exhibit. Other subdivisions are not being amended.)

Regulation 1506. Miscellaneous Service Enterprises.

(h) ~~SUMMER~~ ORGANIZED CAMPS.

(1) CAMPS IN GENERAL. The tax applies to gross receipts from the sale of meals or other tangible personal property at ~~summer~~ camps, whether operated by municipal or private corporations, or other parties.

(2) CAMPS QUALIFYING AS SCHOOLS OR EDUCATIONAL INSTITUTIONS. When a camp qualifies as a school or educational institution, ~~tax, with respect to meals, applies in the same manner as to schools and educational institutions~~ the camp's sales of student meals are not subject to tax. If a camp meets all of the following conditions, the camp will qualify as a school or educational facility for purposes of this regulation:

(A) The camp conducts regularly scheduled classes,

(B) Students are required to attend the classes,

(C) Qualified instructors are in charge of the classes, and

(D) The camp is an "organized camp" as defined in California Health and Safety Code section 18897.

~~To qualify as a school or educational institution for purposes of this regulation, the camp must conduct regularly scheduled classes, with required attendance, in charge of qualified instructors.~~

An example of a camp that qualifies as a school or education institution includes, but is not limited to the following: A camp offers a session where campers have a schedule of daily activities they are required to attend. These activities include team-building exercises, guided nature hikes, and wilderness survival techniques. The activities are led by staff that the camp determined to have sufficient training and experience to lead the activities.

An example of a camp that does not qualify as a school or educational institution includes, but is not limited to the following: A camp offers a session that includes activities that are regularly scheduled. Participants are required to attend a camp orientation on the first day, but during the rest of the camp they can attend as many of the scheduled activities as they want, or they can elect to attend no activities.

If a single charge is made for all of the privileges extended by the camp, a segregation must be made ~~and the tax returned~~ on that portion of the total charge representing taxable receipts from the sale of meals or other tangible personal property. In the absence of such a segregation, the taxable receipts from the sale of meals or other tangible personal property shall be determined by the board based on information available to it.

California Codes
Health and Safety Code

18897. (a) "Organized camp" means a site with program and facilities established for the primary purposes of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives, for five days or more during one or more seasons of the year.

(b) The term "organized camp" does not include a motel, tourist camp, trailer park, resort, hunting camp, auto court, labor camp, penal or correctional camp and does not include a child care institution or home-finding agency.

(c) The term "organized camp" also does not include any charitable or recreational organization that complies with the rules and regulations for recreational trailer parks.

(k) EMPLOYEES' MEALS.

(1) IN GENERAL. Any employer or employee organization that is in the business of selling meals, e.g., a restaurant, hotel, club, or association, must include its receipts from the sales of meals to employees, along with its receipts from sales to other purchasers of meals, in the amount upon which it computes its sales tax liability. An employer or an employee organization selling meals only to employees becomes a retailer of meals and liable for sales tax upon its receipts from sales of meals if it sells meals to an average number of five or more employees during the calendar quarter.

(2) SPECIFIC CHARGE. The tax applies only if a specific charge is made to employees for the meals. Tax does not apply to cash paid an employee in lieu of meals. A specific charge is made for meals if:

(A) Employee pays cash for meals consumed.
(B) Value of meals is deducted from employee's wages.
(C) Employee receives meals in lieu of cash to bring compensation up to legal minimum wage.
(D) Employee has the option to receive cash for meals not consumed.

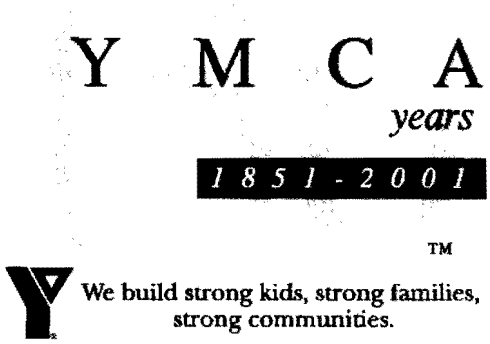
(3) NO SPECIFIC CHARGE. If an employer makes no specific charge for meals consumed by employees, the employer is the consumer of the food products and the non-food products, which are furnished to the employees as a part of the meals. In the absence of any of the conditions under (k)(2) a specific charge is not made if:

(A) A value is assigned to meals as a means of reporting the fair market value of employees' meals pursuant to state and federal laws or regulations or union contracts.
(B) Employees who do not consume available meals have no recourse on their employer for additional cash wages.
(C) Meals are generally available to employees, but the duties of certain employees exclude them from receiving the meals and are paid cash in lieu thereof.

(4) MEALS CREDITED TOWARD MINIMUM WAGE. If an employee receives meals in lieu of cash to bring his or her compensation up to the legal minimum wage, the amount by which the minimum wage exceeds the amount otherwise paid to the employee is includable in the employer's taxable gross receipts up to the value of the meals credited toward the minimum wage.

For example, if the minimum rate for an eight-hour day is $46.00, and the employee received $43.90 in cash, and a lunch is received which is credited toward the minimum wage in the maximum allowable amount of $2.10, the employer has received gross receipts in the amount of $2.10 for the lunch.

(5) TAX REIMBURSEMENT. If a separately stated amount for tax reimbursement is not added to the price of meals sold to employees for which a specific charge is made, the specific charge will be regarded as being a tax-included charge for the meals.



July 19, 2010

Ms. Lynn Whitaker
Tax Policy Division (MIC: 92)
Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0092

Dear Lynn,

On behalf of the California State Alliance of YMCAs and the California Collaboration for Youth, I would like to take this opportunity to thank you for giving our organizations the forum to comment on the proposed revisions to Regulation 1506 pertaining to sales of meals at summer camps. The process of having meetings with the interested parties has been extremely helpful and informative. We also believe that staff did an extraordinary job of crafting the discussion paper and the revisions to Regulation 1506.

It is also my pleasure to inform you that **our organizations fully support the staff recommendations** for these proposed revisions as we discussed them in the meeting held on July 7, 2010. For your records, I will go over our comments during that meeting.

1) We support your decision to change the subdivision title from *Summer Camps* to *Organized Camps,* and to change other references in the document from summer camps to organized camps since many camps provide programs throughout the year. (Page 1)
2) Under section V. What is a camp? We recommend that you use the term *camp organization* instead of *facilities*, and that the reference to conference centers be removed to reflect the fact that many of our camps are called conference centers. (Page 2)

3) In this same section we suggest that the term *camp packages* be replaced with *outdoor recreation packages* to distinguish a business from a traditional organized camp. (Page 2)
4) In the discussion of traditional camps accredited by the American Camp Association (ACA), we would suggest including camps which are *affiliated* with ACA *and/or who are approved members of the California Christian Conference Association.* (Page 2)
5) In the final paragraph of the camp definition, we suggest changing the term *camp facility* to *camp program or organization.* (Page 2)
6) Under "*regularly scheduled classes*" (paragraph 3) in the discussion of *camps or retreats where recreation and fellowship are the primary goals*, we suggest changing the wording from *generally do not*, to *may not* since we believe that some camps with these goals may meet the standards of the meal tax exemption. (Page 3)
7) I believe that staff indicated that the first paragraph on page 4 was going to be deleted. We concur with that decision since camp sessions, adult retreats and family camps may very well qualify for the exemption as well. (Page 4)

Again, thank you for your thoughtful work on these documents. I believe you have brought great clarity to the standards to which camps must adhere in order to qualify for their meal tax exemption.

Sincerely,

Catherine Barankin

Catherine Barankin
Director of Public Policy
CA Alliance of YMCAs
2220 Capitol Avenue
Sacramento, CA 95816
(916) 447-7341

July 22, 2010

Ms. Lynn Whitaker
Tax Policy Division (MIC: 92)
Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0092

Dear Lynn,

On behalf of the Christian camps in California that are approved members of the National Christian Camp and Conference Association (CCCA), I want to thank you for giving us the opportunity and forum to comment on the proposed revisions to Regulation 1506 pertaining to sales of meals at summer camps.

Our processing with you and your staff has been a very helpful and positive experience—thank you for your wisdom in structuring the "interested party" sessions. We thoroughly enjoyed the opportunity to host and interact with you and Cecilia during your recent field visit to several of our Mount Hermon camping programs. And as I expressed at our last meeting, I believe you and your staff did an extraordinary job of crafting the discussion paper and the revisions to Regulation 1506.

As the representative for the Christian camps in California who are members of CCCA, I am writing to indicate my support for the staff recommendations for the proposed revisions as we discussed them in the meeting held on July 7, 2010. Pursuant to your request, I will summarize the recommendations as discussed during that meeting.

8) I support your decision to change the subdivision title from *Summer Camps* to *Organized Camps,* and to change other references in the document from summer camps to organized camps since many camps provide year round programs. (Page 1)

9) Under section V: *What is a "camp"?* I join Cathy Barankin in recommending in the second sentence that you use the term *camp organization* instead of the word *facilities.* Further, in

that same sentence, I recommend that the reference to *conference centers* be removed to reflect the fact that many of our camps are called conference centers. (Page 2)

10) In this same section—in the third sentence—I suggest that the words *camp packages* be replaced with the words *outdoor recreation packages* to distinguish a business from a traditional organized camp. (Page 2)

11) In the second sentence of paragraph two under section V, which references camps accredited by the American Camp Association (ACA), I would suggest changing the wording of this sentence to read: "*Camps affiliated* with ACA *and/or are approved members of the Christian Camp and Conference Association (CCCA) also meet this definition.* Note: Cathy Barankin's letter accidentally labels CCCA as the California Christian Conference Association which is incorrect—the correct name is Christian Camp and Conference Association. (Page 2)

12) In the last paragraph on page 2 under section V, I suggest changing the words *camp facility* to *camp program or organization* in the second sentence. (Page 2)

13) Under "*Regularly scheduled classes*" (paragraph 3) in the discussion of *camps or retreats where recreation and fellowship are the primary goals*, I suggest changing the wording from *generally do not*, to *may not* since I believe that some camps with these goals may still meet the criteria for the meal tax exemption. (Page 3)

14) I believe that staff indicated that the first sentence on page 4 was going to be deleted. As you know I heartily concur with that decision since adult retreats and family camps may very well qualify for the meal tax exemption. (Page 4)

Again, thank you for your thoughtful work on these documents. I believe you have brought great clarity to the standards to which camps must adhere in order to qualify for this exemption. Thanks for a job well done!

Sincerely,

Roger E. Williams

Roger E. Williams
Executive Director, Mount Hermon
Sierra Pacific CCCA Legislative Representative
P.O. Box 413
Mount Hermon, CA 95041
831-430-1230
roger.williams@mounthermon.org

July 21, 2010

Ms. Lynn Whitaker
Tax Policy Division (MIC: 92)
Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0092

Dear Lynn,

On behalf of the American Camp Association, Southern California/Hawaii we would like to take this opportunity to thank you for giving our organization the forum to comment on the proposed revisions to Regulation 1506 pertaining to sales of meals at summer camps. The process of having meetings with the interested parties has been extremely helpful and informative. We also believe that staff did an extraordinary job of crafting the discussion paper and the revisions to Regulation 1506.

It is also our pleasure to inform you that **ACA Southern California/Hawaii fully support the staff recommendations** for these proposed revisions as discussed at the meeting held on July 7, 2010. For your records, these are our comments recorded during that meeting.

1) We support your decision to change the subdivision title from *Summer Camps* to *Organized Camps,* and to change other references in the document from summer camps to organized camps since many camps provide programs throughout the year. (Page 1)
2) Under section V. What is a camp? We recommend that you use the term *camp organization* instead of *facilities,* and that the reference to conference centers be removed to reflect the fact that many of our camps are called conference centers. (Page 2)

Page 2 – Camp Meal Tax Exemption

3) In this same section we suggest that the term *camp packages* be replaced with *outdoor recreation packages or outfitter packages* to distinguish a business from a traditional organized camp. (Page 2)
4) In the discussion of traditional camps accredited by the American Camp Association (ACA), we would suggest including camps which are *affiliated* with ACA *and/or who are approved members of the California Christian Conference Association.* (Page 2)
5) In the final paragraph of the camp definition, we suggest changing the term *camp facility* to *camp program or organization.* (Page 2)
6) Under "*regularly scheduled classes*" (paragraph 3) in the discussion of *camps or retreats where recreation and fellowship are the primary goals*, we suggest changing the wording from *generally do not*, to *may not* since we believe that some camps with these goals may meet the standards of the meal tax exemption. (Page 3)
7) We believe that staff indicated that the first paragraph on page 4 was going to be deleted. We concur with that decision since camp sessions, adult retreats and family camps may very well qualify for the exemption as well. (Page 4)

Again, we thank you for your thoughtful work on these documents. We believe you have brought great clarity to the standards to which camps must adhere in order to qualify for their meal tax exemption.

Sincerely,

Rick Benfield
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BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION

450 N Street, Room 121

Sacramento, California

REPORTER'S TRANSCRIPT

SEPTEMBER 15, 2010

BUSINESS TAXES COMMITTEE

Reported by: Beverly D. Toms

No. CSR 1662

Electronically signed by Beverly D. Toms (101-106-311-4038) 4a21e127-c8d9-4f0a-a05c-c34c39889957

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2 P R E S E N T

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4 For the Committee: Betty Yee
Chair

5

Jerome E. Horton
6 Member

7 Barbaba Alby
Acting Member

8

Michelle Steel
9 Member

10 Marcy Jo Mandel
Appearing for John
11 Chiang, State Controller
(per Government Code
12 Section 7.9)

13 Diane Olson
Chief, Board
14 Proceedings Division

15

Board of Equalization
16 Staff: Jeff McGuire
Sales and Use Tax Department

17

Robert Tucker
18 Legal Department

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1 SUB-ITEM 1, PROPOSED CHANGES TO REGULATION 1506
2 MISCELLANEOUS SERVICE ENTERPRISES
3 Sacramento, California
4 September 15, 2010
5 ---oOO---
6 MS. YEE: Good morning. Let's call the Board
7 of Equalization meeting to order.
8 Good morning, Ms. Olson.
9 MS. OLSON: Good morning.
10 MS. YEE: What is our first item, please?
11 MS. OLSON: Our first item for this morning's
12 agenda is Business Taxes Committee. And Ms. Yee is the
13 Chair of that Committee.
14 Ms. Yee.
15 MS. YEE: Okay. Thank you very much. Members,
16 we have two items on the committee agenda today. The
17 first item is proposed changes to Regulation 1506. You
18 will recall this was an interested parties process that
19 took place after we heard the appeal related to the sale
20 of meals at summer camps.
21 Let me have staff introduce the issue. Good
22 morning.
23 MR. McGUIRE: Good morning. I'm Jeff McGuire
24 with the Sales and Use Tax Department, and with me today
25 is Robert Tucker of our Legal Department.
26 As you mentioned, we do have two agenda items
27 for you this morning. The first involving Regulation
28 1506, which is Miscellaneous Service Enterprises.

1 And as you mentioned, this was recommended to
2 the Business Taxes Committee as a result of an appeals
3 case in February of 2010.
4 Alternative 1, which is recommended by staff
5 and agreed to by interested parties would clarify that
6 in order for a camp to qualify as a school or
7 educational institution the camp must be considered an
8 organized camp as defined in the California Health and
9 Safety Code.
10 Several other changes -- clarifying changes
11 were made to the regulation, including some examples of
12 camps that do qualify and do not qualify as educational
13 institutions.
14 Alternative 2 would make no changes to the
15 regulation and we are here this morning to request your
16 approval of one of these alternatives and then your
17 authorization to publish any approved changes to the
18 regulation.
19 I believe we do have one speaker this morning.
20 MS. YEE: Okay. The speaker, please come
21 forward.
22 I don't have -- oh, okay.
23 MR. McGUIRE: Right here is okay.
24 MS. YEE: Good morning.
25 MS. BARANKIN: Good morning.
26 MS. YEE: If you'll introduce yourself formally
27 for the record. You have three minutes for your
28 comments.

1 ---oOo---

2 CATHY BARANKIN

3 MS. BARANKIN: Thank you so much. I'm Cathy
4 Barankin, and I'm here representing the California
5 Collaboration for Youth and the YMCA.
6 And we're just here to first of all thank you
7 for putting us in contact with your staff over this
8 matter and I -- we just want to thank you as a Board and
9 thank you to your staff who's just done a tremendous job
10 in working with the interested parties to come up with
11 this regulation.
12 The whole process was very open, very inviting.
13 It allowed for wonderful dialogue between the parties,
14 and, really, I think made the regulation very strong to
15 make sure that there is no abuse in terms of who is
16 required to pay taxes on their meal.
17 So we just want to thank you, the Board and the
18 staff, particularly Lynn Whitaker, who took the lead on
19 drafting these regulations because she just did a superb
20 job.
21 MS. YEE: Okay.
22 MS. BARANKIN: So thank you very much.
23 MS. YEE: Thank you very much.
24 Comments? Questions, Members?
25 Discussion?
26 MR. HORTON: Is Lynn here today?
27 MR. McGUIRE: Lynn is here.
28 MS. YEE: Lynn, thank you.

1 I have a couple of followup questions. I
2 remember the discussion pursuant to the appeal that we
3 had some other issues, and I just wanted to follow on.
4 Once the Board acts on the proposed changes before us I
5 believe we had suggested the possibility of some
6 outreach to the summer camps. Have we contemplated what
7 that might look like or --
8 MR. McGUIRE: Well, I know initially we'll for
9 sure do something in some of our Tax Information
10 Bulletins about the new regulation and what the -- the
11 changes mean. But we can also do a focused mailer or
12 special notice to the camp organizations since we now
13 kind of have them fairly clearly identified who the
14 different organizations are, and work with them to
15 outreach in their publications and newsletters, as well.
16 MS. YEE: That's great.
17 MR. McGUIRE: And we will do that.
18 MS. YEE: I think the special notice would be
19 terrific.
20 And then, secondly, there were some issues with
21 respect to -- I guess part of the outreach will also be
22 education about who -- which of the camps need to be
23 permitized or hold seller's permits. We seem to have a
24 little bit of misunderstanding about that.
25 MR. McGUIRE: Yes, we -- that will be part of
26 the outreach.
27 MS. YEE: Okay. Very well. Thank you.
28 Other questions, Members?

Hearing none, is there a motion?

MS. ALBY: Move staff's recommendation.

MS. YEE: Okay. Motion by Ms. Alby to adopt the staff recommendation, including authorization to publish. Is there a second?

MS. MANDEL: Second.

MS. YEE: Second by Ms. Mandel.

Without objection, that motion carries.

Thank you very much.

---oOo---

1 SUB-ITEM 2, SUGGESTED REVISIONS TO REGULATION1807
2 PETITIONS FOR REALLOCATION OF LOCAL TAX
3 MS. YEE: Okay, next item is Suggested
4 revisions to Regulation 1807. It relates to petitions
5 for the reallocation of local tax.
6 We have several public speakers on this matter.
7 Let me have them come up perhaps three at a time.
8 And while you're coming up, let me have Mr.
9 McGuire introduce the issue.
10 MR. McGUIRE: Thank you. Yeah, the second
11 item, as you mentioned, is a result of a suggestion by
12 Mr. Johan Klehs on behalf of the City of Livermore to
13 revise some of the provisions of Regulation 1807, which
14 is Petitions for Reallocation of Local Tax.
15 We did receive some related comments and
16 suggestions from MuniServices, which were distributed to
17 your offices last week.
18 So we at staff are really just requesting your
19 direction this morning on how to process these
20 submissions, and of course we would be happy to open up
21 an interested parties process if you so choose.
22 And, again, we'll let the speakers kind of
23 address the specific issues.
24 MS. YEE: Okay. And before the speakers begin,
25 Members, I actually had invited some changes to this
26 process we've been hearing, local reallocation cases
27 over the course of the -- I think -- over the course of
28 our tenure on the Board.

1 And given -- particularly the fiscal
2 constraints that many local jurisdictions are
3 experiencing, the idea here is really to see whether
4 there are different points during the process that we
5 can truncate so that the decisions can be made a little
6 bit more timely, and that the reallocations, if those
7 are appropriate, can be made more timely, as well.
8 So let me have the speakers speak to the
9 proposed revisions. If you'll introduce yourself for
10 the record. You each have three minutes.
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1 JOHANKLEHS

2 MR. KLEHS: My name is Johan Klehs. I'm
3 representing the City of Livermore and sent a letter
4 with some suggested changes to Regulation 1807 to each
5 of the Board Members.
6 There are basically three components to the --
7 an allocation case. One is when it goes to the
8 allocation group within the Board staff to determine who
9 may be receiving the money appropriately.
10 Second of all is the Appeals Division where
11 there are two components generally, the Appeals
12 Conference and a -- post-conference submissions.
13 And third is if the -- one of the parties is
14 unhappy with the outcome they can appeal that decision
15 of the Appeals Division to the Board, itself.
16 Our request is one where we simply are asking
17 to have some additional deadlines inserted into the
18 process to provide some certainty for all of the parties
19 and make sure that cases are moving forward and not
20 being backlogged.
21 Second of all, we're requesting that the Board
22 Members be provided with a -- a regular update of
23 backlogged cases in the 1807 process. That the Board
24 consider placing monies in trusts that may be in dispute
25 and we would leave it up to the Board in terms of how to
26 do that. But potentially write that into the regulation
27 if it's statutorily permissible.
28 And then also consider seeking legislative

1 support to pay interest to the party whose monies has
2 been held in trust. We realize that that is not often
3 done, but we want that to be part of the discussion.
4 Our reason for the changes that -- we believe
5 the staff is doing a great job, but the process, itself,
6 has some flaws and gaps in it that we think should be
7 tightened up. We want to add to the elimination of the
8 backlog.
9 A case that I've been working on is only a
10 three-year-old case. It's actually a very fast-moving
11 case, but we understand there's cases that are seven and
12 15 years old, and at a time when local governments are
13 having a very difficult time meeting some of their
14 budget needs, you can imagine why a local government
15 would not want to be waiting seven to 15 years to get
16 money that is appropriately owed to it.
17 And then finally we want to simply make sure
18 that the Board reaches the right decision, get the tax
19 monies to the entity that is legally entitled to it.
20 We realize this is the beginning of -- in a
21 process of interested parties. We know it will take
22 quite some time but we want to use our suggestions that
23 we've submitted as a starting point to change the
24 regulation.
25 Thank you very much.
26 MS. YEE: Thank you, Mr. Klehs.
27 Next speaker.
28 ---oOo---

1 BOB CENDEJAS

2 MR. CENDEJAS: Good morn -- good morning. My
3 name is Bob Cendejas. I represent many cities and I
4 surveyed most of them. And their biggest concern is the
5 suggestion that the money be held in trust.
6 As -- as you know, I've been dealing in this
7 area for maybe 15 years in different appeals and it's
8 very common for misunderstanding of facts and to get an
9 unfavorable decision and get that cleared up later.
10 And as Mr. -- as Johan KLehs has said,
11 sometimes these cases will go seven years, three years,
12 nine years. To hold the money in trust when the city's
13 confident it's their money and -- and create a huge hole
14 in their budget until it's finally cleared up and
15 resolved is not a win-win for anybody.
16 When the cities feel that there's any chance
17 that they're going to lose, they're just like any
18 corporation. When they look at tax issues and say,
19 well, we might lose this 50-50 or we're going to lose
20 this, or we're going to win this, they reserve for it.
21 Cities do the same thing. They -- they reserve if they
22 think they're going to lose, if they've made a mistake
23 or -- and -- but on the other hand when they know the
24 facts and they know that it's within the law, then
25 there's no sense for them to create a giant hole in
26 their budgets that could go on for years before they get
27 the money released back to them.
28 That was by far their -- their biggest concern

1 every single city I talked to.
2 The -- a couple of minor points. One talked
3 about within the reg. saying whether there's some kind
4 of incentive. I don't -- I don't think it's necessary.
5 I don't think it's -- it's an appropriate place.
6 When -- if you say there's some incentive,
7 well, what does that mean? Did they pay for the street
8 repairs out front? Did they do a loan that gets paid
9 back low interest?
10 They provide a rebate. Whether they do -- so
11 there really -- if that's important information then the
12 actual full information should be gotten, and that's
13 what is routinely done when somebody wants something.
14 They just make a request for public information. They
15 not only get that information, they get a copy of the
16 agreement and they see all the details.
17 So I think that's the proper way to do it and
18 it's been done. I think it probably creates more
19 disinformation than helpfulness by having it in the
20 regulation.
21 There's a couple other points but probably the
22 most important one remaining would be we're in favor of
23 speeding along. In fact, I think in the past when we
24 did 1807 it was more a concern on the Department to put
25 deadlines on themselves that might make it difficult
26 because they're not always in charge of their resources.
27 So if they felt comfortable with deadlines
28 we're -- we're all in favor of that. But there's one

1 thing that I thought might be overall helpful, maybe
2 something in the reg. that says that nothing in this
3 reg. is to be construed that the Board Members on their
4 own initiative by making a motion or a motion that's
5 second, take the case that's maybe sat there for years
6 and -- and move it to the -- to a Board hearing.
7 So, if you see that that's the thing to do, you
8 go ahead and do that. I mean, in fact I'm sitting next
9 to Johan Klehs, who actually did that very thing
10 about -- was it, about six -- seven years ago, with
11 the -- with -- well, I can't say the case name. But the
12 one with Fremont, Long Beach and Signal Hill. And it
13 had stymied for about four years in that first level of
14 five levels, and he took it -- took it to the Board and
15 did something that was very helpful for everybody
16 because then they all saw that if you have a
17 distribution center it could get allocated at a
18 distribution center if that was all you had.
19 And so that really gave everybody important
20 information early on than waiting another four or five
21 years.
22 So maybe something in the reg. that reminds
23 everybody that the Board has that power to take a case
24 earlier if they so see fit.
25 Thank you.
26 MR. KLEHS: (inaudible), obviously.
27 MS. YEE: Thank you, Mr. Cendejas.
28 MR. CENDEJAS: Yeah, I know, I didn't want to

say it out loud.

Thank you.

MS. YEE: Thank you. Next speaker, please.

---oOo---

1 CHRISTY BOUMA.

2 MS. BOUMA: Good morning, Madam Chairwoman,
3 Members of the Business Tax Committee. Christy Bouma.
4 I'm representing MuniServices this morning.
5 MuniServices on behalf of our client
6 jurisdictions are very active participants, as you well
7 know, in -- have a long history in local tax allocation
8 matters before the Board. And a similar history in
9 being participants in any conversations of -- of
10 revising the rules that govern such procedures.
11 Likewise in 2007 when the Board undertook
12 through its interested parties process a revamp of the
13 regulation, creating some significant benchmarks and
14 points through the process that were more specific we
15 had the opportunity to present recommendations as
16 practitioners in that process.
17 While not all of our recommendations were
18 ultimately adopted, which is why we made a submission to
19 the Board earlier last week, just to indicate a level of
20 our participation during that process, we viewed the
21 process as extremely collaborative, a process that
22 resulted in many great improvements to a process that
23 was certain to produce better results for all parties
24 involved.
25 Given that, any process could benefit from a
26 review and possible improvements and we would only just
27 caution that we do so with -- with great prudence given
28 the fact that, as both speakers mentioned, there was a

1 tremendous backlog of cases due to the previous rules
2 that were being followed prior to the adoption of
3 Regulation 1807 that are being cleared by the hard work
4 of this Board and the staff.
5 So, while you're frustrated by hearing cases
6 that may have those double digit numbers of how old they
7 are, they're getting cleared out.
8 And so to fairly evaluate the efficacy of the
9 new regulation, we should just take care as we go
10 through a process to make sure that we're not judging it
11 be old news rather than new news that you are more
12 recently hearing.
13 So we would be more than willing to actively
14 engage in a process that would take a look at the
15 current procedures and see if there are places where
16 they can make improvements or if we should let it stand
17 until we give it a little more time to see how it works
18 the cases through the process.
19 Thanks for your time.
20 MS. YEE: Thank you very much, Ms. Bouma.
21 Questions, Members? Discussion?
22 MS. MANDEL: Were there more speakers or this
23 was it?
24 MS. YEE: No, I had the sign-up sheet confused.
25 MS. MANDEL: Oh.
26 MS. YEE: I apologize.
27 Ms. Alby.
28 MS. ALBY: I'm good.

1 MS. YEE: Okay. Other discussion?
2 MR. HORTON: Yeah.
3 MS. YEE: Mr. Horton, please.
4 MR. HORTON: Question of the Department.
5 First, thank you, Mr. Klehs and all of those
6 who have presented today for your input. I think it's
7 very helpful.
8 I -- I must share, though, I'm a tad bit
9 concerned about regulating the efficiency. You know,
10 it's a function that you should be able to do
11 systemically and institutionally. To the -- so, to the
12 extent that we can address that from a systemic change,
13 institutional change, whether or not we need to -- I
14 mean, the point of identifying our inventory and
15 identifying our backlog and trying to come up with ways
16 to accelerate that, a lot of wisdom in that, and the --
17 the logic and particularly in this time era.
18 Question of the Department, placing the money
19 in trust, can we legally do that? I mean, here's my
20 concern. Is establishing and placing money in trust
21 without an established liability -- I don't know, what's
22 your legal thoughts on that?
23 MR. McGUIRE: In our discussions with our --
24 our legal staff they do believe that we would probably
25 need statutory authority because these are allocations
26 of -- of taxes that have been determined to be due by
27 taxpayers. But I know Randy Ferris has just sat down
28 next to me, so my answer -- thank you, Randy. Yeah.

1 MR. HORTON: Mr. Ferris.
2 MR. FERRIS: We do have the discretion in -- in
3 certain complex cases if -- if there's enough evidence
4 that we think that there's going to be a reallocation
5 once it becomes final to hold monies in suspense. And
6 so we do occasion --
7 MR. HORTON: Yeah, that's the part -- that's
8 part of our --
9 MR. FERRIS: We do occasionally do that, but we
10 would need a statutory change, we believe, for -- to
11 have interest accrue on that.
12 MR. HORTON: So as part of our fiduciary
13 responsibility if we believe that it's in our best
14 interest to protect the interest of the State we -- we
15 have that authority, but that's after it's been
16 disclosed that there is a problem, and we need to
17 protect everyone of --
18 MR. FERRIS: That's correct.
19 MR. HORTON: So -- but doing it on the front
20 end presents a challenge. Okay.
21 Interest on the funds, I would just share. I
22 think there's a lot of equity in providing -- the State
23 providing interest on funds that we take from taxpayers
24 and hold in trust. But the same benefit that exists in
25 providing interest also exists in providing them the
26 opportunity to invest their money as they see fit and
27 the things that they need to do and to create other
28 means to take care of potential liabilities, such as

1 insurance, accrued li -- accrued liabilities, reserves
2 and changes of that nature. But they can -- they can
3 access and kind of control their own cash flow.
4 If the State holds the money they don't have
5 that flexibility and there's a concern with that.
6 Those are my thoughts.
7 MS. YEE: Okay. Thank you, Mr. Horton.
8 Others?
9 Ms. Mandel.
10 MS. MANDEL: Well, I -- I think we shared a lot
11 of the same concerns with -- whether specific
12 recommendations are appropriate for regulation or not,
13 but we're not looking to adopt --
14 MS. YEE: No.
15 MR. HORTON: No.
16 MS. MANDEL: -- these? No, I --
17 MS. YEE: No.
18 MS. MANDEL: Okay. No.
19 MS. YEE: No. Members, my suggestion here is
20 to take the various suggestions that have been brought
21 forth to the Board -- to the committee and actually put
22 them into an interested parties process.
23 And I want to speak to Mr. Horton's comment for
24 a minute.
25 The regulation currently has some fairly
26 prescriptive timelines. And -- actually, and contained
27 in some provisions and other provisions are a little bit
28 more open-ended. And I think having had the regulation

1 in place now for a bit it's -- I would suggest that we
2 go back and just read this where we might be able to
3 tighten it up.
4 This is not in any way suggesting that the
5 staff is not doing its job. But I think it is a way to
6 think about how to not have these cases really just
7 languish for such a long period of time when really the
8 longer we wait we're not getting any more information
9 that's helping the Board decide the outcome of -- of the
10 reallocation question.
11 So it is something that I do want to put into
12 an interested parties process.
13 The issue about holding the monies in trust, I
14 do want the Legal Department's guidance on this with
15 respect to what authority we have to do that. I agree
16 with Mr. Ferris with respect to the application of
17 interest, that that would require a statutory change.
18 But I think these are all issues that -- I mean, the --
19 I just have to say the discomfort that I have with any
20 reallocation that -- case that comes before this Board
21 is, one, how long it's been with us and, two, the fact
22 that we have and we are going to continue to have fiscal
23 constraints among local agencies for years to come and
24 I -- I just want to be sure that this Board is doing its
25 due diligence in terms of trying to expedite the
26 disposition of these cases as much as possible.
27 MS. MANDEL: And in -- in that regard I think
28 it would be important in the process for -- the

1 regulation is really itself quite new and I don't know
2 how many petitions have been filed since the regulation
3 came in and -- and where they're in the process as
4 opposed to how many of them were filed under the old
5 procedures then elected to be under the new procedures
6 and then move forward.
7 There is, you know, some disconnect because the
8 reg. is just a couple years old and a lot of the cases
9 that are coming forward are older than that. And the
10 old process was just --
11 MR. HORTON: Absolutely.
12 MS. MANDEL: Yeah, it was quite a process,
13 which is why --
14 MS. YEE: (inaudible)
15 MS. MANDEL: -- you know, it went into the reg.
16 And so I think the point that MuniServices'
17 representative made about that there -- you know, that
18 you kind of have to judge what's happening -- what's
19 really happening under the reg. and what kinds of things
20 maybe could be tweaked or should be tweaked under the
21 reg. as opposed to a slew of cases that -- that carry
22 the baggage of the old system. Because that's different
23 things.
24 And I think you also don't necessarily want to
25 do things in the reg just because there's a perceived
26 problem in a particular case as opposed to what's going
27 on --
28 MS. YEE: Exactly.

1 MS. MANDEL: -- with the universe of cases.
2 MS. YEE: Yes, that's -- no, I would agree.
3 And -- and that is a point well taken. We've had a
4 pretty rough history here with this regulation and the
5 application thereof.
6 But -- and my sense about these revisions is
7 that they would have a prospective application so that
8 it wouldn't certainly compromise any process that's
9 currently ongoing with respect to pending cases.
10 Okay. Other discussion, Members?
11 MR. HORTON: Madam Chair, if I may.
12 MS. YEE: Yes, Mr. Horton.
13 MR. HORTON: Just as a suggestion, just to
14 assist us in sort of framing the discussion and the
15 debate in the interested parties process, maybe we can
16 have staff drill down on where we are currently, what
17 the current backlog is, and what their recommended
18 modifications might be in order to accelerate the
19 process and address the problem. And in that process
20 they may want to collaborate with the representatives
21 from the -- of the various stakeholders.
22 And then out of that process we would come
23 forth with at least some -- a frame of discussions
24 during the interested parties process.
25 I mean, I would certainly feel better having a
26 better understanding of what the facts are. Even -- I
27 certainly agree with my colleagues. Even though I
28 wasn't here I was observing from afar the convoluting

1 aspect of this particular regulation.
2 In fact, we were entertaining statute to sort
3 of deal with it but decided not to go that route and
4 decided to allow the Board to make its own adjustments
5 and that it should be within the purview of the
6 regulating body, not the legislative body. So --
7 I think that information might be -- give us some
8 guidance as we go forward.
9 MS. YEE: Thank you, Mr. Horton. I think
10 that's a suggestion that is appropriate.
11 Let me suggest this. What I -- I would like to
12 make a motion to send this matter to the interested
13 parties process. Perhaps what can take place prior to
14 the first interested parties meeting is the staff to in
15 its initial issue paper provide us with an update with
16 respect to the current case backlog.
17 And then also -- obviously there have been
18 suggested revisions that have been submitted. Those
19 will be incorporated in terms of what will be discussed
20 in the interested parties process, but also that whole
21 process is for staff also to -- to provide suggestions,
22 as well.
23 But that may be the venue to at least give us a
24 context about what our current case load situation looks
25 like.
26 MR. HORTON: I second that motion, Madam Chair.
27 MS. YEE: Okay. Thank you.
28 Motion by Yee, second by Horton.

1 Any further discussion?
2 Without objection, that motion carries.
3 Thank you, Members.
4 MR. KLEHS: Thank you.
5 MS. YEE: That -- Business Taxes Committee is
6 adjourned.
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REPORTER'S CERTIFICATE.

State of California)
) ss
County of Sacramento)

I, BEVERLY D. TOMS, Hearing Reporter for the California State Board of Equalization certify that on September 15, 2010 I recorded verbatim, in shorthand, to the best of my ability, the proceedings in the above-entitled hearing; that I transcribed the shorthand writing into typewriting; and that the preceding 26 pages constitute a complete and accurate transcription of the shorthand writing.

Dated: October 6, 2010.

Beverly D Toms

BEVERLY D. TOMS
Hearing Reporter

Electronically signed by Beverly D. Toms (101-106-311-4038) 4a21e127-c8d9-4f0a-a05c-c34c39889957

ESTIMATE OF COST OR SAVINGS RESULTING FROM PROPOSED REGULATORY ACTION

Proposed Amendment of Sales and Use Tax Regulation 1506, *Miscellaneous Service Enterprises*

STATEMENT OF COST OR SAVINGS FOR NOTICE OF PUBLIC HEARING

The State Board of Equalization has determined that the proposed action does not impose a mandate on local agencies or school districts. Further, the Board has determined that the action will result in no direct or indirect cost or savings to any State agency, any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary cost or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

The cost impact on private persons or businesses will be insignificant. This proposal will not have a significant adverse economic impact on businesses.

This proposal will not be detrimental to California businesses in competing with businesses in other states.

This proposal will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand business in the State of California.

Statement Prepared by _____ Date 10/08/10
Regulations Coordinator

Approved by _____ Date 10/8/10
Acting Chief Counsel

If Costs or Savings are Identified, Signatures of Chief, Fiscal Management Division, and Chief, Board Proceedings Division, are Required

Approved by _____ Date _____
Chief, Financial Management Division

Approved by _____ Date _____
Chief, Board Proceedings Division

NOTE: SAM Section 6660 requires that estimates resulting in cost or savings be submitted for Department of Finance concurrence before the notice of proposed regulatory action is released.

Board Proceedings Division
10/7/05

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2008)

See SAM Section 6601 - 6616 for Instructions and Code Citations

DEPARTMENT NAME	CONTACT PERSON	TELEPHONE NUMBER
State Board of Equalization	Rick Bennion	916-445-2130
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400		NOTICE FILE NUMBER
Title 18, Section 1506, Miscellaneous Service Enterprises		Z

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS (Include calculations and assumptions in the rulemaking record.)

1. Check the appropriate box(es) below to indicate whether this regulation:

- [ ] a. Impacts businesses and/or employees
- [ ] b. Impacts small businesses
- [ ] c. Impacts jobs or occupations
- [ ] d. Impacts California competitiveness
- [ ] e. Imposes reporting requirements
- [ ] f. Imposes prescriptive instead of performance
- [ ] g. Impacts individuals
- [x] h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.)

h. (cont.) No significant adverse economic impact on business or employees,small business,jobs or occupations.

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: _____ Describe the types of businesses (Include nonprofits.): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

3. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

4. Indicate the geographic extent of impacts: [ ] Statewide [ ] Local or regional (List areas.): _____

5. Enter the number of jobs created: _____ or eliminated: _____ Describe the types of jobs or occupations impacted: _____

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

[ ] Yes [ ] No If yes, explain briefly: _____

B. ESTIMATED COSTS (Include calculations and assumptions in the rulemaking record.)

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? $ _____

a. Initial costs for a small business: $ _____ Annual ongoing costs: $ _____ Years: _____

b. Initial costs for a typical business: $ _____ Annual ongoing costs: $ _____ Years: _____

c. Initial costs for an individual: $ _____ Annual ongoing costs: $ _____ Years: _____

d. Describe other economic costs that may occur: _____

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. (Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.): $ _____

4. Will this regulation directly impact housing costs? ☐ Yes ☐ No If yes, enter the annual dollar cost per housing unit: _____ and the number of units: _____

5. Are there comparable Federal regulations? ☐ Yes ☐ No Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: $ _____

C. ESTIMATED BENEFITS (Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. Briefly summarize the benefits that may result from this regulation and who will benefit: _____

2. Are the benefits the result of : ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? $ _____

D. ALTERNATIVES TO THE REGULATION (Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: $ _____	Cost: $ _____
Alternative 1:	Benefit: $ _____	Cost: $ _____
Alternative 2:	Benefit: $ _____	Cost: $ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ Yes ☐ No

Explain: _____

E. MAJOR REGULATIONS (Include calculations and assumptions in the rulemaking record.) Cal/EPA boards, offices, and departments are subject to the following additional requirements per Health and Safety Code section 57005.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

1. Will the estimated costs of this regulation to California business enterprises exceed $10 million ? ☐ Yes ☐ No (If No, skip the rest of this section.)

2. Briefly describe each equally as an effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

   Alternative 1: _____

   Alternative 2: _____

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation:	$ _____	Cost-effectiveness ratio: $ _____
Alternative 1:	$ _____	Cost-effectiveness ratio: $ _____
Alternative 2:	$ _____	Cost-effectiveness ratio: $ _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately $ _____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

   ☐ a. is provided in _____, Budget Act of _____ or Chapter _____, Statutes of _____

   ☐ b. will be requested in the _____ (FISCAL YEAR) Governor's Budget for appropriation in Budget Act of _____

☐ 2. Additional expenditures of approximately $ _____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

   ☐ a. implements the Federal mandate contained in _____

   ☐ b. implements the court mandate set forth by the _____

   court in the case of _____ vs. _____

   ☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____ (DATE) election;

   ☐ d. is issued only in response to a specific request from the _____

   _____, which is/are the only local entity(s) affected;

   ☐ e. will be fully financed from the _____ (FEES, REVENUE, ETC.) authorized by Section

   _____ of the _____ Code;

   ☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit;

   ☐ g. creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

☐ 3. Savings of approximately $ _____ annually.

☐ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT *cont. (STD. 399, Rev. 2-98)*

☑ 5. No fiscal impact exists because this regulation does not affect any local entity or program.

☐ 6. Other.

B. FISCAL EFFECT ON STATE GOVERNMENT *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

☐ 1. Additional expenditures of approximately $_____ in the current State Fiscal Year. It is anticipated that State agencies will:

☐ a. be able to absorb these additional costs within their existing budgets and resources.

☐ b. request an increase in the currently authorized budget level for the _____ fiscal year.

☐ 2. Savings of approximately $_____ in the current State Fiscal Year.

☑ 3. No fiscal impact exists because this regulation does not affect any State agency or program.

☐ 4. Other.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

☐ 1. Additional expenditures of approximately $_____ in the current State Fiscal Year.

☐ 2. Savings of approximately $_____ in the current State Fiscal Year.

☑ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

☐ 4. Other.

SIGNATURE ✍		TITLE Regulations Coordinator
AGENCY SECRETARY [1] APPROVAL/CONCURRENCE	✍	DATE 9/30/2010
DEPARTMENT OF FINANCE [2] APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER ✍ Exempt under SAM section 6660	DATE

1. *The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6600-6680, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

2. *Finance approval and signature is required when SAM sections 6600-6670 require completion of the Fiscal Impact Statement in the STD. 399.*

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-2010-1004-01		

For use by Office of Administrative Law (OAL) only

RECEIVED FOR FILING PUBLICATION DATE

OCT 04 '10 OCT 15 '10

Office of Administrative Law

NOTICE | REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY: State Board of Equalization

AGENCY FILE NUMBER (If any):

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
Miscellaneous Service Enterprises	18	1506	October 22, 2010

3. NOTICE TYPE	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
[X] Notice re Proposed Regulatory Action [ ] Other	Richard E. Bennion	(916) 445-2130	(916) 324-3984

OAL USE ONLY	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE
	[ ] Approved as Submitted [ ] Approved as Modified [ ] Disapproved/ Withdrawn		

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)

ADOPT

AMEND

REPEAL

TITLE(S)

3. TYPE OF FILING

- [ ] Regular Rulemaking (Gov. Code §11346)
- [ ] Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
- [ ] Emergency (Gov. Code, §11346.1(b))
- [ ] Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
- [ ] Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
- [ ] Emergency Readopt (Gov. Code, §11346.1(h))
- [ ] File & Print
- [ ] Other (Specify) _____
- [ ] Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
- [ ] Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

- [ ] Effective 30th day after filing with Secretary of State
- [ ] Effective on filing with Secretary of State
- [ ] §100 Changes Without Regulatory Effect
- [ ] Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- [ ] Department of Finance (Form STD. 399) (SAM §6660)
- [ ] Fair Political Practices Commission
- [ ] State Fire Marshal
- [ ] Other (Specify) _____

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)

8. **I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

For use by Office of Administrative Law (OAL) only

Notice of Proposed Regulatory Action

The State Board of Equalization Proposes to Adopt Amendments to California Code of Regulations, Title 18, Section 1506, *Miscellaneous Service Enterprises*

NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board), pursuant to the authority vested in it by Revenue and Taxation Code (RTC) section 7051, proposes to adopt amendments to California Code of Regulations, title 18, section (Regulation) 1506, *Miscellaneous Service Enterprises*. The proposed amendments revise Regulation 1506, subdivision (h) to clarify the requirements for a camp to qualify as a school or educational institution so that its sales of student meals are exempt from sales and use tax under RTC section 6363.

PUBLIC HEARING

A public hearing on the proposed regulatory action will be held in Room 121, 450 N Street, Sacramento, at 10:00 a.m., or as soon thereafter as the matter may be heard, on December 14, 2010. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the proposed amendments to Regulation 1506, subdivision (h).

AUTHORITY

RTC section 7051.

REFERENCES

RTC sections 6006, 6007, 6015, 6018.1, 6018.7, 6358, 6358.4 and 6363.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Law

RTC section 6363 provides an exemption from sales and use tax for meals served or furnished to students of a school or educational institution. Regulation 1506, subdivision (h), *Summer Camps*, currently explains that a camp qualifies as a school or educational institution and the exemption for meals served to students, if the camp "conduct[s] regularly scheduled classes, with required attendance, in charge of qualified instructors."

These requirements establish that a camp session must promote an educational program through the conduct of regularly scheduled classes to qualify as a school or educational institution. However, camps may conduct their classes outside a traditional classroom setting and often do. For example, guided nature hikes can teach campers about ecology, conservation, and geology and must be conducted outdoors. In addition, classes in spiritual training or physical education, including, but not limited to, knot tying, archery, marksmanship, swimming, boating, and arts and crafts, are educational. Therefore, all of these types of classes will meet the first requirement of the Regulation 1506, subdivision (h) test if they are regularly scheduled.

Further, camps may allow campers to select the classes they wish to participate in and still have required participation. For example, a camp may allow a camper working on a merit badge for archery to choose to attend classes on range safety and archery practice, and allow a camper working on a hiking badge to attend classes in first aid and wilderness survival and still satisfy the "required attendance" test so long as the camper must attend his or her selected classes. However, a camp will not satisfy the "required attendance" test if it offers a variety of classes and recreational activities, requires campers to attend an orientation on the first day, but otherwise allows campers to choose to attend as many of the scheduled class or activities as they want or choose not to attend any class or activities during the rest of the camp session. In general, most youth camps include activities that qualify as regularly scheduled classes with required attendance, but camps should document that attendance is required in their camp brochures, registration materials, website information, camper rule agreements, and other materials in order to substantiate that they qualify for the exemption.

Furthermore, a class is taught by a qualified instructor when the instructor has the formal training or sufficient experience to adequately prepare the instructor to teach his or her subject. Therefore, the level of training and experience needed to be a qualified instructor depends on the class being taught. For example, an instructor may need certification by the American Heart Association or Red Cross to be "qualified" to teach CPR or general first aid and a kayaking instructor may need to have years of experience in kayaking and water safety training to be "qualified" to teach kayaking. In general, if the camp determines that an instructor is reasonably qualified to lead a class, then the camp will have met this requirement of the regulation. However, camps should maintain records that show their instructors' level of training and/or experience related to the area they teach to substantiate that they qualify for the exemption.

Proposed Amendments

Young Life Appeal

On February 24, 2010, the Board conducted an oral hearing regarding a sales and use tax appeal involving the issue of whether the exemption provided by RTC section 6363 and Regulation 1506, subdivision (h) applied to sales of meals at a Young Life camp facility. Therefore, the Board had to decide whether the camp qualified as a school or educational institution because it conducted regularly scheduled classes, with required attendance, in charge of qualified instructors.

The camp did not conduct traditional classes in classrooms. However, the camp established that it was a traditional camp and conducted an educational program with scheduled activities including religious, leadership, and life skills training, and that campers were required to attend scheduled activities which were taught by qualified instructors. Therefore, the Board concluded that the camp qualified as a school or educational institution within the meaning of Regulation 1506, subdivision (h) and that its sales of student meals were exempt from sales and use tax. In addition, the Board referred Regulation 1506, subdivision (h) to its Business Taxes Committee and directed committee staff to work with interested parties to draft clarifying amendments that would help taxpayers and Board staff more easily determine whether camps qualify as schools or educational institutions.

Interested Parties Process

Accordingly, Board staff met with interested parties on May 19, 2010, and July 7, 2010, to discuss potential revisions to Regulation 1506. Board staff also had the opportunity in July to visit a traditional camp, which qualified as an "organized camp" under Health and Safety Code section 18897, to gain a better understanding of how traditional camps currently operate.

During the interested parties process, Board staff determined that the provisions of Regulation 1506, subdivision (h) are intended to apply to traditional camps, similar to those operated by the Young Life organization, YMCA, YWCA, Girl Scouts, Boy Scouts, camps accredited by or affiliated with the American Camp Association, and camps that are approved members of the Christian Camp and Conference Association. Board staff determined that the provisions in Regulation 1506, subdivision (h) are not intended to apply to resorts, other hotel and lodging establishments, or businesses that provide all inclusive outdoor recreation packages outside a traditional camp setting.

During the interested parties process, Board staff concluded that the types of traditional camps that may qualify as schools or educational institutions also

qualify as "organized camps," as defined in Health and Safety Code section 18897, subdivision (a), which provides that:

> (a) "Organized camp" means a site with program and facilities established for the primary purposes of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives, for five days[1] or more during one or more seasons of the year.

Board staff also concluded that many of the types of businesses that might seem similar to camps, but which are not traditional camps that are intended to be able to qualify as schools or educational institutions, cannot qualify as "organized camps," as defined in Health and Safety Code section 18897, subdivision (a). This is because the term "does not include a motel, tourist camp, trailer park, resort, hunting camp, auto court, labor camp, penal or correctional camp and does not include a child care institution or home-finding agency. The term 'organized camp' also does not include any charitable or recreational organization that complies with the rules and regulations for recreational trailer parks." (Health & Saf. Code, § 18897, subds. (b) and (c).)

Therefore, Staff recommended that the Board amend the provisions of Regulation 1506, subdivision (h) to require that a camp be an "organized camp" as defined in Health and Safety Code section 18897 to qualify as a school or educational institution and to provide examples of camps that do and do not qualify as schools or educational institutions.

Furthermore, during the interested parties process, Board staff learned that many traditional camps now operate year-round by offering sessions to campers that attend schools that are not on a traditional calendar year and offering camp sessions during the school year. Therefore, Board staff recommended that the Board change the name of subdivision (h) from "summer camps" to "organized camps."

In addition, Board staff recommended restructuring subdivision (h) so that the first sentence becomes paragraph (1) and all of the remaining text becomes paragraph (2). Board staff recommended amending the first sentence in new paragraph (1) so that it applies to "camps," in general, not just "summer camps," and amending new paragraph (2) so that it clearly applies to camps qualifying as schools or educational institutions. Board staff recommended revising the text of the first sentence in new paragraph (2) to make it read more clearly and

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[1] The Board interprets this provision to mean that a camp organization meeting the 5-day requirement for one camp session continues to meet the requirement even if it also conducts some shorter camp sessions. That is, staff would evaluate the camp year, rather than any one camp session. For example, a camp offers 5-day outdoor education camps for 6th graders and also provides 3-day outdoor education camps for 4th graders. Because the camp meets the 5-day requirement with the 6th grade camp sessions, the camp is still considered an "organized camp" during the 3-day camp sessions.

expressly state that a qualifying "camp's sales of student meals are not subject to tax." Board staff recommended deleting the second sentence in new paragraph (2) and replacing it with a new sentence that clearly enumerates the requirements a camp must meet in order to qualify as a school or educational institution. Finally, staff recommended that the words "and the tax returned" be deleted from the second to last sentence in Regulation 1506, subdivision (h) because the words are awkward and confusing.

Business Taxes Committee

Board staff incorporated its recommendations into Formal Issue Paper 10-008 and submitted the issue paper to the Board for consideration along with three letters of support from the: California State Alliance of YMCAs and the California Collaboration for Youth; the American Camp Association, Southern California/Hawaii; and the Christian camps in California that are approved members of the National Christian Camp and Conference Association (CCCA). During the Board's Business Taxes Committee meeting on September 15, 2010, the Board determined that staff's recommended amendments were necessary to:

- Clarify that Regulation 1506, subdivision (h)'s exemption for student meals provided by camps that qualify as schools or educational institutions may only apply to traditional camps that qualify as "organized camps" as defined in Health and Safety Code section 18897;
- Provide examples that will help taxpayers and Board staff identify camps that qualify as schools and educational institutions and other types of similar businesses that do not qualify; and
- Revise the current language in the first, second, and fourth sentences in subdivision (h) so that they do not read awkwardly and clearly specify the application of tax.

Therefore, the Board approved staff's recommendations and authorized Board staff to begin the formal rulemaking process to incorporate the recommended amendments into Regulation 1506, subdivision (h), for the specific purposes of clarifying the requirements for a camp to qualify as a school or educational institution and clarifying how tax applies to sales of tangible personal property by camps, including sales of student meals.

There are no comparable federal regulations or statutes to Regulation 1506, subdivision (h).

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the proposed amendments to Regulation 1506, subdivision (h) do not impose a mandate on local agencies or school districts,

including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Board has determined that the proposed amendments to Regulation 1506, subdivision (h) will result in no direct or indirect cost or savings to any state agency, any cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has determined that the proposed amendments to Regulation 1506, subdivision (h) are consistent with the Board's current application of RTC section 6363 and Regulation 1506. The proposed amendments to Regulation 1506, subdivision (h) merely clarify the requirements for a traditional camp to qualify as a school or educational institution, provide examples to help Board staff and taxpayers more easily identify traditional camps that qualify as schools or educational institutions and other types of businesses that do not qualify, and clarify the language explaining the application of tax to camps' sales of tangible personal property, including student meals. Furthermore, the proposed amendments continue to allow traditional camps to qualify as schools or educational institutions that receive the exemption for sales of student meals and do not change the application of sales and use tax to camp's sales of tangible personal property. Therefore, the Board has made an initial determination that the proposed amendments to Regulation 1506, subdivision (h) will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed amendments to Regulation 1506, subdivision (h) may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The Board has determined that the adoption of the proposed amendments to Regulation 1506, subdivision (h) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

Adoption of the proposed amendments to Regulation 1506, subdivision (h) will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective as and less burdensome to affected private persons than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Bradley M. Heller, Tax, Counsel III (Specialist), by telephone at (916) 323-3091, by e-mail at Bradley.Heller@boe.ca.gov, or by mail at State Board of Equalization, Attn: Bradley M. Heller, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445-2130, by fax at (916) 324-3984 , by e-mail at Richard.Bennion@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rick Bennion, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080.

WRITTEN COMMENT PERIOD

The written comment period ends when the public hearing begins at 10:00 a.m., or as soon thereafter as the matter may be heard, on December 14, 2010. If the Board receives written comments prior to the close of the written comment period, the statements, arguments, and/or contentions contained in those comments will be presented to and considered by the Board before the Board decides whether to adopt the proposed amendments to Regulation 1506, subdivision (h). The Board will only consider written comments received by that time.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an Initial Statement of Reasons and an underscore and strikeout version of Regulation 1506, subdivision (h) illustrating the express terms of the proposed amendments. These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the Initial Statement of Reasons are also available on the Board's Website at *www.boe.ca.gov*.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

The Board may adopt the proposed amendments to Regulation 1506, subdivision (h) with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the proposed regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the proposed amendments to Regulation 1506, subdivision (h) the Board will prepare a Final Statement of Reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's Website at *www.boe.ca.gov*.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1506

Section 1506. Miscellaneous Service Enterprises.

(a) Licensed Architects.

(1) In General. Fees paid to licensed architects for their ability to design, conceive or communicate ideas, concepts, designs, and specifications are not subject to tax. Any plans, specifications, renderings or models or other instruments of service provided by a licensed architect under a licensed architect's contract or commission are integral to the licensed architect's services and are not subject to tax. The licensed architect is the consumer of any tangible personal property, including plans, specifications, renderings or models, used or transferred in the performance of professional services notwithstanding the fact that a fee may be added to the cost of the property and separately stated on a billing to the customer. If after the completion of the contract or commission the licensed architect provides additional copies of the original plans or specifications, or any models or renderings of an existing structure, the architect is regarded as making a sale of such copies, models or renderings.

(2) Licensed Architect. A "licensed architect" is defined under the Business and Professions Code Chapter 3, Division 3, Section 5500 as follows:

"As used in this chapter, architect means a person who is licensed to practice architecture in this state under the authority of this chapter."

A licensed architect preparing or being in responsible control of plans, specifications, and instruments of service is required to affix to those plans, specifications, and instruments of service their stamp or seal which bears the licensee's name, his or her license number, the legend "Licensed Architect" and the legend "State of California," and which shall provide a means of indicating the renewal date of the license.

(3) Architectural Perspectivists and Modelers. Architectural perspectivists do not act as "licensed architects." Architectural perspectivists are the retailers of renderings, prints and drawings they provide to architects or other consumers and tax applies to their entire charge for such items. Modelers do not act as "licensed architects." Modelers are the retailers of models they provide to architects or other consumers, and tax applies to their entire charge for such items.

(4) Licensed architects who produce renderings, prints, drawings or models pursuant to a contract that includes professional architectural services are not retailers of the renderings, prints, drawings or models they provide pursuant to that contract for architectural services. Tax does not apply to their charge for such items.

(b) Barbers, Beauty Shop Operators, and Shoe Polishers. Barbers, beauty shop operators, and shoe polishers are the consumers of the supplies and other property used in performing their services, and tax applies with respect to the sale to them of the supplies

and other property. They are retailers, however, of supplies, used articles, or other tangible personal property, which they sell to customers in the regular course of business, and tax applies to the gross receipts from such sales.

(c) Clothes Cleaners and Dyers

(1) Clothes Cleaning - In General. Persons who provide clothes-cleaning services are consumers of the supplies and other materials used in performing their cleaning services, and tax applies to the sale to them of the supplies and other materials and not to their charges for such services.

(2) Rentals. Clothes cleaners are the consumers of linen supplies and similar articles, including towels, uniforms, coveralls, shop coats, dust cloths, and similar items, rented to others when an essential part of the rental contract is the furnishing of the recurring service of laundering or cleaning of the articles rented, and tax applies with respect to the sale to them of such articles.

(3) Clothes Dyeing - In General. Persons who provide dyeing services are retailers, not consumers, when their charges are for the dyeing of new fabrics, garments, or other such items and tax applies to their gross receipts from such sales. Persons who dye new items are required to hold a seller's permit.

Dyers are consumers of the supplies and other materials used in dyeing used fabrics, garments, or other such items and tax applies to the sale to them of the supplies and other materials and not to their charges for their dyeing services.

(4) Alteration of Garments - In General. For the purposes of this subdivision (c), alteration of garments means and includes any work performed upon new or used men's, women's and children's clothing to meet the requirements of the customer whether the work involves the addition of material to the garment, removal of material, refitting, or repairing. Alteration of garments does not mean or include the process of dyeing garments. Alteration of garments also does not mean or include work performed upon new or used personal and household items such as handbags, stuffed animals, bedding, and draperies. The application of tax to a clothes cleaner's or a dyer's charges for the alteration of personal or household items is explained in Regulation 1524.

(A) Alteration of Garments by Clothes Cleaning or Dyeing Establishments. A clothes cleaning or dyeing establishment, including wet cleaners (e.g., launderers) and dry cleaners, means and includes a clothes cleaner or dyer who (1) operates a location or locations as a pickup and delivery point for garment cleaning, or (2) provides spotting and pressing services on the premises, but not garment cleaning, or (3) operates a garment cleaning or dyeing plant on the premises.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1506

A clothes cleaner or dyeing establishment described above is the consumer of property used or furnished in the alteration of new or used garments provided that:

1. Seventy-five percent (75%) or more of the establishment's total gross receipts represent charges for garment cleaning or dyeing services, and

2. No more than twenty percent (20%) of the establishment's total gross receipts during the preceding calendar year were from the alteration of garments.

If a clothes cleaner or dyer is not an establishment as described or does not meet the requirements of this paragraph (A), tax applies to the clothes cleaner's or the dyer's charges for the alteration of garments as explained in Regulation 1524.

(B) Alteration of Garments by a Third Party. When a clothes cleaner or dyer who meets the requirements of subdivision (c)(4)(A) contracts with a third party such as a tailor for the alteration of garments instead of performing such alterations itself, the clothes cleaner or dyer is a consumer, not a retailer, of the alterations provided by the third party and may not issue a resale certificate to the third party for such alterations. Tax applies to the third party's charges to the clothes cleaner or dyer for such alterations as explained in Regulation 1524.

(5) Miscellaneous Sale of Items. Clothes cleaners and dyers, whether or not they meet the requirements of subdivision (c)(4)(A), are retailers of any supplies, used items, or other tangible personal property such as lint brushes, abandoned garments, wood hangers, or novelty items, which they sell to customers in the regular course of business, and tax applies to the gross receipts from such sales. As retailers of tangible personal property, such persons are required to hold a seller's permit.

(d) Circulating Libraries. When circulating libraries, which are engaged in the business of renting books to others, pay tax measured by the purchase price of such books either to the person from whom the books are purchased or to the board, tax does not apply to the amount charged for the rental of such books. Such libraries are retailers of new or used books which they sell to consumers in the regular course of business, and tax applies to the gross receipts from such sales.

(e) Dentists and Dental Laboratories. Dentists are consumers of the materials, supplies, dental laboratory products and other tangible personal property which they use in performing their services. Tax, accordingly, applies to the sale of the tangible personal property to them.

Dental laboratories are the retailers of the plates, inlays and other products which they manufacture for dentists or other consumers. Tax applies to their entire charges for such products regardless of whether a separate charge or billing is made for materials and manufacturing services.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1506

(f) Gun Clubs. Gun clubs are consumers, not retailers, of clay pigeons or blue rocks furnished to members or patrons in connection with trapshooting or similar sports even though the charge for the service is measured by the number of clay pigeons or blue rocks used. The tax applies with respect to the sale of such property to the clubs.

(g) Licensed Hearing Aid Dispensers. Persons licensed as hearing aid dispensers by the Department of Consumer Affairs, Hearing Aid Dispensers Examining Committee, are consumers of hearing aids furnished or sold by them. The term "hearing aid" includes any necessary accessory or component part of the hearing aid which is fully worn on the body of the user such as cords, connector tubing, ear molds, or batteries, whether the part is sold or furnished separately or in conjunction with the hearing aid. The term also includes replacement and repair parts. Tax applies with respect to the sale of such products to licensed hearing aid dispensers.

Tax applies to the retail sale of such products by persons who are not licensed hearing aid dispensers.

(h) ~~Summer~~Organized Camps.

(1) Camps in General. The tax applies to gross receipts from the sale of meals or other tangible personal property at ~~summer~~ camps, whether operated by municipal or private corporations, or other parties.

(2) Camps Qualifying as Schools or Educational Institutions. When a camp qualifies as a school or educational institution, the camp's sales of student meals are not subject to tax~~, with respect to meals, applies in the same manner as to schools and educational institutions~~. ~~To qualify as a school or educational institution for purposes of this regulation, the camp must conduct regularly scheduled classes, with required attendance, in charge of qualified instructors.~~If a camp meets all of the following conditions, the camp will qualify as a school or educational institution for purposes of this regulation:

(A) The camp conducts regularly scheduled classes,
(B) Students are required to attend the classes,
(C) Qualified instructors are in charge of the classes, and
(D) The camp is an "organized camp" as defined in California Health and Safety Code section 18897.

An example of a camp that qualifies as a school or education institution includes, but is not limited to the following: A camp offers a session where campers have a schedule of daily activities they are required to attend. These activities include team-building exercises, guided nature hikes, and wilderness survival techniques. The activities are led by staff that the camp determined to have sufficient training and experience to lead the activities.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1506

An example of a camp that does not qualify as a school or educational institution includes, but is not limited to the following: A camp offers a session that includes activities that are regularly scheduled. Participants are required to attend a camp orientation on the first day, but during the rest of the camp they can attend as many of the scheduled activities as they want, or they can elect to attend no activities.

If a single charge is made for all of the privileges extended by the camp, a segregation must be made ~~and the tax returned~~ on that portion of the total charge representing taxable receipts from the sale of meals or other tangible personal property. In the absence of such a segregation, the taxable receipts from the sale of meals or other tangible personal property shall be determined by the board based on information available to it.

(i) Taxidermists. Taxidermists are consumers of the materials used in repairing, stuffing and mounting skins, heads, etc., of animals, birds, fish, and the like furnished by their customers, and tax applies with respect to the sale of such property to them. If, however, a separate charge for such property is made on the invoices to the customers at the fair retail selling price, the taxidermist is the retailer of the property and tax applies to such separate charge.

Tax applies to retail sales by taxidermists of skins, heads, mountings or other tangible personal property.

(j) Licensed Veterinarians.

(1) Definitions. As used herein:

(A) The term "licensed veterinarian" means any person licensed as a veterinarian by the California Department of Consumer Affairs, Board of Examiners in Veterinary Medicine.

(B) The term "drugs and medicines" includes substances or preparations intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals and which is commonly recognized as a substance or preparation intended for this use. The term includes legend drugs, pills and capsules (other than vitamins), liquid medications, injected drugs, ointments, vaccines, intravenous fluids, and medicated soaps if those soaps are available only to veterinarians. The term does not include vitamins, shampoos, pet foods, prescription diet foods, artificial diets, flea powders, and flea sprays.

(C) The term "professional services" includes the diagnosis and treatment of disease or trauma in animal life. It also includes the administration of drugs and medicines by means of, for example, injection, intravenous solution, or oral or bodily application.

(2) Application of Tax.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1506

(A) Licensed veterinarians are consumers of drugs and medicines which they use or furnish in the performance of their professional services. Accordingly, tax does not apply to a licensed veterinarian's charges to clients for such drugs and medicines, whether or not separately stated. Licensed veterinarians are also consumers of tangible personal property, other than drugs and medicines, which they use or which they furnish to clients without a separately stated charge. Tax applies to the sale of such drugs, medicines and other items to licensed veterinarians except:

1. Operative April 1, 1996, drugs or medicines which are purchased to be administered to animal life as an additive to feed or drinking water of food animals (as defined in Regulation 1587 (18 CCR 1587), "Animal Life, Feed, Drugs and Medicines") or of non-food animals which are being held for sale in the regular course of business, and the primary purpose of the drugs or medicines is the prevention and control of disease, or

2. Operative January 1, 1997, drugs or medicines which are purchased to be administered directly (e.g., orally, by injection, or by application to the body) to food animals and the primary purpose of the drugs or medicines is the prevention or control of disease of the food animals. Veterinarians remain consumers of drugs and medicines administered directly to non-food animals.

(B) Licensed veterinarians are retailers of drugs and medicines which they furnish for a consideration without performing specific related professional services. Licensed veterinarians are also retailers of tangible personal property, other than drugs and medicines, which they furnish to clients for a separately stated charge. Unless otherwise exempt, tax applies to charges made by licensed veterinarians to clients for such drugs, medicines and other items. See Regulation 1587 (18 CCR 1587), "Animal Life, Feed, Drugs and Medicines" for exemption for sales of feed, drugs, or medicines for certain animals. Tax applies to separately stated charges made for X-rays if the X-rays are delivered to clients.

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Sections 6006, 6007, 6015, 6018.1, 6018.7, 6358, 6358.4 and 6363, Revenue and Taxation Code.

Bennion, Richard

From: Scott, Megan [Megan.Scott@BOE.CA.GOV]

Sent: Friday, October 15, 2010 1:48 PM

To: BOE_REGULATIONS@LISTSERV.STATE.CA.GOV

Subject: State Board of Equalization - Announcement of Regulatory Change to Regulation 1506

The State Board of Equalization will hold a public hearing regarding proposed amendments to Regulation 1506, *Miscellaneous Service Enterprises*. The public hearing on the proposed regulatory actions will be held in Room 121, 450 N Street, Sacramento, at 10:00 a.m., or as soon thereafter as the matter may be heard, on Tuesday, December 14, 2010.

To view the notice of proposed regulatory action, initial statement of reasons, proposed text, and history click on the following link:
http://www.boe.ca.gov/regs/reg1506.htm

Questions regarding the substance of the proposed amendments to Regulation 1506 should be directed to: Mr. Bradley Heller, Tax Counsel III (Specialist), by telephone at (916) 323-3091, by e-mail at Bradley.Heller@boe.ca.gov, or by mail to: State Board of Equalization, Attn: Bradley M. Heller, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notices of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed regulatory actions should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445-2130, by fax at (916) 324-3984, by e-mail at Richard.Bennion@boe.ca.gov, or by mail to: State Board of Equalization, Attn: Rick Bennion, MIC: 80, P.O. Box 942879-0080, Sacramento, CA 94279-0080.

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TITLE 18. STATE BOARD OF EQUALIZATION

Notice of Proposed Regulatory Action

The State Board of Equalization Proposes to Adopt Amendments to California Code of Regulations, Title 18, Section 1506, *Miscellaneous Service Enterprises*

NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board), pursuant to the authority vested in it by Revenue and Taxation Code (RTC) section 7051, proposes to adopt amendments to California Code of Regulations, title 18, section (Regulation) 1506, *Miscellaneous Service Enterprises*. The proposed amendments revise Regulation 1506, subdivision (h) to clarify the requirements for a camp to qualify as a school or educational institution so that its sales of student meals are exempt from sales and use tax under RTC section 6363.

PUBLIC HEARING

A public hearing on the proposed regulatory action will be held in Room 121, 450 N Street, Sacramento, at 10:00 a.m., or as soon thereafter as the matter may be heard, on December 14, 2010. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the proposed amendments to Regulation 1506, subdivision (h).

AUTHORITY

RTC section 7051.

REFERENCES

RTC sections 6006, 6007, 6015, 6018.1, 6018.7, 6358, 6358.4 and 6363.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Law

RTC section 6363 provides an exemption from sales and use tax for meals served or furnished to students of a school or educational institution. Regulation 1506, subdivision (h), *Summer Camps*, currently explains that a camp qualifies as a school or educational institution and the exemption for meals served to students, if the camp "conduct[s] regularly scheduled classes, with required attendance, in charge of qualified instructors."

These requirements establish that a camp session must promote an educational program through the conduct of regularly scheduled classes to qualify as a school or educational institution. However, camps may conduct their classes outside a traditional classroom setting and often do. For example, guided nature hikes can teach campers about ecology, conservation, and geology and must be conducted outdoors. In addition, classes in spiritual training or physical education, including, but not limited to, knot tying, archery, marksmanship, swimming, boating, and arts and crafts, are educational. Therefore, all of these types of classes, will meet the first requirement of the Regulation 1506, subdivision (h) test if they are regularly scheduled.

Further, camps may allow campers to select the classes they wish to participate in and still have required participation. For example, a camp may allow a camper working on a merit badge for archery to choose to attend classes on range safety and archery practice, and allow a camper working on a hiking badge to attend classes in first aid and wilderness survival and still satisfy the "required attendance" test so long as the camper must attend his or her selected classes. However, a camp will not satisfy the "required attendance" test if it offers a variety of classes and recreational activities, requires campers to attend an orientation on the first day, but otherwise allows campers to choose to attend as many of the scheduled class or activities as they want or choose not to attend any class or activities during the rest of the camp session. In general, most youth camps include activities that qualify as regularly scheduled classes with required attendance, but camps should document that attendance is required in their camp brochures, registration materials, website information, camper rule agreements, and other materials in order to substantiate that they qualify for the exemption.

Furthermore, a class is taught by a qualified instructor when the instructor has the formal training or sufficient experience to adequately prepare the instructor to teach his or her subject. Therefore, the level of training and experience needed to be a qualified instructor depends on the class being taught. For example, an instructor may need certification by the American Heart Association or Red Cross to be "qualified" to teach CPR or general first aid and a kayaking instructor may need to have years of experience in kayaking and water safety training to be "qualified" to teach kayaking. In general, if the camp determines that an instructor is reasonably qualified to lead a class, then the camp will have met this requirement of the regulation. However, camps should maintain records that show their instructors' level of

training and/or experience related to the area they teach to substantiate that they qualify for the exemption.

Proposed Amendments

Young Life Appeal

On February 24, 2010, the Board conducted an oral hearing regarding a sales and use tax appeal involving the issue of whether the exemption provided by RTC section 6363 and Regulation 1506, subdivision (h) applied to sales of meals at a Young Life camp facility. Therefore, the Board had to decide whether the camp qualified as a school or educational institution because it conducted regularly scheduled classes, with required attendance, in charge of qualified instructors.

The camp did not conduct traditional classes in classrooms. However, the camp established that it was a traditional camp and conducted an educational program with scheduled activities including religious, leadership, and life skills training, and that campers were required to attend scheduled activities which were taught by qualified instructors. Therefore, the Board concluded that the camp qualified as a school or educational institution within the meaning of Regulation 1506, subdivision (h) and that its sales of student meals were exempt from sales and use tax. In addition, the Board referred Regulation 1506, subdivision (h) to its Business Taxes Committee and directed committee staff to work with interested parties to draft clarifying amendments that would help taxpayers and Board staff more easily determine whether camps qualify as schools or educational institutions.

Interested Parties Process

Accordingly, Board staff met with interested parties on May 19, 2010, and July 7, 2010, to discuss potential revisions to Regulation 1506. Board staff also had the opportunity in July to visit a traditional camp, which qualified as an "organized camp" under Health and Safety Code section 18897, to gain a better understanding of how traditional camps currently operate.

During the interested parties process, Board staff determined that the provisions of Regulation 1506, subdivision (h) are intended to apply to traditional camps, similar to those operated by the Young Life organization, YMCA, YWCA, Girl Scouts, Boy Scouts, camps accredited by or affiliated with the American Camp Association, and camps that are approved members of the Christian Camp and Conference Association. Board staff determined that the provisions in Regulation 1506, subdivision (h) are not intended to apply to resorts, other hotel and lodging establishments, or businesses that provide all inclusive outdoor recreation packages outside a traditional camp setting.

During the interested parties process, Board staff concluded that the types of traditional camps that may qualify as schools or educational institutions also qualify as "organized camps," as defined in Health and Safety Code section 18897, subdivision (a), which provides that:

> (a) "Organized camp" means a site with program and facilities established for the primary purposes of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives, for five days[1] or more during one or more seasons of the year.

Board staff also concluded that many of the types of businesses that might seem similar to camps, but which are not traditional camps that are intended to be able to qualify as schools or educational institutions, cannot qualify as "organized camps," as defined in Health and Safety Code section 18897, subdivision (a). This is because the term "does not include a motel, tourist camp, trailer park, resort, hunting camp, auto court, labor camp, penal or correctional camp and does not include a child care institution or home–finding agency. The term 'organized camp' also does not include any charitable or recreational organization that complies with the rules and regulations for recreational trailer parks." (Health & Saf. Code, § 18897, subds. (b) and (c).)

Therefore, Staff recommended that the Board amend the provisions of Regulation 1506, subdivision (h) to require that a camp be an "organized camp" as defined in Health and Safety Code section 18897 to qualify as a school or educational institution and to provide examples of camps that do and do not qualify as schools or educational institutions.

Furthermore, during the interested parties process, Board staff learned that many traditional camps now operate year–round by offering sessions to campers that attend schools that are not on a traditional calendar year and offering camp sessions during the school year. Therefore, Board staff recommended that the Board change the name of subdivision (h) from "summer camps" to "organized camps."

In addition, Board staff recommended restructuring subdivision (h) so that the first sentence becomes paragraph (1) and all of the remaining text becomes paragraph (2). Board staff recommended amending the first sentence in new paragraph (1) so that it applies to "camps," in general, not just "summer camps," and amending new paragraph (2) so that it clearly applies to

[1] The Board interprets this provision to mean that a camp organization meeting the 5–day requirement for one camp session continues to meet the requirement even if it also conducts some shorter camp sessions. That is, staff would evaluate the camp year, rather than any one camp session. For example, a camp offers 5–day outdoor education camps for 6th graders and also provides 3–day outdoor education camps for 4th graders. Because the camp meets the 5–day requirement with the 6th grade camp sessions, the camp is still considered an "organized camp" during the 3–day camp sessions.

camps qualifying as schools or educational institutions. Board staff recommended revising the text of the first sentence in new paragraph (2) to make it read more clearly and expressly state that a qualifying "camp's sales of student meals are not subject to tax." Board staff recommended deleting the second sentence in new paragraph (2) and replacing it with a new sentence that clearly enumerates the requirements a camp must meet in order to qualify as a school or educational institution. Finally, staff recommended that the words "and the tax returned" be deleted from the second to last sentence in Regulation 1506, subdivision (h) because the words are awkward and confusing.

Business Taxes Committee

Board staff incorporated its recommendations into Formal Issue Paper 10–008 and submitted the issue paper to the Board for consideration along with three letters of support from the: California State Alliance of YMCAs and the California Collaboration for Youth; the American Camp Association, Southern California/Hawaii; and the Christian camps in California that are approved members of the National Christian Camp and Conference Association (CCCA). During the Board's Business Taxes Committee meeting on September 15, 2010, the Board determined that staff's recommended amendments were necessary to:

- Clarify that Regulation 1506, subdivision (h)'s exemption for student meals provided by camps that qualify as schools or educational institutions may only apply to traditional camps that qualify as "organized camps" as defined in Health and Safety Code section 18897;
- Provide examples that will help taxpayers and Board staff identify camps that qualify as schools and educational institutions and other types of similar businesses that do not qualify; and
- Revise the current language in the first, second, and fourth sentences in subdivision (h) so that they do not read awkwardly and clearly specify the application of tax.

Therefore, the Board approved staff's recommendations and authorized Board staff to begin the formal rulemaking process to incorporate the recommended amendments into Regulation 1506, subdivision (h), for the specific purposes of clarifying the requirements for a camp to qualify as a school or educational institution and clarifying how tax applies to sales of tangible personal property by camps, including sales of student meals.

There are no comparable federal regulations or statutes to Regulation 1506, subdivision (h).

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the proposed amendments to Regulation 1506, subdivision (h) do not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Board has determined that the proposed amendments to Regulation 1506, subdivision (h) will result in no direct or indirect cost or savings to any state agency, any cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non–discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has determined that the proposed amendments to Regulation 1506, subdivision (h) are consistent with the Board's current application of RTC section 6363 and Regulation 1506. The proposed amendments to Regulation 1506, subdivision (h) merely clarify the requirements for a traditional camp to qualify as a school or educational institution, provide examples to help Board staff and taxpayers more easily identify traditional camps that qualify as schools or educational institutions and other types of businesses that do not qualify, and clarify the language explaining the application of tax to camps' sales of tangible personal property, including student meals. Furthermore, the proposed amendments continue to allow traditional camps to qualify as schools or educational institutions that receive the exemption for sales of student meals and do not change the application of sales and use tax to camp's sales of tangible personal property. Therefore, the Board has made an initial determination that the proposed amendments to Regulation 1506, subdivision (h) will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed amendments to Regulation 1506, subdivision (h) may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The Board has determined that the adoption of the proposed amendments to Regulation 1506, subdivision (h) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

Adoption of the proposed amendments to Regulation 1506, subdivision (h) will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective as and less burdensome to affected private persons than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Bradley M. Heller, Tax, Counsel III (Specialist), by telephone at (916) 323–3091, by e–mail at Bradley.Heller@boe.ca.gov, or by mail at State Board of Equalization, Attn: Bradley M. Heller, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279–0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445–2130, by fax at (916) 324–3984 , by e–mail at Richard.Bennion@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rick Bennion, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279–0080.

WRITTEN COMMENT PERIOD

The written comment period ends when the public hearing begins at 10:00 a.m., or as soon thereafter as the matter may be heard, on December 14, 2010. If the Board receives written comments prior to the close of the written comment period, the statements, arguments, and/or contentions contained in those comments will be presented to and considered by the Board before the Board decides whether to adopt the proposed amendments to Regulation 1506, subdivision (h). The Board will only consider written comments received by that time.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an Initial Statement of Reasons and an underscore and strikeout version of Regulation 1506, subdivision (h) illustrating the express terms of the proposed amendments. These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the Initial Statement of Reasons are also available on the Board's Website at *www.boe.ca.gov*.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

The Board may adopt the proposed amendments to Regulation 1506, subdivision (h) with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the proposed regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the proposed amendments to Regulation 1506, subdivision (h) the Board will prepare a

Final Statement of Reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's Website at www.boe.ca.gov.

TITLE 22. DEPARTMENT OF PUBLIC HEALTH

ACTION: Notice of Proposed Rulemaking
Title 22, California Code of Regulations

SUBJECT: Standard Admission Agreement, DPH–05–22

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Public Health will conduct written public proceedings during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 1599.61 of the Health and Safety Code requires the California Department of Public Health (Department), formerly the Department of Health Services[1], to develop, and skilled nursing and intermediate care facilities to use, a standard admission agreement which complies with all applicable state and federal laws.

The Department promulgated regulations, Sections 72516 and 73518 of the California Code of Regulations (CCR), with a Standard Admission Agreement (SAA) incorporated by reference, effective August 5, 2005. Thereafter, a suit was filed by several long–term health care facilities and The California Association of Health Facilities in which the petitioners asked the court to issue a writ requiring the Department to implement regulations and the corresponding SAA to conform with existing law; the petitioners did not believe that the regulations and agreement the Department had promulgated were consistent with existing statutes and regulations. *Parkside Special Care Center, Inc., et al.,* v. *Sandra Shewry, Director of the California Department of Health Services, et al.*, San Diego Superior Court number GIC 860574.

On August 10, 2006, the Court issued an Order in which it upheld certain provisions of the Department's regulations and SAA, and found several other provisions contrary to law. On March 21, 2007, the court issued a Writ of Mandate in which it ordered the Department to vacate and set aside several provisions of the SAA and implementing regulations and to revise and re–promulgate those provisions of the SAA and implementing regulations in a manner consistent with the Writ and the Order of August 10, 2006.

The proposed amendments to the regulations, the SAA, and Attachment E, make the changes to the following components to comply with the court order: (1) Authorization for Disclosure of Medical Information, (2) Notice of Room Change, (3) Liability of Third Parties, (4) Posting Requirements, (5) Refunds, and (6) Program Flexibility.

The writ required a change to the Resident's Right to leave the facility voluntarily. At a meeting in chambers on March 11, 2008, the Court stated that it was rescinding this requirement, and that no change was required to the wording in the SAA as adopted, i.e., DHS Form Number HS 327 (02/05).

The proposed amendments to Sections 72516 and 73518, Title 22, CCR, establish and follow guidelines and time tables in the implementation of the program flexibility provisions pursuant to Health and Safety Code Section 1276 consistent with Health and Safety Code section 1599.61(g). The California Department of Public Health Form Number CDPH 327 (05/10) is the revised SAA as amended in this proposal, and is incorporated by reference into the regulations.

The proposed amendments to the SAA require "reasonable notice" to the resident rather than "30 days" for a change to the resident's room; notice to a resident's personal representative that signing in a representative capacity does not, in and of itself, result in personal liability of the representative for debts of the resident; posting of the report of the most recent state licensing visit; and refunds of security deposits to be made within 14 days of closure of the resident's private account or receipt of Medi–Cal payment, whichever is later.

The proposed amendments to the Authorization for Disclosure of Medical Information (Attachment E) conform the Authorization to the mandatory requirements of the federal Health Insurance Portability and Accountability Act (HIPAA).

Chapter 532, Statutes 2009 requires that all contracts of admission for a skilled nursing facility have an attachment that is placed before any other attachment that discloses the name of the owner and licensee and the name and contact information of a single entity that is

[1] Effective July 1, 2007, the California Department of Health Services was split into two separate agencies, the Department of Health Care Services, and the Department of Public Health. This split was effected by the passage of S.B. 162, Chapter 241, Statutes of 2006. The subject of this proposed regulatory package was assigned in that legislation to the Department of Public Health.

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
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JOHN CHIANG
State Controller

BARBARA ALBY
Acting Member
Second District, Sacramento

KRISTINE CAZADD
Interim Executive Director

October 15, 2010

To Interested Parties:

Notice of Proposed Regulatory Action
by the
State Board of Equalization

Proposed to Adopt Regulation 1506, *Miscellaneous Service Enterprises*

NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board), pursuant to the authority vested in it by Revenue and Taxation Code (RTC) section 7051, proposes to adopt amendments to California Code of Regulations, title 18, section (Regulation) 1506, *Miscellaneous Service Enterprises*. The proposed amendments revise Regulation 1506, subdivision (h) to clarify the requirements for a camp to qualify as a school or educational institution so that its sales of student meals are exempt from sales and use tax under RTC section 6363.

PUBLIC HEARING

A public hearing on the proposed regulatory action will be held in Room 121, 450 N Street, Sacramento, at 10:00 a.m., or as soon thereafter as the matter may be heard, on December 14, 2010. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the proposed amendments to Regulation 1506, subdivision (h).

AUTHORITY

RTC section 7051.

REFERENCES

RTC sections 6006, 6007, 6015, 6018.1, 6018.7, 6358, 6358.4 and 6363.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Law

RTC section 6363 provides an exemption from sales and use tax for meals served or furnished to students of a school or educational institution. Regulation 1506, subdivision (h), *Summer Camps*, currently explains that a camp qualifies as a school or educational institution and the exemption for meals served to students, if the camp "conduct[s] regularly scheduled classes, with required attendance, in charge of qualified instructors."

These requirements establish that a camp session must promote an educational program through the conduct of regularly scheduled classes to qualify as a school or educational institution. However, camps may conduct their classes outside a traditional classroom setting and often do. For example, guided nature hikes can teach campers about ecology, conservation, and geology and must be conducted outdoors. In addition, classes in spiritual training or physical education, including, but not limited to, knot tying, archery, marksmanship, swimming, boating, and arts and crafts, are educational. Therefore, all of these types of classes will meet the first requirement of the Regulation 1506, subdivision (h) test if they are regularly scheduled.

Further, camps may allow campers to select the classes they wish to participate in and still have required participation. For example, a camp may allow a camper working on a merit badge for archery to choose to attend classes on range safety and archery practice, and allow a camper working on a hiking badge to attend classes in first aid and wilderness survival and still satisfy the "required attendance" test so long as the camper must attend his or her selected classes. However, a camp will not satisfy the "required attendance" test if it offers a variety of classes and recreational activities, requires campers to attend an orientation on the first day, but otherwise allows campers to choose to attend as many of the scheduled class or activities as they want or choose not to attend any class or activities during the rest of the camp session. In general, most youth camps include activities that qualify as regularly scheduled classes with required attendance, but camps should document that attendance is required in their camp brochures, registration materials, website information, camper rule agreements, and other materials in order to substantiate that they qualify for the exemption.

Furthermore, a class is taught by a qualified instructor when the instructor has the formal training or sufficient experience to adequately prepare the instructor to teach his or her subject. Therefore, the level of training and experience needed to be a qualified instructor depends on the class being taught. For example, an instructor may need certification by the American Heart Association or Red Cross to be "qualified" to teach CPR or general first aid and a kayaking instructor may need to have years of experience in kayaking and water safety training to be "qualified" to teach kayaking. In general, if the camp determines that an instructor is reasonably qualified to lead a class,

then the camp will have met this requirement of the regulation. However, camps should maintain records that show their instructors' level of training and/or experience related to the area they teach to substantiate that they qualify for the exemption.

Proposed Amendments

Young Life Appeal

On February 24, 2010, the Board conducted an oral hearing regarding a sales and use tax appeal involving the issue of whether the exemption provided by RTC section 6363 and Regulation 1506, subdivision (h) applied to sales of meals at a Young Life camp facility. Therefore, the Board had to decide whether the camp qualified as a school or educational institution because it conducted regularly scheduled classes, with required attendance, in charge of qualified instructors.

The camp did not conduct traditional classes in classrooms. However, the camp established that it was a traditional camp and conducted an educational program with scheduled activities including religious, leadership, and life skills training, and that campers were required to attend scheduled activities which were taught by qualified instructors. Therefore, the Board concluded that the camp qualified as a school or educational institution within the meaning of Regulation 1506, subdivision (h) and that its sales of student meals were exempt from sales and use tax. In addition, the Board referred Regulation 1506, subdivision (h) to its Business Taxes Committee and directed committee staff to work with interested parties to draft clarifying amendments that would help taxpayers and Board staff more easily determine whether camps qualify as schools or educational institutions.

Interested Parties Process

Accordingly, Board staff met with interested parties on May 19, 2010, and July 7, 2010, to discuss potential revisions to Regulation 1506. Board staff also had the opportunity in July to visit a traditional camp, which qualified as an "organized camp" under Health and Safety Code section 18897, to gain a better understanding of how traditional camps currently operate.

During the interested parties process, Board staff determined that the provisions of Regulation 1506, subdivision (h) are intended to apply to traditional camps, similar to those operated by the Young Life organization, YMCA, YWCA, Girl Scouts, Boy Scouts, camps accredited by or affiliated with the American Camp Association, and camps that are approved members of the Christian Camp and Conference Association. Board staff determined that the provisions in Regulation 1506, subdivision (h) are not intended to apply to resorts, other hotel and lodging establishments, or businesses that provide all inclusive outdoor recreation packages outside a traditional camp setting.

During the interested parties process, Board staff concluded that the types of traditional camps that may qualify as schools or educational institutions also qualify as "organized camps," as defined in Health and Safety Code section 18897, subdivision (a), which provides that:

> (a) "Organized camp" means a site with program and facilities established for the primary purposes of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives, for five days[1] or more during one or more seasons of the year.

Board staff also concluded that many of the types of businesses that might seem similar to camps, but which are not traditional camps that are intended to be able to qualify as schools or educational institutions, cannot qualify as "organized camps," as defined in Health and Safety Code section 18897, subdivision (a). This is because the term "does not include a motel, tourist camp, trailer park, resort, hunting camp, auto court, labor camp, penal or correctional camp and does not include a child care institution or home-finding agency. The term 'organized camp' also does not include any charitable or recreational organization that complies with the rules and regulations for recreational trailer parks." (Health & Saf. Code, § 18897, subds. (b) and (c).)

Therefore, Staff recommended that the Board amend the provisions of Regulation 1506, subdivision (h) to require that a camp be an "organized camp" as defined in Health and Safety Code section 18897 to qualify as a school or educational institution and to provide examples of camps that do and do not qualify as schools or educational institutions.

Furthermore, during the interested parties process, Board staff learned that many traditional camps now operate year-round by offering sessions to campers that attend schools that are not on a traditional calendar year and offering camp sessions during the school year. Therefore, Board staff recommended that the Board change the name of subdivision (h) from "summer camps" to "organized camps."

In addition, Board staff recommended restructuring subdivision (h) so that the first sentence becomes paragraph (1) and all of the remaining text becomes paragraph (2). Board staff recommended amending the first sentence in new paragraph (1) so that it applies to "camps," in general, not just "summer camps," and amending new paragraph (2) so that it clearly applies to camps qualifying as schools or educational institutions. Board staff recommended revising the text of the first sentence in new paragraph (2) to make it read more clearly and expressly state that a qualifying "camp's sales of student

[1] The Board interprets this provision to mean that a camp organization meeting the 5-day requirement for one camp session continues to meet the requirement even if it also conducts some shorter camp sessions. That is, staff would evaluate the camp year, rather than any one camp session. For example, a camp offers 5-day outdoor education camps for 6th graders and also provides 3-day outdoor education camps for 4th graders. Because the camp meets the 5-day requirement with the 6th grade camp sessions, the camp is still considered an "organized camp" during the 3-day camp sessions.

meals are not subject to tax." Board staff recommended deleting the second sentence in new paragraph (2) and replacing it with a new sentence that clearly enumerates the requirements a camp must meet in order to qualify as a school or educational institution. Finally, staff recommended that the words "and the tax returned" be deleted from the second to last sentence in Regulation 1506, subdivision (h) because the words are awkward and confusing.

Business Taxes Committee

Board staff incorporated its recommendations into Formal Issue Paper 10-008 and submitted the issue paper to the Board for consideration along with three letters of support from the: California State Alliance of YMCAs and the California Collaboration for Youth; the American Camp Association, Southern California/Hawaii; and the Christian camps in California that are approved members of the National Christian Camp and Conference Association (CCCA). During the Board's Business Taxes Committee meeting on September 15, 2010, the Board determined that staff's recommended amendments were necessary to:

- Clarify that Regulation 1506, subdivision (h)'s exemption for student meals provided by camps that qualify as schools or educational institutions may only apply to traditional camps that qualify as "organized camps" as defined in Health and Safety Code section 18897;
- Provide examples that will help taxpayers and Board staff identify camps that qualify as schools and educational institutions and other types of similar businesses that do not qualify; and
- Revise the current language in the first, second, and fourth sentences in subdivision (h) so that they do not read awkwardly and clearly specify the application of tax.

Therefore, the Board approved staff's recommendations and authorized Board staff to begin the formal rulemaking process to incorporate the recommended amendments into Regulation 1506, subdivision (h), for the specific purposes of clarifying the requirements for a camp to qualify as a school or educational institution and clarifying how tax applies to sales of tangible personal property by camps, including sales of student meals.

There are no comparable federal regulations or statutes to Regulation 1506, subdivision (h).

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the proposed amendments to Regulation 1506, subdivision (h) do not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Board has determined that the proposed amendments to Regulation 1506, subdivision (h) will result in no direct or indirect cost or savings to any state agency, any cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has determined that the proposed amendments to Regulation 1506, subdivision (h) are consistent with the Board's current application of RTC section 6363 and Regulation 1506. The proposed amendments to Regulation 1506, subdivision (h) merely clarify the requirements for a traditional camp to qualify as a school or educational institution, provide examples to help Board staff and taxpayers more easily identify traditional camps that qualify as schools or educational institutions and other types of businesses that do not qualify, and clarify the language explaining the application of tax to camps' sales of tangible personal property, including student meals. Furthermore, the proposed amendments continue to allow traditional camps to qualify as schools or educational institutions that receive the exemption for sales of student meals and do not change the application of sales and use tax to camp's sales of tangible personal property. Therefore, the Board has made an initial determination that the proposed amendments to Regulation 1506, subdivision (h) will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed amendments to Regulation 1506, subdivision (h) may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The Board has determined that the adoption of the proposed amendments to Regulation 1506, subdivision (h) will neither create nor eliminate jobs in the State of

California nor result in the elimination of existing businesses nor create or expand business in the State of California.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

Adoption of the proposed amendments to Regulation 1506, subdivision (h) will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective as and less burdensome to affected private persons than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Bradley M. Heller, Tax, Counsel III (Specialist), by telephone at (916) 323-3091, by e-mail at Bradley.Heller@boe.ca.gov, or by mail at State Board of Equalization, Attn: Bradley M. Heller, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445-2130, by fax at (916) 324-3984 , by e-mail at Richard.Bennion@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rick Bennion, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080.

WRITTEN COMMENT PERIOD

The written comment period ends when the public hearing begins at 10:00 a.m., or as soon thereafter as the matter may be heard, on December 14, 2010. If the Board receives written comments prior to the close of the written comment period, the statements, arguments, and/or contentions contained in those comments will be presented to and considered by the Board before the Board decides whether to adopt the proposed amendments to Regulation 1506, subdivision (h). The Board will only consider written comments received by that time.

October 15, 2010

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an Initial Statement of Reasons and an underscore and strikeout version of Regulation 1506, subdivision (h) illustrating the express terms of the proposed amendments. These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the Initial Statement of Reasons are also available on the Board's Website at www.boe.ca.gov.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

The Board may adopt the proposed amendments to Regulation 1506, subdivision (h) with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the proposed regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the proposed amendments to Regulation 1506, subdivision (h) the Board will prepare a Final Statement of Reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's Website at www.boe.ca.gov.

Sincerely,

Diane G. Olson

Diane G. Olson, Chief
Board Proceedings Division

DGO:reb

Initial Statement of Reasons

Proposed Amendments to California Code of Regulations, Title 18, Section 1506, *Miscellaneous Service Enterprises*

SPECIFIC PURPOSE AND NECESSITY

Current Law

RTC section 6363 provides an exemption from sales and use tax for meals served or furnished to students of a school or educational institution. Regulation 1506, subdivision (h), *Summer Camps*, currently explains that a camp qualifies as a school or educational institution and the exemption for meals served to students, if the camp "conduct[s] regularly scheduled classes, with required attendance, in charge of qualified instructors."

These requirements establish that a camp session must promote an educational program through the conduct of regularly scheduled classes to qualify as a school or educational institution. However, camps may conduct their classes outside a traditional classroom setting and often do. For example, guided nature hikes can teach campers about ecology, conservation, and geology and must be conducted outdoors. In addition, classes in spiritual training or physical education, including, but not limited to, knot tying, archery, marksmanship, swimming, boating, and arts and crafts, are educational. Therefore, all of these types of classes will meet the first requirement of the Regulation 1506, subdivision (h) test if they are regularly scheduled.

Further, camps may allow campers to select the classes they wish to participate in and still have required participation. For example, a camp may allow a camper working on a merit badge for archery to choose to attend classes on range safety and archery practice, and allow a camper working on a hiking badge to attend classes in first aid and wilderness survival and still satisfy the "required attendance" test so long as the camper must attend his or her selected classes. However, a camp will not satisfy the "required attendance" test if it offers a variety of classes and recreational activities, requires campers to attend an orientation on the first day, but otherwise allows campers to choose to attend as many of the scheduled class or activities as they want or choose not to attend any class or activities during the rest of the camp session. In general, most youth camps include activities that qualify as regularly scheduled classes with required attendance, but camps should document that attendance is required in their camp brochures, registration materials, website information, camper rule agreements, and other materials in order to substantiate that they qualify for the exemption.

Furthermore, a class is taught by a qualified instructor when the instructor has the formal training or sufficient experience to adequately prepare the instructor to teach his or her subject. Therefore, the level of training and experience needed to be a qualified instructor depends on the class being taught. For example, an instructor may need certification by the American Heart Association or Red Cross to be "qualified" to teach CPR or general first aid and a kayaking instructor may need to have years of experience in kayaking and water safety training to be "qualified" to teach kayaking. In general, if the camp determines that an instructor is reasonably qualified to lead a class, then the camp will have met this requirement of the regulation. However, camps should maintain records that show their instructors' level of training and/or experience related to the area they teach to substantiate that they qualify for the exemption.

Proposed Amendments

Young Life Appeal

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The camp did not conduct traditional classes in classrooms. However, the camp established that it was a traditional camp and conducted an educational program with scheduled activities including religious, leadership, and life skills training, and that campers were required to attend scheduled activities which were taught by qualified instructors. Therefore, the Board concluded that the camp qualified as a school or educational institution within the meaning of Regulation 1506, subdivision (h) and that its sales of student meals were exempt from sales and use tax. In addition, the Board referred Regulation 1506, subdivision (h) to its Business Taxes Committee and directed committee staff to work with interested parties to draft clarifying amendments that would help taxpayers and Board staff more easily determine whether camps qualify as schools or educational institutions.

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During the interested parties process, Board staff concluded that the types of traditional camps that may qualify as schools or educational institutions also qualify as "organized camps," as defined in Health and Safety Code section 18897, subdivision (a), which provides that:

> (a) "Organized camp" means a site with program and facilities established for the primary purposes of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives, for five days[1] or more during one or more seasons of the year.

Board staff also concluded that many of the types of businesses that might seem similar to camps, but which are not traditional camps that are intended to be able to qualify as schools or educational institutions, cannot qualify as "organized camps," as defined in Health and Safety Code section 18897, subdivision (a). This is because the term "does not include a motel, tourist camp, trailer park, resort, hunting camp, auto court, labor camp, penal or correctional camp and does not include a child care institution or home-finding agency. The term 'organized camp' also does not include any charitable or recreational organization that complies with the rules and regulations for recreational trailer parks." (Health & Saf. Code, § 18897, subds. (b) and (c).)

Therefore, Staff recommended that the Board amend the provisions of Regulation 1506, subdivision (h) to require that a camp be an "organized camp" as defined in Health and Safety Code section 18897 to qualify as a school or educational institution and to provide examples of camps that do and do not qualify as schools or educational institutions.

Furthermore, during the interested parties process, Board staff learned that many traditional camps now operate year-round by offering sessions to campers that

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attend schools that are not on a traditional calendar year and offering camp sessions during the school year. Therefore, Board staff recommended that the Board change the name of subdivision (h) from "summer camps" to "organized camps."

In addition, Board staff recommended restructuring subdivision (h) so that the first sentence becomes paragraph (1) and all of the remaining text becomes paragraph (2). Board staff recommended amending the first sentence in new paragraph (1) so that it applies to "camps," in general, not just "summer camps," and amending new paragraph (2) so that it clearly applies to camps qualifying as schools or educational institutions. Board staff recommended revising the text of the first sentence in new paragraph (2) to make it read more clearly and expressly state that a qualifying "camp's sales of student meals are not subject to tax." Board staff recommended deleting the second sentence in new paragraph (2) and replacing it with a new sentence that clearly enumerates the requirements a camp must meet in order to qualify as a school or educational institution. Finally, staff recommended that the words "and the tax returned" be deleted from the second to last sentence in Regulation 1506, subdivision (h) because the words are awkward and confusing.

Business Taxes Committee

Board staff incorporated its recommendations into Formal Issue Paper 10-008 and submitted the issue paper to the Board for consideration along with three letters of support from the: California State Alliance of YMCAs and the California Collaboration for Youth; the American Camp Association, Southern California/Hawaii; and the Christian camps in California that are approved members of the National Christian Camp and Conference Association (CCCA).[2] During the Board's Business Taxes Committee meeting on September 15, 2010, the Board determined that staff's recommended amendments were necessary to:

- Clarify that Regulation 1506, subdivision (h)'s exemption for student meals provided by camps that qualify as schools or educational institutions may only apply to traditional camps that qualify as "organized camps" as defined in Health and Safety Code section 18897;
- Provide examples that will help taxpayers and Board staff identify camps that qualify as schools and educational institutions and other types of similar businesses that do not qualify; and
- Revise the current language in the first, second, and fourth sentences in subdivision (h) so that they do not read awkwardly and clearly specify the application of tax.

Therefore, the Board approved staff's recommendations and authorized Board staff to begin the formal rulemaking process to incorporate the recommended

[2] The three letters of support were included in exhibit 5 to Formal Issue Paper 10-008.

amendments into Regulation 1506, subdivision (h), for the specific purposes of clarifying the requirements for a camp to qualify as a school or educational institution and clarifying how tax applies to sales of tangible personal property by camps, including sales of student meals.

DOCUMENTS RELIED UPON

The Board relied upon Formal Issue Paper 10-008 and the exhibits to the issue paper, including the three letters of support included in exhibit 5, in deciding to propose the amendments to Regulation 1506, subdivision (h). The Board also relied upon comments made by Board staff and Catherine Barankin, Director of Public Policy for the California Alliance of YMCAs, during the Business Taxes Committee meeting on September 15, 2010.

ALTERNATIVES CONSIDERED

The Board considered whether or not to take any action to clarify Regulation 1506, subdivision (h) during the Business Taxes Committee meeting on September 15, 2010, but did not consider any alternative language to the proposed amendments to Regulation 1506. Neither Board staff nor the interested parties submitted any alternative language for the amendments to Regulation 1506, subdivision (h) to the Board for consideration, and, as a result, the Board did not reject any reasonable alternatives to the proposed amendments.

NO ADVERSE ECONOMIC IMPACT ON BUSINESS

The Board has determined that the proposed amendments to Regulation 1506, subdivision (h) are consistent with the Board's current application of RTC section 6363 and Regulation 1506, subdivision (h). The proposed amendments to Regulation 1506, subdivision (h) merely clarify the requirements for a traditional camp to qualify as a school or educational institution, provide examples to help Board staff and taxpayers more easily identify traditional camps that qualify as schools or educational institutions and other types of businesses that do not qualify, and clarify the language explaining the application of tax to camps' sales of tangible personal property, including student meals. Furthermore, the proposed amendments continue to allow traditional camps to qualify as schools or educational institutions that receive the exemption for sales of student meals and do not change the application of sales and use tax to camp's sales of tangible personal property. Therefore, the Board has made an initial determination that the proposed amendments to Regulation 1506, subdivision (h) will not have a significant adverse economic impact on business.

The proposed regulation may affect small business.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1506

Section 1506. Miscellaneous Service Enterprises.

(a) Licensed Architects.

(1) In General. Fees paid to licensed architects for their ability to design, conceive or communicate ideas, concepts, designs, and specifications are not subject to tax. Any plans, specifications, renderings or models or other instruments of service provided by a licensed architect under a licensed architect's contract or commission are integral to the licensed architect's services and are not subject to tax. The licensed architect is the consumer of any tangible personal property, including plans, specifications, renderings or models, used or transferred in the performance of professional services notwithstanding the fact that a fee may be added to the cost of the property and separately stated on a billing to the customer. If after the completion of the contract or commission the licensed architect provides additional copies of the original plans or specifications, or any models or renderings of an existing structure, the architect is regarded as making a sale of such copies, models or renderings.

(2) Licensed Architect. A "licensed architect" is defined under the Business and Professions Code Chapter 3, Division 3, Section 5500 as follows:

"As used in this chapter, architect means a person who is licensed to practice architecture in this state under the authority of this chapter."

A licensed architect preparing or being in responsible control of plans, specifications, and instruments of service is required to affix to those plans, specifications, and instruments of service their stamp or seal which bears the licensee's name, his or her license number, the legend "Licensed Architect" and the legend "State of California," and which shall provide a means of indicating the renewal date of the license.

(3) Architectural Perspectivists and Modelers. Architectural perspectivists do not act as "licensed architects." Architectural perspectivists are the retailers of renderings, prints and drawings they provide to architects or other consumers and tax applies to their entire charge for such items. Modelers do not act as "licensed architects." Modelers are the retailers of models they provide to architects or other consumers, and tax applies to their entire charge for such items.

(4) Licensed architects who produce renderings, prints, drawings or models pursuant to a contract that includes professional architectural services are not retailers of the renderings, prints, drawings or models they provide pursuant to that contract for architectural services. Tax does not apply to their charge for such items.

(b) Barbers, Beauty Shop Operators, and Shoe Polishers. Barbers, beauty shop operators, and shoe polishers are the consumers of the supplies and other property used in performing their services, and tax applies with respect to the sale to them of the supplies

and other property. They are retailers, however, of supplies, used articles, or other tangible personal property, which they sell to customers in the regular course of business, and tax applies to the gross receipts from such sales.

(c) Clothes Cleaners and Dyers

(1) Clothes Cleaning - In General. Persons who provide clothes-cleaning services are consumers of the supplies and other materials used in performing their cleaning services, and tax applies to the sale to them of the supplies and other materials and not to their charges for such services.

(2) Rentals. Clothes cleaners are the consumers of linen supplies and similar articles, including towels, uniforms, coveralls, shop coats, dust cloths, and similar items, rented to others when an essential part of the rental contract is the furnishing of the recurring service of laundering or cleaning of the articles rented, and tax applies with respect to the sale to them of such articles.

(3) Clothes Dyeing - In General. Persons who provide dyeing services are retailers, not consumers, when their charges are for the dyeing of new fabrics, garments, or other such items and tax applies to their gross receipts from such sales. Persons who dye new items are required to hold a seller's permit.

Dyers are consumers of the supplies and other materials used in dyeing used fabrics, garments, or other such items and tax applies to the sale to them of the supplies and other materials and not to their charges for their dyeing services.

(4) Alteration of Garments - In General. For the purposes of this subdivision (c), alteration of garments means and includes any work performed upon new or used men's, women's and children's clothing to meet the requirements of the customer whether the work involves the addition of material to the garment, removal of material, refitting, or repairing. Alteration of garments does not mean or include the process of dyeing garments. Alteration of garments also does not mean or include work performed upon new or used personal and household items such as handbags, stuffed animals, bedding, and draperies. The application of tax to a clothes cleaner's or a dyer's charges for the alteration of personal or household items is explained in Regulation 1524.

(A) Alteration of Garments by Clothes Cleaning or Dyeing Establishments. A clothes cleaning or dyeing establishment, including wet cleaners (e.g., launderers) and dry cleaners, means and includes a clothes cleaner or dyer who (1) operates a location or locations as a pickup and delivery point for garment cleaning, or (2) provides spotting and pressing services on the premises, but not garment cleaning, or (3) operates a garment cleaning or dyeing plant on the premises.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1506

A clothes cleaner or dyeing establishment described above is the consumer of property used or furnished in the alteration of new or used garments provided that:

1. Seventy-five percent (75%) or more of the establishment's total gross receipts represent charges for garment cleaning or dyeing services, and

2. No more than twenty percent (20%) of the establishment's total gross receipts during the preceding calendar year were from the alteration of garments.

If a clothes cleaner or dyer is not an establishment as described or does not meet the requirements of this paragraph (A), tax applies to the clothes cleaner's or the dyer's charges for the alteration of garments as explained in Regulation 1524.

(B) Alteration of Garments by a Third Party. When a clothes cleaner or dyer who meets the requirements of subdivision (c)(4)(A) contracts with a third party such as a tailor for the alteration of garments instead of performing such alterations itself, the clothes cleaner or dyer is a consumer, not a retailer, of the alterations provided by the third party and may not issue a resale certificate to the third party for such alterations. Tax applies to the third party's charges to the clothes cleaner or dyer for such alterations as explained in Regulation 1524.

(5) Miscellaneous Sale of Items. Clothes cleaners and dyers, whether or not they meet the requirements of subdivision (c)(4)(A), are retailers of any supplies, used items, or other tangible personal property such as lint brushes, abandoned garments, wood hangers, or novelty items, which they sell to customers in the regular course of business, and tax applies to the gross receipts from such sales. As retailers of tangible personal property, such persons are required to hold a seller's permit.

(d) Circulating Libraries. When circulating libraries, which are engaged in the business of renting books to others, pay tax measured by the purchase price of such books either to the person from whom the books are purchased or to the board, tax does not apply to the amount charged for the rental of such books. Such libraries are retailers of new or used books which they sell to consumers in the regular course of business, and tax applies to the gross receipts from such sales.

(e) Dentists and Dental Laboratories. Dentists are consumers of the materials, supplies, dental laboratory products and other tangible personal property which they use in performing their services. Tax, accordingly, applies to the sale of the tangible personal property to them.

Dental laboratories are the retailers of the plates, inlays and other products which they manufacture for dentists or other consumers. Tax applies to their entire charges for such products regardless of whether a separate charge or billing is made for materials and manufacturing services.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1506

(f) Gun Clubs. Gun clubs are consumers, not retailers, of clay pigeons or blue rocks furnished to members or patrons in connection with trapshooting or similar sports even though the charge for the service is measured by the number of clay pigeons or blue rocks used. The tax applies with respect to the sale of such property to the clubs.

(g) Licensed Hearing Aid Dispensers. Persons licensed as hearing aid dispensers by the Department of Consumer Affairs, Hearing Aid Dispensers Examining Committee, are consumers of hearing aids furnished or sold by them. The term "hearing aid" includes any necessary accessory or component part of the hearing aid which is fully worn on the body of the user such as cords, connector tubing, ear molds, or batteries, whether the part is sold or furnished separately or in conjunction with the hearing aid. The term also includes replacement and repair parts. Tax applies with respect to the sale of such products to licensed hearing aid dispensers.

Tax applies to the retail sale of such products by persons who are not licensed hearing aid dispensers.

(h) ~~Summer~~Organized Camps.

(1) Camps in General. The tax applies to gross receipts from the sale of meals or other tangible personal property at ~~summer~~ camps, whether operated by municipal or private corporations, or other parties.

(2) Camps Qualifying as Schools or Educational Institutions. When a camp qualifies as a school or educational institution, the camp's sales of student meals are not subject to tax~~, with respect to meals, applies in the same manner as to schools and educational institutions. To qualify as a school or educational institution for purposes of this regulation, the camp must conduct regularly scheduled classes, with required attendance, in charge of qualified instructors.~~If a camp meets all of the following conditions, the camp will qualify as a school or educational institution for purposes of this regulation:

(A) The camp conducts regularly scheduled classes,
(B) Students are required to attend the classes,
(C) Qualified instructors are in charge of the classes, and
(D) The camp is an "organized camp" as defined in California Health and Safety Code section 18897.

An example of a camp that qualifies as a school or education institution includes, but is not limited to the following: A camp offers a session where campers have a schedule of daily activities they are required to attend. These activities include team-building exercises, guided nature hikes, and wilderness survival techniques. The activities are led by staff that the camp determined to have sufficient training and experience to lead the activities.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1506

An example of a camp that does not qualify as a school or educational institution includes, but is not limited to the following: A camp offers a session that includes activities that are regularly scheduled. Participants are required to attend a camp orientation on the first day, but during the rest of the camp they can attend as many of the scheduled activities as they want, or they can elect to attend no activities.

If a single charge is made for all of the privileges extended by the camp, a segregation must be made ~~and the tax returned~~ on that portion of the total charge representing taxable receipts from the sale of meals or other tangible personal property. In the absence of such a segregation, the taxable receipts from the sale of meals or other tangible personal property shall be determined by the board based on information available to it.

(i) Taxidermists. Taxidermists are consumers of the materials used in repairing, stuffing and mounting skins, heads, etc., of animals, birds, fish, and the like furnished by their customers, and tax applies with respect to the sale of such property to them. If, however, a separate charge for such property is made on the invoices to the customers at the fair retail selling price, the taxidermist is the retailer of the property and tax applies to such separate charge.

Tax applies to retail sales by taxidermists of skins, heads, mountings or other tangible personal property.

(j) Licensed Veterinarians.

(1) Definitions. As used herein:

(A) The term "licensed veterinarian" means any person licensed as a veterinarian by the California Department of Consumer Affairs, Board of Examiners in Veterinary Medicine.

(B) The term "drugs and medicines" includes substances or preparations intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals and which is commonly recognized as a substance or preparation intended for this use. The term includes legend drugs, pills and capsules (other than vitamins), liquid medications, injected drugs, ointments, vaccines, intravenous fluids, and medicated soaps if those soaps are available only to veterinarians. The term does not include vitamins, shampoos, pet foods, prescription diet foods, artificial diets, flea powders, and flea sprays.

(C) The term "professional services" includes the diagnosis and treatment of disease or trauma in animal life. It also includes the administration of drugs and medicines by means of, for example, injection, intravenous solution, or oral or bodily application.

(2) Application of Tax.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1506

(A) Licensed veterinarians are consumers of drugs and medicines which they use or furnish in the performance of their professional services. Accordingly, tax does not apply to a licensed veterinarian's charges to clients for such drugs and medicines, whether or not separately stated. Licensed veterinarians are also consumers of tangible personal property, other than drugs and medicines, which they use or which they furnish to clients without a separately stated charge. Tax applies to the sale of such drugs, medicines and other items to licensed veterinarians except:

1. Operative April 1, 1996, drugs or medicines which are purchased to be administered to animal life as an additive to feed or drinking water of food animals (as defined in Regulation 1587 (18 CCR 1587), "Animal Life, Feed, Drugs and Medicines") or of non-food animals which are being held for sale in the regular course of business, and the primary purpose of the drugs or medicines is the prevention and control of disease, or

2. Operative January 1, 1997, drugs or medicines which are purchased to be administered directly (e.g., orally, by injection, or by application to the body) to food animals and the primary purpose of the drugs or medicines is the prevention or control of disease of the food animals. Veterinarians remain consumers of drugs and medicines administered directly to non-food animals.

(B) Licensed veterinarians are retailers of drugs and medicines which they furnish for a consideration without performing specific related professional services. Licensed veterinarians are also retailers of tangible personal property, other than drugs and medicines, which they furnish to clients for a separately stated charge. Unless otherwise exempt, tax applies to charges made by licensed veterinarians to clients for such drugs, medicines and other items. See Regulation 1587 (18 CCR 1587), "Animal Life, Feed, Drugs and Medicines" for exemption for sales of feed, drugs, or medicines for certain animals. Tax applies to separately stated charges made for X-rays if the X-rays are delivered to clients.

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Sections 6006, 6007, 6015, 6018.1, 6018.7, 6358, 6358.4 and 6363, Revenue and Taxation Code.

Regulation History

Type of Regulation: Sales and Use Tax

Regulation: 1506

Title: 1506, *Miscellaneous Service Enterprises*

Preparation: Brad Heller
Legal Contact: Brad Heller

Board proposes to adopt Regulation 1506, *Miscellaneous Service Enterprises*, for the specific purpose of clarifying the application of tax to sales of meals at camps.

History of Proposed Regulation:

October 15, 2010	OAL publication date; 45-day public comment period begins; Interested Parties mailing
October 4, 2010	Notice to OAL
September 15, 2010	Business Tax Committee, Board Authorized Publication (vote 5 - 0)

Sponsor: NA
Support: NA
Oppose: NA

Bennion, Richard

From: chad [chad@redwoodglen.com]
Sent: Sunday, October 31, 2010 3:38 PM
To: Heller, Bradley
Subject: questions regarding proposed amendments to reg 1506
Follow Up Flag: Follow up
Due By: Monday, November 01, 2010 11:30 AM
Flag Status: Red
Categories: Red Category

Bradley;
My name is Chad, with an ACA camp in the Santa Cruz mountains. I was told to direct questions regarding the proposed amendment in the subject line toward you.
Reading through the material on the BOE's website, I was unclear on one point (just one, I believe). What if an organized camp meets the educational qualifications under some of its functions, but not all – are all meals non-taxed then, or just the ones related to the educational function?
Thank you for your assistance;

Chad Plantenberg
Guest Services at:
Redwood Glen *- A Bay Area Christian Camp and Conference Center*
info@redwoodglen.com
www.redwoodglen.com
phone: (650) 879-0320
fax: (650) 879-2081

Statement of Compliance

The State Board of Equalization, in process of adopting Sales and Use Tax Regulation 1506, *Miscellaneous Service Enterprise*, did comply with the provision of Government Code section 11346.4(a)(1) through (4). A notice to interested parties was mailed on October 15, 2010, 59 days prior to the public hearing.

December 21, 2010

Richard Bennion
Regulations Coordinator
State Board of Equalization

BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION

450 N Street, Room 121

Sacramento, California

REPORTER'S TRANSCRIPT

DECEMBER 14, 2010

ITEM F1

PUBLIC HEARINGS

Reported by: Beverly D. Toms

No. CSR 1662

Electronically signed by Beverly D. Toms (101-106-311-4038) 137d8cb5-e8b6-4e00-8c88-d5cb2f67dba5

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2 P R E S E N T

3

4 For the Board of Equalization: Betty Yee
Chair

5

Jerome E. Horton
6 Vice-Chair

7 Barbara Alby
Acting Member

8

Michelle Steel
9 Member

10 Marcy Jo Mandel
Appearing for John
11 Chiang, State Controller
(per Government Code
12 Section 7.9)

13 Diane Olson
Chief, Board
14 Proceedings Division

15 Board of Equalization Staff: Bradley Heller
16 Tax Counsel

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1 Sacramento, California
2 December 14, 2010
3 ---oOO---
4 MS. YEE: Okay, Ms. Olson, our next item,
5 please.
6 MS. OLSON: Would you like to continue in
7 agenda order or would you like --
8 MS. YEE: Yes, please.
9 MS. OLSON: Our next item is F1, Proposed
10 Amendments to Regulation 1506, Miscellaneous Service
11 Enterprises.
12 MS. YEE: Okay. We're on Item F1 under Public
13 Hearings. This is Proposed Amendments to Regulation
14 1506 relating to miscellaneous service enterprises.
15 Let me have Mr. Heller introduce the matter.
16 MR. HELLER: Good afternoon, Madam Chair,
17 Members of the Board. I'm Bradley Heller with the
18 Board's Legal Department, and I'm here with Lynn
19 Whitaker from the Business Taxes Committee.
20 And we're here to request the Board's -- or,
21 excuse me, request that the Board adopt proposed
22 amendments to Sales and Use Tax Regulation 1506,
23 Subdivision "h". The amendments clarify the
24 requirements for a camp to qualify as a school or
25 educational institution so that its sales of student
26 meals are exempt from Sales and Use Tax.
27 MS. YEE: Okay. Thank you very much.
28 Questions, Members?

MS. STEEL: So moved.

MS. YEE: Okay. Motion by Ms. Steel.

MR. HORTON: Second.

MS. YEE: Second by Mr. Horton.

Without objection, motion carries. Thank you for your work on this.

MR. HELLER: Thank you.

MS. YEE: Thank you.

---oOo---

REPORTER'S CERTIFICATE.

State of California)
) ss
County of Sacramento)

I, BEVERLY D. TOMS, Hearing Reporter for the California State Board of Equalization certify that on December 14, 2010 I recorded verbatim, in shorthand, to the best of my ability, the proceedings in the above-entitled hearing; that I transcribed the shorthand writing into typewriting; and that the preceding 4 pages constitute a complete and accurate transcription of the shorthand writing.

Dated: December 20, 2010.

Beverly D Toms

BEVERLY D. TOMS
Hearing Reporter

Electronically signed by Beverly D. Toms (101-106-311-4038) 137d8cb5-e8b6-4e00-8c88-d5cb2f67dba5

Tuesday, December 14, 2010

The Board recessed at 1:16 p.m. and reconvened at 2:00 p.m. with Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel present.

James Vaughn, 487205, 508867
2005, $1,927.00 Assessment
2006, $1,545.00 Assessment

For Appellant:	James Vaughn, Taxpayer
For Franchise Tax Board:	Ciro Immordino, Tax Counsel
	Christopher Parker, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issue: Whether respondent properly disallowed certain business expense and unreimbursed employee expense deductions for 2005 and 2006.
Appellant's Exhibit: Miscellaneous Documents (Exhibit 12.4)
Action: Upon motion of Ms. Mandel, seconded by Ms. Steel and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board submitted the appeal for decision.

PUBLIC HEARINGS

Proposed Amendments to Regulation 1506, *Miscellaneous Service Enterprises*

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the adoption of proposed amendments to Regulation 1506 clarifying the application of the student meals exemption to meals sold by camps (Exhibit 12.5).

Speakers were invited to address the Board, but there were none.

Action: Upon motion of Ms. Steel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board adopted the amendments as recommended by staff.

2011 Timber Yield Tax Rate

Robert Ingenito, Chief, Research and Statistics Section, Legislative and Research Division, made introductory remarks regarding Section 38202 of the Revenue and Taxation Code, which requires an annual adjustment of the timber yield tax rate (Exhibit 12.6).

Speakers were invited to address the Board, but there were none.

Action: Upon motion of Ms. Steel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board adopted the 2011 timber yield tax rate of 2.9 percent as recommended by staff.

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-80
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BETTY T. YEE
First District, San Francisco

MICHELLE STEEL
Third District, Rolling Hills Estates

JEROME E. HORTON
Fourth District, Los Angeles

JOHN CHIANG
State Controller

BARBARA ALBY
Acting Member
Second District, Sacramento

KRISTINE CAZADD
Interim Executive Director

October 15, 2010

To Interested Parties:

Notice of Proposed Regulatory Action
by the
State Board of Equalization

Proposed to Adopt Regulation 1506, *Miscellaneous Service Enterprises*

NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board), pursuant to the authority vested in it by Revenue and Taxation Code (RTC) section 7051, proposes to adopt amendments to California Code of Regulations, title 18, section (Regulation) 1506, *Miscellaneous Service Enterprises*. The proposed amendments revise Regulation 1506, subdivision (h) to clarify the requirements for a camp to qualify as a school or educational institution so that its sales of student meals are exempt from sales and use tax under RTC section 6363.

PUBLIC HEARING

A public hearing on the proposed regulatory action will be held in Room 121, 450 N Street, Sacramento, at 10:00 a.m., or as soon thereafter as the matter may be heard, on December 14, 2010. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the proposed amendments to Regulation 1506, subdivision (h).

AUTHORITY

RTC section 7051.

REFERENCES

RTC sections 6006, 6007, 6015, 6018.1, 6018.7, 6358, 6358.4 and 6363.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Law

RTC section 6363 provides an exemption from sales and use tax for meals served or furnished to students of a school or educational institution. Regulation 1506, subdivision (h), *Summer Camps*, currently explains that a camp qualifies as a school or educational institution and the exemption for meals served to students, if the camp "conduct[s] regularly scheduled classes, with required attendance, in charge of qualified instructors."

These requirements establish that a camp session must promote an educational program through the conduct of regularly scheduled classes to qualify as a school or educational institution. However, camps may conduct their classes outside a traditional classroom setting and often do. For example, guided nature hikes can teach campers about ecology, conservation, and geology and must be conducted outdoors. In addition, classes in spiritual training or physical education, including, but not limited to, knot tying, archery, marksmanship, swimming, boating, and arts and crafts, are educational. Therefore, all of these types of classes will meet the first requirement of the Regulation 1506, subdivision (h) test if they are regularly scheduled.

Further, camps may allow campers to select the classes they wish to participate in and still have required participation. For example, a camp may allow a camper working on a merit badge for archery to choose to attend classes on range safety and archery practice, and allow a camper working on a hiking badge to attend classes in first aid and wilderness survival and still satisfy the "required attendance" test so long as the camper must attend his or her selected classes. However, a camp will not satisfy the "required attendance" test if it offers a variety of classes and recreational activities, requires campers to attend an orientation on the first day, but otherwise allows campers to choose to attend as many of the scheduled class or activities as they want or choose not to attend any class or activities during the rest of the camp session. In general, most youth camps include activities that qualify as regularly scheduled classes with required attendance, but camps should document that attendance is required in their camp brochures, registration materials, website information, camper rule agreements, and other materials in order to substantiate that they qualify for the exemption.

Furthermore, a class is taught by a qualified instructor when the instructor has the formal training or sufficient experience to adequately prepare the instructor to teach his or her subject. Therefore, the level of training and experience needed to be a qualified instructor depends on the class being taught. For example, an instructor may need certification by the American Heart Association or Red Cross to be "qualified" to teach CPR or general first aid and a kayaking instructor may need to have years of experience in kayaking and water safety training to be "qualified" to teach kayaking. In general, if the camp determines that an instructor is reasonably qualified to lead a class,

then the camp will have met this requirement of the regulation. However, camps should maintain records that show their instructors' level of training and/or experience related to the area they teach to substantiate that they qualify for the exemption.

Proposed Amendments

Young Life Appeal

On February 24, 2010, the Board conducted an oral hearing regarding a sales and use tax appeal involving the issue of whether the exemption provided by RTC section 6363 and Regulation 1506, subdivision (h) applied to sales of meals at a Young Life camp facility. Therefore, the Board had to decide whether the camp qualified as a school or educational institution because it conducted regularly scheduled classes, with required attendance, in charge of qualified instructors.

The camp did not conduct traditional classes in classrooms. However, the camp established that it was a traditional camp and conducted an educational program with scheduled activities including religious, leadership, and life skills training, and that campers were required to attend scheduled activities which were taught by qualified instructors. Therefore, the Board concluded that the camp qualified as a school or educational institution within the meaning of Regulation 1506, subdivision (h) and that its sales of student meals were exempt from sales and use tax. In addition, the Board referred Regulation 1506, subdivision (h) to its Business Taxes Committee and directed committee staff to work with interested parties to draft clarifying amendments that would help taxpayers and Board staff more easily determine whether camps qualify as schools or educational institutions.

Interested Parties Process

Accordingly, Board staff met with interested parties on May 19, 2010, and July 7, 2010, to discuss potential revisions to Regulation 1506. Board staff also had the opportunity in July to visit a traditional camp, which qualified as an "organized camp" under Health and Safety Code section 18897, to gain a better understanding of how traditional camps currently operate.

During the interested parties process, Board staff determined that the provisions of Regulation 1506, subdivision (h) are intended to apply to traditional camps, similar to those operated by the Young Life organization, YMCA, YWCA, Girl Scouts, Boy Scouts, camps accredited by or affiliated with the American Camp Association, and camps that are approved members of the Christian Camp and Conference Association. Board staff determined that the provisions in Regulation 1506, subdivision (h) are not intended to apply to resorts, other hotel and lodging establishments, or businesses that provide all inclusive outdoor recreation packages outside a traditional camp setting.

During the interested parties process, Board staff concluded that the types of traditional camps that may qualify as schools or educational institutions also qualify as "organized camps," as defined in Health and Safety Code section 18897, subdivision (a), which provides that:

> (a) "Organized camp" means a site with program and facilities established for the primary purposes of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives, for five days[1] or more during one or more seasons of the year.

Board staff also concluded that many of the types of businesses that might seem similar to camps, but which are not traditional camps that are intended to be able to qualify as schools or educational institutions, cannot qualify as "organized camps," as defined in Health and Safety Code section 18897, subdivision (a). This is because the term "does not include a motel, tourist camp, trailer park, resort, hunting camp, auto court, labor camp, penal or correctional camp and does not include a child care institution or home-finding agency. The term 'organized camp' also does not include any charitable or recreational organization that complies with the rules and regulations for recreational trailer parks." (Health & Saf. Code, § 18897, subds. (b) and (c).)

Therefore, Staff recommended that the Board amend the provisions of Regulation 1506, subdivision (h) to require that a camp be an "organized camp" as defined in Health and Safety Code section 18897 to qualify as a school or educational institution and to provide examples of camps that do and do not qualify as schools or educational institutions.

Furthermore, during the interested parties process, Board staff learned that many traditional camps now operate year-round by offering sessions to campers that attend schools that are not on a traditional calendar year and offering camp sessions during the school year. Therefore, Board staff recommended that the Board change the name of subdivision (h) from "summer camps" to "organized camps."

In addition, Board staff recommended restructuring subdivision (h) so that the first sentence becomes paragraph (1) and all of the remaining text becomes paragraph (2). Board staff recommended amending the first sentence in new paragraph (1) so that it applies to "camps," in general, not just "summer camps," and amending new paragraph (2) so that it clearly applies to camps qualifying as schools or educational institutions. Board staff recommended revising the text of the first sentence in new paragraph (2) to make it read more clearly and expressly state that a qualifying "camp's sales of student

[1] The Board interprets this provision to mean that a camp organization meeting the 5-day requirement for one camp session continues to meet the requirement even if it also conducts some shorter camp sessions. That is, staff would evaluate the camp year, rather than any one camp session. For example, a camp offers 5-day outdoor education camps for 6th graders and also provides 3-day outdoor education camps for 4th graders. Because the camp meets the 5-day requirement with the 6th grade camp sessions, the camp is still considered an "organized camp" during the 3-day camp sessions.

meals are not subject to tax." Board staff recommended deleting the second sentence in new paragraph (2) and replacing it with a new sentence that clearly enumerates the requirements a camp must meet in order to qualify as a school or educational institution. Finally, staff recommended that the words "and the tax returned" be deleted from the second to last sentence in Regulation 1506, subdivision (h) because the words are awkward and confusing.

Business Taxes Committee

Board staff incorporated its recommendations into Formal Issue Paper 10-008 and submitted the issue paper to the Board for consideration along with three letters of support from the: California State Alliance of YMCAs and the California Collaboration for Youth; the American Camp Association, Southern California/Hawaii; and the Christian camps in California that are approved members of the National Christian Camp and Conference Association (CCCA). During the Board's Business Taxes Committee meeting on September 15, 2010, the Board determined that staff's recommended amendments were necessary to:

- Clarify that Regulation 1506, subdivision (h)'s exemption for student meals provided by camps that qualify as schools or educational institutions may only apply to traditional camps that qualify as "organized camps" as defined in Health and Safety Code section 18897;
- Provide examples that will help taxpayers and Board staff identify camps that qualify as schools and educational institutions and other types of similar businesses that do not qualify; and
- Revise the current language in the first, second, and fourth sentences in subdivision (h) so that they do not read awkwardly and clearly specify the application of tax.

Therefore, the Board approved staff's recommendations and authorized Board staff to begin the formal rulemaking process to incorporate the recommended amendments into Regulation 1506, subdivision (h), for the specific purposes of clarifying the requirements for a camp to qualify as a school or educational institution and clarifying how tax applies to sales of tangible personal property by camps, including sales of student meals.

There are no comparable federal regulations or statutes to Regulation 1506, subdivision (h).

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the proposed amendments to Regulation 1506, subdivision (h) do not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Board has determined that the proposed amendments to Regulation 1506, subdivision (h) will result in no direct or indirect cost or savings to any state agency, any cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has determined that the proposed amendments to Regulation 1506, subdivision (h) are consistent with the Board's current application of RTC section 6363 and Regulation 1506. The proposed amendments to Regulation 1506, subdivision (h) merely clarify the requirements for a traditional camp to qualify as a school or educational institution, provide examples to help Board staff and taxpayers more easily identify traditional camps that qualify as schools or educational institutions and other types of businesses that do not qualify, and clarify the language explaining the application of tax to camps' sales of tangible personal property, including student meals. Furthermore, the proposed amendments continue to allow traditional camps to qualify as schools or educational institutions that receive the exemption for sales of student meals and do not change the application of sales and use tax to camp's sales of tangible personal property. Therefore, the Board has made an initial determination that the proposed amendments to Regulation 1506, subdivision (h) will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed amendments to Regulation 1506, subdivision (h) may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The Board has determined that the adoption of the proposed amendments to Regulation 1506, subdivision (h) will neither create nor eliminate jobs in the State of

California nor result in the elimination of existing businesses nor create or expand business in the State of California.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

Adoption of the proposed amendments to Regulation 1506, subdivision (h) will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective as and less burdensome to affected private persons than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Bradley M. Heller, Tax, Counsel III (Specialist), by telephone at (916) 323-3091, by e-mail at Bradley.Heller@boe.ca.gov, or by mail at State Board of Equalization, Attn: Bradley M. Heller, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445-2130, by fax at (916) 324-3984 , by e-mail at Richard.Bennion@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rick Bennion, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080.

WRITTEN COMMENT PERIOD

The written comment period ends when the public hearing begins at 10:00 a.m., or as soon thereafter as the matter may be heard, on December 14, 2010. If the Board receives written comments prior to the close of the written comment period, the statements, arguments, and/or contentions contained in those comments will be presented to and considered by the Board before the Board decides whether to adopt the proposed amendments to Regulation 1506, subdivision (h). The Board will only consider written comments received by that time.

October 15, 2010

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an Initial Statement of Reasons and an underscore and strikeout version of Regulation 1506, subdivision (h) illustrating the express terms of the proposed amendments. These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the Initial Statement of Reasons are also available on the Board's Website at www.boe.ca.gov.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

The Board may adopt the proposed amendments to Regulation 1506, subdivision (h) with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the proposed regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the proposed amendments to Regulation 1506, subdivision (h) the Board will prepare a Final Statement of Reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's Website at www.boe.ca.gov.

Sincerely,

Diane G. Olson

Diane G. Olson, Chief
Board Proceedings Division

DGO:reb

Initial Statement of Reasons

Proposed Amendments to California Code of Regulations, Title 18, Section 1506, *Miscellaneous Service Enterprises*

SPECIFIC PURPOSE AND NECESSITY

Current Law

RTC section 6363 provides an exemption from sales and use tax for meals served or furnished to students of a school or educational institution. Regulation 1506, subdivision (h), *Summer Camps*, currently explains that a camp qualifies as a school or educational institution and the exemption for meals served to students, if the camp "conduct[s] regularly scheduled classes, with required attendance, in charge of qualified instructors."

These requirements establish that a camp session must promote an educational program through the conduct of regularly scheduled classes to qualify as a school or educational institution. However, camps may conduct their classes outside a traditional classroom setting and often do. For example, guided nature hikes can teach campers about ecology, conservation, and geology and must be conducted outdoors. In addition, classes in spiritual training or physical education, including, but not limited to, knot tying, archery, marksmanship, swimming, boating, and arts and crafts, are educational. Therefore, all of these types of classes will meet the first requirement of the Regulation 1506, subdivision (h) test if they are regularly scheduled.

Further, camps may allow campers to select the classes they wish to participate in and still have required participation. For example, a camp may allow a camper working on a merit badge for archery to choose to attend classes on range safety and archery practice, and allow a camper working on a hiking badge to attend classes in first aid and wilderness survival and still satisfy the "required attendance" test so long as the camper must attend his or her selected classes. However, a camp will not satisfy the "required attendance" test if it offers a variety of classes and recreational activities, requires campers to attend an orientation on the first day, but otherwise allows campers to choose to attend as many of the scheduled class or activities as they want or choose not to attend any class or activities during the rest of the camp session. In general, most youth camps include activities that qualify as regularly scheduled classes with required attendance, but camps should document that attendance is required in their camp brochures, registration materials, website information, camper rule agreements, and other materials in order to substantiate that they qualify for the exemption.

Furthermore, a class is taught by a qualified instructor when the instructor has the formal training or sufficient experience to adequately prepare the instructor to teach his or her subject. Therefore, the level of training and experience needed to be a qualified instructor depends on the class being taught. For example, an instructor may need certification by the American Heart Association or Red Cross to be "qualified" to teach CPR or general first aid and a kayaking instructor may need to have years of experience in kayaking and water safety training to be "qualified" to teach kayaking. In general, if the camp determines that an instructor is reasonably qualified to lead a class, then the camp will have met this requirement of the regulation. However, camps should maintain records that show their instructors' level of training and/or experience related to the area they teach to substantiate that they qualify for the exemption.

Proposed Amendments

Young Life Appeal

On February 24, 2010, the Board conducted an oral hearing regarding a sales and use tax appeal involving the issue of whether the exemption provided by RTC section 6363 and Regulation 1506, subdivision (h) applied to sales of meals at a Young Life camp facility. Therefore, the Board had to decide whether the camp qualified as a school or educational institution because it conducted regularly scheduled classes, with required attendance, in charge of qualified instructors.

The camp did not conduct traditional classes in classrooms. However, the camp established that it was a traditional camp and conducted an educational program with scheduled activities including religious, leadership, and life skills training, and that campers were required to attend scheduled activities which were taught by qualified instructors. Therefore, the Board concluded that the camp qualified as a school or educational institution within the meaning of Regulation 1506, subdivision (h) and that its sales of student meals were exempt from sales and use tax. In addition, the Board referred Regulation 1506, subdivision (h) to its Business Taxes Committee and directed committee staff to work with interested parties to draft clarifying amendments that would help taxpayers and Board staff more easily determine whether camps qualify as schools or educational institutions.

Interested Parties Process

Accordingly, Board staff met with interested parties on May 19, 2010, and July 7, 2010, to discuss potential revisions to Regulation 1506. Board staff also had the opportunity in July to visit a traditional camp, which qualified as an "organized camp" under Health and Safety Code section 18897, to gain a better understanding of how traditional camps currently operate.

During the interested parties process, Board staff determined that the provisions of Regulation 1506, subdivision (h) are intended to apply to traditional camps, similar to those operated by the Young Life organization, YMCA, YWCA, Girl Scouts, Boy Scouts, camps accredited by or affiliated with the American Camp Association, and camps that are approved members of the Christian Camp and Conference Association. Board staff determined that the provisions in Regulation 1506, subdivision (h) are not intended to apply to resorts, other hotel and lodging establishments, or businesses that provide all inclusive outdoor recreation packages outside a traditional camp setting.

During the interested parties process, Board staff concluded that the types of traditional camps that may qualify as schools or educational institutions also qualify as "organized camps," as defined in Health and Safety Code section 18897, subdivision (a), which provides that:

> (a) "Organized camp" means a site with program and facilities established for the primary purposes of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives, for five days[1] or more during one or more seasons of the year.

Board staff also concluded that many of the types of businesses that might seem similar to camps, but which are not traditional camps that are intended to be able to qualify as schools or educational institutions, cannot qualify as "organized camps," as defined in Health and Safety Code section 18897, subdivision (a). This is because the term "does not include a motel, tourist camp, trailer park, resort, hunting camp, auto court, labor camp, penal or correctional camp and does not include a child care institution or home-finding agency. The term 'organized camp' also does not include any charitable or recreational organization that complies with the rules and regulations for recreational trailer parks." (Health & Saf. Code, § 18897, subds. (b) and (c).)

Therefore, Staff recommended that the Board amend the provisions of Regulation 1506, subdivision (h) to require that a camp be an "organized camp" as defined in Health and Safety Code section 18897 to qualify as a school or educational institution and to provide examples of camps that do and do not qualify as schools or educational institutions.

Furthermore, during the interested parties process, Board staff learned that many traditional camps now operate year-round by offering sessions to campers that

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[1] The Board interprets this provision to mean that a camp organization meeting the 5-day requirement for one camp session continues to meet the requirement even if it also conducts some shorter camp sessions. That is, staff would evaluate the camp year, rather than any one camp session. For example, a camp offers 5-day outdoor education camps for 6th graders and also provides 3-day outdoor education camps for 4th graders. Because the camp meets the 5-day requirement with the 6th grade camp sessions, the camp is still considered an "organized camp" during the 3-day camp sessions.

attend schools that are not on a traditional calendar year and offering camp sessions during the school year. Therefore, Board staff recommended that the Board change the name of subdivision (h) from "summer camps" to "organized camps."

In addition, Board staff recommended restructuring subdivision (h) so that the first sentence becomes paragraph (1) and all of the remaining text becomes paragraph (2). Board staff recommended amending the first sentence in new paragraph (1) so that it applies to "camps," in general, not just "summer camps," and amending new paragraph (2) so that it clearly applies to camps qualifying as schools or educational institutions. Board staff recommended revising the text of the first sentence in new paragraph (2) to make it read more clearly and expressly state that a qualifying "camp's sales of student meals are not subject to tax." Board staff recommended deleting the second sentence in new paragraph (2) and replacing it with a new sentence that clearly enumerates the requirements a camp must meet in order to qualify as a school or educational institution. Finally, staff recommended that the words "and the tax returned" be deleted from the second to last sentence in Regulation 1506, subdivision (h) because the words are awkward and confusing.

Business Taxes Committee

Board staff incorporated its recommendations into Formal Issue Paper 10-008 and submitted the issue paper to the Board for consideration along with three letters of support from the: California State Alliance of YMCAs and the California Collaboration for Youth; the American Camp Association, Southern California/Hawaii; and the Christian camps in California that are approved members of the National Christian Camp and Conference Association (CCCA).[2] During the Board's Business Taxes Committee meeting on September 15, 2010, the Board determined that staff's recommended amendments were necessary to:

- Clarify that Regulation 1506, subdivision (h)'s exemption for student meals provided by camps that qualify as schools or educational institutions may only apply to traditional camps that qualify as "organized camps" as defined in Health and Safety Code section 18897;
- Provide examples that will help taxpayers and Board staff identify camps that qualify as schools and educational institutions and other types of similar businesses that do not qualify; and
- Revise the current language in the first, second, and fourth sentences in subdivision (h) so that they do not read awkwardly and clearly specify the application of tax.

Therefore, the Board approved staff's recommendations and authorized Board staff to begin the formal rulemaking process to incorporate the recommended

[2] The three letters of support were included in exhibit 5 to Formal Issue Paper 10-008.

amendments into Regulation 1506, subdivision (h), for the specific purposes of clarifying the requirements for a camp to qualify as a school or educational institution and clarifying how tax applies to sales of tangible personal property by camps, including sales of student meals.

DOCUMENTS RELIED UPON

The Board relied upon Formal Issue Paper 10-008 and the exhibits to the issue paper, including the three letters of support included in exhibit 5, in deciding to propose the amendments to Regulation 1506, subdivision (h). The Board also relied upon comments made by Board staff and Catherine Barankin, Director of Public Policy for the California Alliance of YMCAs, during the Business Taxes Committee meeting on September 15, 2010.

ALTERNATIVES CONSIDERED

The Board considered whether or not to take any action to clarify Regulation 1506, subdivision (h) during the Business Taxes Committee meeting on September 15, 2010, but did not consider any alternative language to the proposed amendments to Regulation 1506. Neither Board staff nor the interested parties submitted any alternative language for the amendments to Regulation 1506, subdivision (h) to the Board for consideration, and, as a result, the Board did not reject any reasonable alternatives to the proposed amendments.

NO ADVERSE ECONOMIC IMPACT ON BUSINESS

The Board has determined that the proposed amendments to Regulation 1506, subdivision (h) are consistent with the Board's current application of RTC section 6363 and Regulation 1506, subdivision (h). The proposed amendments to Regulation 1506, subdivision (h) merely clarify the requirements for a traditional camp to qualify as a school or educational institution, provide examples to help Board staff and taxpayers more easily identify traditional camps that qualify as schools or educational institutions and other types of businesses that do not qualify, and clarify the language explaining the application of tax to camps' sales of tangible personal property, including student meals. Furthermore, the proposed amendments continue to allow traditional camps to qualify as schools or educational institutions that receive the exemption for sales of student meals and do not change the application of sales and use tax to camp's sales of tangible personal property. Therefore, the Board has made an initial determination that the proposed amendments to Regulation 1506, subdivision (h) will not have a significant adverse economic impact on business.

The proposed regulation may affect small business.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1506

Section 1506. Miscellaneous Service Enterprises.

(a) Licensed Architects.

(1) In General. Fees paid to licensed architects for their ability to design, conceive or communicate ideas, concepts, designs, and specifications are not subject to tax. Any plans, specifications, renderings or models or other instruments of service provided by a licensed architect under a licensed architect's contract or commission are integral to the licensed architect's services and are not subject to tax. The licensed architect is the consumer of any tangible personal property, including plans, specifications, renderings or models, used or transferred in the performance of professional services notwithstanding the fact that a fee may be added to the cost of the property and separately stated on a billing to the customer. If after the completion of the contract or commission the licensed architect provides additional copies of the original plans or specifications, or any models or renderings of an existing structure, the architect is regarded as making a sale of such copies, models or renderings.

(2) Licensed Architect. A "licensed architect" is defined under the Business and Professions Code Chapter 3, Division 3, Section 5500 as follows:

"As used in this chapter, architect means a person who is licensed to practice architecture in this state under the authority of this chapter."

A licensed architect preparing or being in responsible control of plans, specifications, and instruments of service is required to affix to those plans, specifications, and instruments of service their stamp or seal which bears the licensee's name, his or her license number, the legend "Licensed Architect" and the legend "State of California," and which shall provide a means of indicating the renewal date of the license.

(3) Architectural Perspectivists and Modelers. Architectural perspectivists do not act as "licensed architects." Architectural perspectivists are the retailers of renderings, prints and drawings they provide to architects or other consumers and tax applies to their entire charge for such items. Modelers do not act as "licensed architects." Modelers are the retailers of models they provide to architects or other consumers, and tax applies to their entire charge for such items.

(4) Licensed architects who produce renderings, prints, drawings or models pursuant to a contract that includes professional architectural services are not retailers of the renderings, prints, drawings or models they provide pursuant to that contract for architectural services. Tax does not apply to their charge for such items.

(b) Barbers, Beauty Shop Operators, and Shoe Polishers. Barbers, beauty shop operators, and shoe polishers are the consumers of the supplies and other property used in performing their services, and tax applies with respect to the sale to them of the supplies

and other property. They are retailers, however, of supplies, used articles, or other tangible personal property, which they sell to customers in the regular course of business, and tax applies to the gross receipts from such sales.

(c) Clothes Cleaners and Dyers

(1) Clothes Cleaning - In General. Persons who provide clothes-cleaning services are consumers of the supplies and other materials used in performing their cleaning services, and tax applies to the sale to them of the supplies and other materials and not to their charges for such services.

(2) Rentals. Clothes cleaners are the consumers of linen supplies and similar articles, including towels, uniforms, coveralls, shop coats, dust cloths, and similar items, rented to others when an essential part of the rental contract is the furnishing of the recurring service of laundering or cleaning of the articles rented, and tax applies with respect to the sale to them of such articles.

(3) Clothes Dyeing - In General. Persons who provide dyeing services are retailers, not consumers, when their charges are for the dyeing of new fabrics, garments, or other such items and tax applies to their gross receipts from such sales. Persons who dye new items are required to hold a seller's permit.

Dyers are consumers of the supplies and other materials used in dyeing used fabrics, garments, or other such items and tax applies to the sale to them of the supplies and other materials and not to their charges for their dyeing services.

(4) Alteration of Garments - In General. For the purposes of this subdivision (c), alteration of garments means and includes any work performed upon new or used men's, women's and children's clothing to meet the requirements of the customer whether the work involves the addition of material to the garment, removal of material, refitting, or repairing. Alteration of garments does not mean or include the process of dyeing garments. Alteration of garments also does not mean or include work performed upon new or used personal and household items such as handbags, stuffed animals, bedding, and draperies. The application of tax to a clothes cleaner's or a dyer's charges for the alteration of personal or household items is explained in Regulation 1524.

(A) Alteration of Garments by Clothes Cleaning or Dyeing Establishments. A clothes cleaning or dyeing establishment, including wet cleaners (e.g., launderers) and dry cleaners, means and includes a clothes cleaner or dyer who (1) operates a location or locations as a pickup and delivery point for garment cleaning, or (2) provides spotting and pressing services on the premises, but not garment cleaning, or (3) operates a garment cleaning or dyeing plant on the premises.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1506

A clothes cleaner or dyeing establishment described above is the consumer of property used or furnished in the alteration of new or used garments provided that:

1. Seventy-five percent (75%) or more of the establishment's total gross receipts represent charges for garment cleaning or dyeing services, and

2. No more than twenty percent (20%) of the establishment's total gross receipts during the preceding calendar year were from the alteration of garments.

If a clothes cleaner or dyer is not an establishment as described or does not meet the requirements of this paragraph (A), tax applies to the clothes cleaner's or the dyer's charges for the alteration of garments as explained in Regulation 1524.

(B) Alteration of Garments by a Third Party. When a clothes cleaner or dyer who meets the requirements of subdivision (c)(4)(A) contracts with a third party such as a tailor for the alteration of garments instead of performing such alterations itself, the clothes cleaner or dyer is a consumer, not a retailer, of the alterations provided by the third party and may not issue a resale certificate to the third party for such alterations. Tax applies to the third party's charges to the clothes cleaner or dyer for such alterations as explained in Regulation 1524.

(5) Miscellaneous Sale of Items. Clothes cleaners and dyers, whether or not they meet the requirements of subdivision (c)(4)(A), are retailers of any supplies, used items, or other tangible personal property such as lint brushes, abandoned garments, wood hangers, or novelty items, which they sell to customers in the regular course of business, and tax applies to the gross receipts from such sales. As retailers of tangible personal property, such persons are required to hold a seller's permit.

(d) Circulating Libraries. When circulating libraries, which are engaged in the business of renting books to others, pay tax measured by the purchase price of such books either to the person from whom the books are purchased or to the board, tax does not apply to the amount charged for the rental of such books. Such libraries are retailers of new or used books which they sell to consumers in the regular course of business, and tax applies to the gross receipts from such sales.

(e) Dentists and Dental Laboratories. Dentists are consumers of the materials, supplies, dental laboratory products and other tangible personal property which they use in performing their services. Tax, accordingly, applies to the sale of the tangible personal property to them.

Dental laboratories are the retailers of the plates, inlays and other products which they manufacture for dentists or other consumers. Tax applies to their entire charges for such products regardless of whether a separate charge or billing is made for materials and manufacturing services.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1506

(f) Gun Clubs. Gun clubs are consumers, not retailers, of clay pigeons or blue rocks furnished to members or patrons in connection with trapshooting or similar sports even though the charge for the service is measured by the number of clay pigeons or blue rocks used. The tax applies with respect to the sale of such property to the clubs.

(g) Licensed Hearing Aid Dispensers. Persons licensed as hearing aid dispensers by the Department of Consumer Affairs, Hearing Aid Dispensers Examining Committee, are consumers of hearing aids furnished or sold by them. The term "hearing aid" includes any necessary accessory or component part of the hearing aid which is fully worn on the body of the user such as cords, connector tubing, ear molds, or batteries, whether the part is sold or furnished separately or in conjunction with the hearing aid. The term also includes replacement and repair parts. Tax applies with respect to the sale of such products to licensed hearing aid dispensers.

Tax applies to the retail sale of such products by persons who are not licensed hearing aid dispensers.

(h) ~~Summer~~Organized Camps.

(1) Camps in General. The tax applies to gross receipts from the sale of meals or other tangible personal property at ~~summer~~ camps, whether operated by municipal or private corporations, or other parties.

(2) Camps Qualifying as Schools or Educational Institutions. When a camp qualifies as a school or educational institution, the camp's sales of student meals are not subject to tax~~, with respect to meals, applies in the same manner as to schools and educational institutions~~. ~~To qualify as a school or educational institution for purposes of this regulation, the camp must conduct regularly scheduled classes, with required attendance, in charge of qualified instructors.~~If a camp meets all of the following conditions, the camp will qualify as a school or educational institution for purposes of this regulation:

(A) The camp conducts regularly scheduled classes,
(B) Students are required to attend the classes,
(C) Qualified instructors are in charge of the classes, and
(D) The camp is an "organized camp" as defined in California Health and Safety Code section 18897.

An example of a camp that qualifies as a school or education institution includes, but is not limited to the following: A camp offers a session where campers have a schedule of daily activities they are required to attend. These activities include team-building exercises, guided nature hikes, and wilderness survival techniques. The activities are led by staff that the camp determined to have sufficient training and experience to lead the activities.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1506

An example of a camp that does not qualify as a school or educational institution includes, but is not limited to the following: A camp offers a session that includes activities that are regularly scheduled. Participants are required to attend a camp orientation on the first day, but during the rest of the camp they can attend as many of the scheduled activities as they want, or they can elect to attend no activities.

If a single charge is made for all of the privileges extended by the camp, a segregation must be made ~~and the tax returned~~ on that portion of the total charge representing taxable receipts from the sale of meals or other tangible personal property. In the absence of such a segregation, the taxable receipts from the sale of meals or other tangible personal property shall be determined by the board based on information available to it.

(i) Taxidermists. Taxidermists are consumers of the materials used in repairing, stuffing and mounting skins, heads, etc., of animals, birds, fish, and the like furnished by their customers, and tax applies with respect to the sale of such property to them. If, however, a separate charge for such property is made on the invoices to the customers at the fair retail selling price, the taxidermist is the retailer of the property and tax applies to such separate charge.

Tax applies to retail sales by taxidermists of skins, heads, mountings or other tangible personal property.

(j) Licensed Veterinarians.

(1) Definitions. As used herein:

(A) The term "licensed veterinarian" means any person licensed as a veterinarian by the California Department of Consumer Affairs, Board of Examiners in Veterinary Medicine.

(B) The term "drugs and medicines" includes substances or preparations intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals and which is commonly recognized as a substance or preparation intended for this use. The term includes legend drugs, pills and capsules (other than vitamins), liquid medications, injected drugs, ointments, vaccines, intravenous fluids, and medicated soaps if those soaps are available only to veterinarians. The term does not include vitamins, shampoos, pet foods, prescription diet foods, artificial diets, flea powders, and flea sprays.

(C) The term "professional services" includes the diagnosis and treatment of disease or trauma in animal life. It also includes the administration of drugs and medicines by means of, for example, injection, intravenous solution, or oral or bodily application.

(2) Application of Tax.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1506

(A) Licensed veterinarians are consumers of drugs and medicines which they use or furnish in the performance of their professional services. Accordingly, tax does not apply to a licensed veterinarian's charges to clients for such drugs and medicines, whether or not separately stated. Licensed veterinarians are also consumers of tangible personal property, other than drugs and medicines, which they use or which they furnish to clients without a separately stated charge. Tax applies to the sale of such drugs, medicines and other items to licensed veterinarians except:

1. Operative April 1, 1996, drugs or medicines which are purchased to be administered to animal life as an additive to feed or drinking water of food animals (as defined in Regulation 1587 (18 CCR 1587), "Animal Life, Feed, Drugs and Medicines") or of non-food animals which are being held for sale in the regular course of business, and the primary purpose of the drugs or medicines is the prevention and control of disease, or

2. Operative January 1, 1997, drugs or medicines which are purchased to be administered directly (e.g., orally, by injection, or by application to the body) to food animals and the primary purpose of the drugs or medicines is the prevention or control of disease of the food animals. Veterinarians remain consumers of drugs and medicines administered directly to non-food animals.

(B) Licensed veterinarians are retailers of drugs and medicines which they furnish for a consideration without performing specific related professional services. Licensed veterinarians are also retailers of tangible personal property, other than drugs and medicines, which they furnish to clients for a separately stated charge. Unless otherwise exempt, tax applies to charges made by licensed veterinarians to clients for such drugs, medicines and other items. See Regulation 1587 (18 CCR 1587), "Animal Life, Feed, Drugs and Medicines" for exemption for sales of feed, drugs, or medicines for certain animals. Tax applies to separately stated charges made for X-rays if the X-rays are delivered to clients.

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Sections 6006, 6007, 6015, 6018.1, 6018.7, 6358, 6358.4 and 6363, Revenue and Taxation Code.

Regulation History

Type of Regulation: Sales and Use Tax

Regulation: 1506

Title: 1506, *Miscellaneous Service Enterprises*

Preparation: Brad Heller
Legal Contact: Brad Heller

Board proposes to adopt Regulation 1506, *Miscellaneous Service Enterprises*, for the specific purpose of clarifying the application of tax to sales of meals at camps.

History of Proposed Regulation:

October 15, 2010	OAL publication date; 45-day public comment period begins; Interested Parties mailing
October 4, 2010	Notice to OAL
September 15, 2010	Business Tax Committee, Board Authorized Publication (vote 5 - 0)

Sponsor:	NA
Support:	NA
Oppose:	NA