

Regulation 1802

Section 100

Complete Rule Making File

OAL Approval with Approved Text Regulation 1802

Index

1. *Form 400 and Proposed Regulation 1802*
2. *Statement of Explanation*

Other Documents Relied upon

- A. *Chief Counsel Memo Dated 05/01/14*
- B. *Draft Minutes, 05/22/14*
- C. *Reporters Transcript, 05/22/14*

OFFICE OF ADMINISTRATIVE LAW

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



DEBRA M. CORNEZ
Director

MEMORANDUM

TO: Richard Bennion
FROM: OAL Front Desk *LW*
DATE: 8/1/2014
RE: Return of Approved Rulemaking Materials
OAL File No. 2014-0630-01N

OAL hereby returns this file your agency submitted for our review (OAL File No. 2014-0630-01N regarding Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales).

Enclosures 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 regulation is specified on the Form 400 (see item B.5). **Beginning January 1, 2013**, unless an exemption applies, Government Code section 11343.4 states the effective date of an approved regulation is determined by the date the regulation is filed with the Secretary of State (see the date the Form 400 was stamped “ENDORSED FILED” by the Secretary of State) as follows:

- (1) **January 1** if the regulation or order of repeal is filed on September 1 to November 30, inclusive.
- (2) **April 1** if the regulation or order of repeal is filed on December 1 to February 29, inclusive.
- (3) **July 1** if the regulation or order of repeal is filed on March 1 to May 31, inclusive.
- (4) **October 1** if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

If an exemption applies concerning the effective date of the regulation approved in this file, then it will be specified on the Form 400. The Notice of Approval that OAL sends to the state agency will contain the effective date of the regulation. The history note that will appear at the end of the regulation section in the California Code of Regulations will also include the regulation’s effective date. Additionally, the effective date of the regulation will be noted on OAL’s Web site once OAL posts the Internet Web site link to the full text of the regulation that is received from the state agency. (Gov. Code, secs. 11343 and 11344.)

Please note this new requirement: Unless an exemption applies, Government Code section 11343 now requires:

1. **Section 11343(c)(1):** Within 15 days of OAL filing a state agency’s regulation with the Secretary of State, the state agency is required to post the regulation on its Internet Web site in an easily marked and identifiable location. The state agency shall keep the regulation posted on its Internet Web site for at least six months from the date the regulation is filed with the Secretary of State.
2. **Section 11343(c)(2):** Within five (5) days of posting its regulation on its Internet Web site, the state agency shall send to OAL the Internet Web site link of each regulation that the agency posts on its Internet Web site pursuant to section 11343(c)(1).

OAL has established an email address for state agencies to send the Internet Web site link to for each regulation the agency posts. Please send the Internet Web site link for each regulation posted to OAL at postedregslink@oal.ca.gov.

NOTE ABOUT EXEMPTIONS. Posting and linking requirements do not apply to emergency regulations; regulations adopted by FPPC or Conflict of Interest regulations approved by FPPC; and regulations not subject to OAL/APA review. However, an exempt agency may choose to comply with these requirements, and OAL will post the information accordingly.

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 State 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

RECEIVED

AUG 01 2014

State of California
Office of Administrative Law by EXECUTIVE DIRECTOR'S OFFICE
STATE BOARD OF EQUALIZATION

In re:

Board of Equalization

Regulatory Action:

Title 18, California Code of Regulations

Adopt sections:

Amend sections: 1802

Repeal sections:

NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT

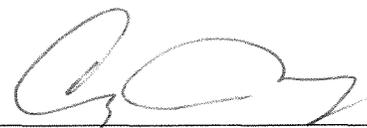
California Code of Regulations, Title 1,
Section 100

OAL File No. 2014-0630-01 N

The State Board of Equalization (Board) proposed to amend subdivision (d) of section 1802 of title 18 of the California Code of Regulations to change two cross-references made to subdivision (c) of section 1684 of title 18. On September 15, 2012, section 1684 of title 18 was amended by the Board. As part of those amendments, subdivision (c) of section 1684 was renumbered to subdivision (e). This filing changes the cross-references made in subdivision (d) of section 1802 to subdivision (e) of section 1684 and is submitted to the Office of Administrative Law pursuant to section 100 of title 1 of the California Code of Regulations as a change without regulatory effect.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

Date: 7/31/2014



Craig S. Tarpenning
Assistant Chief Counsel

For: DEBRA M. CORNEZ
Director

Original: Cynthia Bridges
Copy: Richard Bennion

NOTICE PUBLICATION/REGULATORY SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	2014-0630-01N	

ENDORSED FILED
IN THE OFFICE OF

2014 JUL 31 PM 2:08

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

For use by Office of Administrative Law (OAL) only

2014 JUN 30 AM 8:14
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
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sal	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)	ADOPT
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	AMEND 1802
TITLE(S) 18	REPEAL

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> 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.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

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)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
-----------------------------------------------------------------------------------------------------	----------------------------------------------------------------------	----------------------------------------------------------------------------	----------------------------------------------------------

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

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Richard E. Bennion	TELEPHONE NUMBER (916) 445-2130	FAX NUMBER (Optional) (916) 324-3984	E-MAIL ADDRESS (Optional) 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 <i>Joann Richmond</i>	DATE June 27, 2014
TYPED NAME AND TITLE OF SIGNATORY Joann Richmond, Chief, Board Proceedings Division	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUL 31 2014

Office of Administrative Law

Text of Proposed Changes to

Title 18. Public Revenue

1802. Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes.

(a) In General.

(1) . . . (unchanged).

(2) Retailers Having More Than One Place of Business.

(A) . . . (unchanged).

(B) . . . (unchanged).

(3) Place of Passage of Title Immaterial. . . . (unchanged).

(b) Place of Sale in Specific Instances.

(1) Vending Machine Operators. . . . (unchanged).

(2) Itinerant Merchants. . . . (unchanged).

(3) Retailers Under Section 6015. . . . (unchanged):

(A) . . . (unchanged), or

(B) . . . (unchanged).

(4) Auctioneers. . . . (unchanged).

(5) Factory-built School Buildings. . . . (unchanged).

(6) Jet Fuel.

(A) . . . (unchanged):

1. . . . (unchanged); and

2. . . . (unchanged).

(B) . . . (unchanged).

(C) . . . (unchanged).

(D) Multi-Jurisdictional Airports. . . . (unchanged):

Text of Proposed Changes to

Title 18. Public Revenue

1. . . . (unchanged).

2. . . . (unchanged).

3. . . . (unchanged):

a. . . . (unchanged).

b. . . . (unchanged):

c. . . . (unchanged).

d. . . . (unchanged).

(E) . . . (unchanged).

(c) Transactions Negotiated Out of State and Delivered from the Retailer's Stock of Tangible Personal Property in California.

(1) . . . (unchanged).

(2) . . . (unchanged).

(d) Allocation of Sales Tax and Application of Use Tax. . . . (unchanged).

(1) Direct Reporting By Retailers. Operative July 1, 1996, for transactions of \$500,000 or more, except with respect to persons who register with the Board to collect use tax under Regulation 1684(ee) (18 CCR 1684), the seller shall report the local use tax revenues derived therefrom directly to the participating jurisdiction where the first functional use is made. Persons who voluntarily collect use tax under Regulation 1684(ee) may, solely at their own discretion, report the local use tax revenues on transactions of \$500,000 or more directly to the participating jurisdiction where first functional use is made.

(2) . . . (unchanged).

Note: Authority cited: Sections 7051 and 7205, Revenue and Taxation Code. Reference: Sections 6012.6, 6015, 6359, 6359.45, 7202, 7203, 7203.1, 7204.03 and 7205, Revenue and Taxation Code.

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

Statement of Explanation

Title 18. Public Revenues

Regulation 1802, *Place of Sale and Use for Purposes of
Bradley-Burns Uniform Local Sales and Use Taxes*

A. Factual Basis

Subdivision (d) of California Code of Regulations, title 18, section (Regulation) 1802, *Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes*, was last amended in 2008. As relevant here, subdivision (d)(1) of Regulation 1802, as amended in 2008, contains two cross-references to the provisions in subdivision (c) of Regulation 1684, *Collection of Use Tax by Retailers*, permitting out-of-state retailers that are not “engaged in business in California” to voluntarily apply (or register) for a *Certificate of Registration – Use Tax* to collect California use tax.

During 2012, the State Board of Equalization (Board) adopted amendments adding new subdivisions (b) and (c) to Regulation 1684 and renumbering Regulation 1684, subdivision (c) (referred to above), as subdivision (e). As a result, Regulation 1802, subdivision (d)(1), currently incorrectly cross-references Regulation 1684, subdivision (c), instead of correctly cross-referencing Regulation 1684, subdivision (e), in two places, and the Board proposes to correct both cross references so that they refer to Regulation 1684, subdivision (e), under California Code of Regulations, title 1, section (Rule) 100. The Board has determined that the proposed changes are appropriate for processing under Rule 100 because the changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision and Rule 100, subdivision (a)(4), specifically provides that revising a cross-reference is a change without regulatory effect.

B. Proposed Changes

The following Rule 100 changes are proposed to Regulation 1802, subdivision (d)(1):

TEXT OF PROPOSED CHANGES

1802. Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes.

(a) In General.

(1) . . . (unchanged).

(2) Retailers Having More Than One Place of Business.

(A) . . . (unchanged).

(B) . . . (unchanged).

(3) Place of Passage of Title Immaterial. . . . (unchanged).

(b) Place of Sale in Specific Instances.

(1) Vending Machine Operators. . . . (unchanged).

(2) Itinerant Merchants. . . . (unchanged).

(3) Retailers Under Section 6015. . . . (unchanged):

(A) . . . (unchanged), or

(B) . . . (unchanged).

(4) Auctioneers. . . . (unchanged).

(5) Factory-built School Buildings. . . . (unchanged).

(6) Jet Fuel.

(A) . . . (unchanged):

1. . . . (unchanged); and

2. . . . (unchanged).

(B) . . . (unchanged).

(C) . . . (unchanged).

(D) Multi-Jurisdictional Airports. . . . (unchanged):

1. . . . (unchanged).

2. . . . (unchanged).

3. . . . (unchanged):

a. . . . (unchanged).

b. . . . (unchanged):

c. . . . (unchanged).

d. . . . (unchanged).

(E) . . . (unchanged).

(c) Transactions Negotiated Out of State and Delivered from the Retailer's Stock of Tangible Personal Property in California.

(1) . . . (unchanged).

(2) . . . (unchanged).

(d) Allocation of Sales Tax and Application of Use Tax. . . . (unchanged).

(1) Direct Reporting By Retailers. Operative July 1, 1996, for transactions of \$500,000 or more, except with respect to persons who register with the Board to collect use tax under Regulation 1684(ee) (18 CCR 1684), the seller shall report the local use tax revenues derived therefrom directly to the participating jurisdiction where the first functional use is made. Persons who voluntarily collect use tax under Regulation 1684(ee) may, solely at their own discretion, report the local use tax revenues on transactions of \$500,000 or more directly to the participating jurisdiction where first functional use is made.

(2) . . . (unchanged).

Note: Authority cited: Sections 7051 and 7205, Revenue and Taxation Code. Reference: Sections 6012.6, 6015, 6359, 6359.45, 7202, 7203, 7203.1, 7204.03 and 7205, Revenue and Taxation Code.

ADDITION OF BEHAVIORAL HEALTH
TREATMENT (BHT) SERVICES

The State of California intends to provide BHT services as a covered Medi-Cal benefit for individuals under 21 years of age with autism spectrum disorder to the extent required by the federal government and effective no sooner than required by the federal government. DHCS will seek approval to provide BHT as it is defined by Section 1374.73 of the Health and Safety Code.

Pursuant to Section 14132.56 of the W&I Code, DHCS is required to perform the following in development of the benefit:

- (1) Obtain all necessary federal approvals to secure federal funds for the provision of BHT in Medi-Cal.
- (2) Seek statutory authority to implement the new benefit in Medi-Cal
- (3) Seek an appropriation that would provide the necessary state funding estimated to be required for the applicable fiscal year.
- (4) Consult with stakeholders.

In consultation with stakeholders, the department will develop and define eligibility criteria, provider participation criteria, utilization controls, and the delivery system for BHT services, subject to the limitations allowed under federal law. DHCS may enter into exclusive or nonexclusive contracts on a bid or negotiated basis, including contracts for the purpose of obtaining subject matter expertise or other technical assistance in implementing BHT services. Contracts may be state-wide or on a more limited geographic basis.

DHCS will make any SPA or waiver request public at least 30 days prior to submitting to the federal CMS, and will work with stakeholders to address public comments submitted. The addition of BHT will only be implemented to the extent that federal financial participation is available and any necessary federal approvals are obtained.

PUBLIC REVIEW AND COMMENT

The first stakeholder meeting is scheduled on August 29, 2014 from 3:00 p.m. to 4:30 p.m. at 1500 Capitol Ave, Sacramento CA 95814, in the Auditorium. Monthly Stakeholder meetings will be scheduled thereafter.

The California statutes discussed above for BHT services are available online at www.leginfo.ca.gov. Interested parties may submit written comments to: ABAinfo@dhcs.ca.gov.

All written comments must be received by September 29, 2014.

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2014-0630-01

BOARD OF EQUALIZATION

Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales

The State Board of Equalization (Board) amended subdivision (d) of section 1802 of title 18 of the California Code of Regulations to change two cross-references made to subdivision (c) of section 1684 of title 18. On September 15, 2012, section 1684 of title 18 was amended by the Board. As part of those amendments, subdivision (c) of section 1684 was renumbered to subdivision (e). This filing changes the cross-references made in subdivision (d) of section 1802 to subdivision (e) of section 1684 and is submitted to the Office of Administrative Law pursuant to section 100 of title 1 of the California Code of Regulations as a change without regulatory effect.

Title 18

California Code of Regulations

AMEND: 1802

Filed 07/31/2014

Agency Contact:

Richard E. Bennion

(916) 445-2130

File# 2014-0617-04

BOARD OF OCCUPATIONAL THERAPY

Standards Related to Denial, Discipline & Reinstatement of License

This rulemaking action amends and adopts sections in Title 16 of the California Code of Regulations to expedite the processing of administrative hearings in discipline matters involving licensees of the Board of Occupational Therapy (hereafter "Board"). The amendments authorize the Executive Officer to grant, for good cause, motions to vacate license revocation decisions based on defaults. The action establishes 10 days as the time for the effectiveness of default decisions and settlement agreements. The action also incorporates by reference the most recent versions of the Board's Disci-

Regulation 1802

Section 100

Index

1. *Form 400 and Proposed Regulation 1802*
2. *Statement of Explanation*

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
Z-		2014-0630-01N	
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

2014 JUN 30 AM 8:12

OFFICE OF
ADMINISTRATIVE LAW

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 <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sal	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 1802
TITLE(S) 18	REPEAL
3. TYPE OF FILING	
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> 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.
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
	<input type="checkbox"/> File & Print
	<input type="checkbox"/> Other (Specify) _____
	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
	<input type="checkbox"/> 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)	
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State
	<input checked="" type="checkbox"/> \$100 Changes Without Regulatory Effect
	<input type="checkbox"/> Effective other (Specify) _____
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY	
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission
<input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> State Fire Marshal
7. CONTACT PERSON Richard E. Bennion	TELEPHONE NUMBER (916) 445-2130
FAX NUMBER (Optional) (916) 324-3984	E-MAIL ADDRESS (Optional) 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.

For use by Office of Administrative Law (OAL) only

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE June 27, 2014
TYPED NAME AND TITLE OF SIGNATORY Joann Richmond, Chief, Board Proceedings Division	

Text of Proposed Changes to

Title 18. Public Revenue

1802. Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes.

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1. . . . (unchanged); and

2. . . . (unchanged).

(B) . . . (unchanged).

(C) . . . (unchanged).

(D) Multi-Jurisdictional Airports. . . . (unchanged):

Text of Proposed Changes to

Title 18. Public Revenue

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2. . . . (unchanged).

3. . . . (unchanged):

a. . . . (unchanged).

b. . . . (unchanged):

c. . . . (unchanged).

d. . . . (unchanged).

(E) . . . (unchanged).

(c) Transactions Negotiated Out of State and Delivered from the Retailer's Stock of Tangible Personal Property in California.

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Note: Authority cited: Sections 7051 and 7205, Revenue and Taxation Code. Reference: Sections 6012.6, 6015, 6359, 6359.45, 7202, 7203, 7203.1, 7204.03 and 7205, Revenue and Taxation Code.

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

Statement of Explanation

Title 18. Public Revenues

Regulation 1802, *Place of Sale and Use for Purposes of
Bradley-Burns Uniform Local Sales and Use Taxes*

A. Factual Basis

Subdivision (d) of California Code of Regulations, title 18, section (Regulation) 1802, *Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes*, was last amended in 2008. As relevant here, subdivision (d)(1) of Regulation 1802, as amended in 2008, contains two cross-references to the provisions in subdivision (c) of Regulation 1684, *Collection of Use Tax by Retailers*, permitting out-of-state retailers that are not “engaged in business in California” to voluntarily apply (or register) for a *Certificate of Registration – Use Tax* to collect California use tax.

During 2012, the State Board of Equalization (Board) adopted amendments adding new subdivisions (b) and (c) to Regulation 1684 and renumbering Regulation 1684, subdivision (c) (referred to above), as subdivision (e). As a result, Regulation 1802, subdivision (d)(1), currently incorrectly cross-references Regulation 1684, subdivision (c), instead of correctly cross-referencing Regulation 1684, subdivision (e), in two places, and the Board proposes to correct both cross references so that they refer to Regulation 1684, subdivision (e), under California Code of Regulations, title 1, section (Rule) 100. The Board has determined that the proposed changes are appropriate for processing under Rule 100 because the changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision and Rule 100, subdivision (a)(4), specifically provides that revising a cross-reference is a change without regulatory effect.

B. Proposed Changes

The following Rule 100 changes are proposed to Regulation 1802, subdivision (d)(1):

TEXT OF PROPOSED CHANGES

1802. Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes.

(a) In General.

(1) . . . (unchanged).

(2) Retailers Having More Than One Place of Business.

(A) . . . (unchanged).

(B) . . . (unchanged).

(3) Place of Passage of Title Immaterial. . . . (unchanged).

(b) Place of Sale in Specific Instances.

(1) Vending Machine Operators. . . . (unchanged).

(2) Itinerant Merchants. . . . (unchanged).

(3) Retailers Under Section 6015. . . . (unchanged):

(A) . . . (unchanged), or

(B) . . . (unchanged).

(4) Auctioneers. . . . (unchanged).

(5) Factory-built School Buildings. . . . (unchanged).

(6) Jet Fuel.

(A) . . . (unchanged):

1. . . . (unchanged); and

2. . . . (unchanged).

(B) . . . (unchanged).

(C) . . . (unchanged).

(D) Multi-Jurisdictional Airports. . . . (unchanged):

1. . . . (unchanged).

2. . . . (unchanged).

3. . . . (unchanged):

a. . . . (unchanged).

b. . . . (unchanged):

c. . . . (unchanged).

d. . . . (unchanged).

(E) . . . (unchanged).

(c) Transactions Negotiated Out of State and Delivered from the Retailer's Stock of Tangible Personal Property in California.

(1) . . . (unchanged).

(2) . . . (unchanged).

(d) Allocation of Sales Tax and Application of Use Tax. . . . (unchanged).

(1) Direct Reporting By Retailers. Operative July 1, 1996, for transactions of \$500,000 or more, except with respect to persons who register with the Board to collect use tax under Regulation 1684(ee) (18 CCR 1684), the seller shall report the local use tax revenues derived therefrom directly to the participating jurisdiction where the first functional use is made. Persons who voluntarily collect use tax under Regulation 1684(ee) may, solely at their own discretion, report the local use tax revenues on transactions of \$500,000 or more directly to the participating jurisdiction where first functional use is made.

(2) . . . (unchanged).

Note: Authority cited: Sections 7051 and 7205, Revenue and Taxation Code. Reference: Sections 6012.6, 6015, 6359, 6359.45, 7202, 7203, 7203.1, 7204.03 and 7205, Revenue and Taxation Code.

Memorandum

To : Ms. Cynthia Bridges
Executive Director (MIC 73)

Date: May 01, 2014

From : Randy Ferris, Chief Counsel 
Legal Department (MIC 83)

Subject : **Board Meeting, May 22-23, 2014**
Item J - Chief Counsel's Rulemaking Calendar
Regulation 1802, *Place of Sale and Use for Purposes*
of Bradley-Burns Uniform Local Sales and Use Taxes

We request your approval to place proposed changes to Sales and Use Tax Regulation 1802, *Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes*, on the Chief Counsel's Rulemaking Calendar for the May 22-23, 2014, Board meeting. The proposed non-substantive changes to Regulation 1802, subdivision (d)(1) update two cross references to subdivision (c) of Sales and Use Tax Regulation 1684, "*Collection of Use Tax by Retailers*," which should now refer to Regulation 1684, subdivision (e), because subdivision (c) of Regulation 1684 was renumbered as subdivision (e), as part of the 2012 amendments implementing, interpreting, and making specific Revenue and Taxation Code section 6203, as re-enacted by Statutes 2011, chapter 313 (Assem. Bill No. 155).

We will request the Board's authorization to make the changes to update the cross references in Sales and Use Tax Regulation 1802 under California Code of Regulations, title 1, section (Rule) 100, without the normal notice and public hearing process. The changes are appropriate for processing under Rule 100 because they make the regulation consistent with the 2012 amendments to Regulation 1684, and do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Attached is a strikeout and underlined version of the regulation illustrating the proposed changes.

If you have any questions regarding this request, please let me know or contact Mr. Bradley Heller at 916-323-3091.

Item J
May 22-23, 2014

Recommendation by:

Approved:


Randy Ferris, Chief Counsel


Cynthia Bridges, Executive Director

Approved:

BOARD APPROVED

At the 5/22/14 Board Meeting

Jeffrey L. McGuire, Deputy Director
Sales and Use Tax Department


Joann Richmond, Chief
Board Proceedings Division

Attachments

cc: Mr. Jeffrey L. McGuire MIC: 43
Ms. Joann Richmond MIC: 80
Mr. Robert Tucker MIC: 82
Ms. Susanne Buehler MIC: 92
Mr. Bradley M. Heller MIC: 82
Ms. Kirsten Stark MIC: 50
Mr. Clifford Oakes MIC: 50
Ms. Kim Rios MIC: 50

Text of Proposed Rule 100 Changes to
California Code of Regulations, Title 18, Section 1802

1802. Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes.

(a) In General.

(1) Retailers Having One Place of Business. For the purposes of the Bradley-Burns Uniform Local Sales and Use Tax Law, if a retailer has only one place of business in this state, all California retail sales of that retailer in which that place of business participates occur at that place of business unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-state destination, or to a common carrier for delivery to an out-of-state destination.

(2) Retailers Having More Than One Place of Business.

(A) If a retailer has more than one place of business in this state but only one place of business participates in the sale, the sale occurs at that place of business.

(B) If a retailer has more than one place of business in this state which participates in the sale, the sale occurs at the place of business where the principal negotiations are carried on. If this place is the place where the order is taken, it is immaterial that the order must be forwarded elsewhere for acceptance, approval of credit, shipment, or billing. For the purposes of this regulation, an employee's activities will be attributed to the place of business out of which he or she works.

(3) Place of Passage of Title Immaterial. If title to the tangible personal property sold passes to the purchaser in California, it is immaterial that title passes to the purchaser at a place outside of the local taxing jurisdiction in which the retailer's place of business is located, or that the property sold is never within the local taxing jurisdiction in which the retailer's place of business is located.

(b) Place of Sale in Specific Instances.

(1) Vending Machine Operators. The place of sale is the place at which the vending machine is located. If an operator purchases property under a resale certificate or from an out-of-state seller without payment of tax and the operator is the consumer of the property, for purposes of the use tax, the use occurs at the place where the vending machine is located.

(2) Itinerant Merchants. The place of sale with respect to sales made by sellers who have no permanent place of business and who sell from door to door for their own account shall be deemed to be in the county in which is located the seller's permanent address as shown on the seller's permit issued to him or her. If this address is in a county imposing sales and use taxes, sales tax applies with respect to all sales unless otherwise exempt. If this address is not in a county imposing sales and use taxes, he or she must collect the use tax with respect to property sold and delivered or shipped to customers located in a county imposing sales and use taxes.

(3) Retailers Under Section 6015. Persons regarded by the Board as retailers under section 6015(b) of the Revenue and Taxation Code are regarded as selling tangible personal property through salespersons, representatives, peddlers, canvassers or agents who operate under or obtain the property from them. The place of sale shall be deemed to be:

(A) the business location of the retailer if the retailer has only one place of business in this state, exclusive of any door-to-door solicitations of orders, or

(B) the business location of the retailer where the principal negotiations are carried on, exclusive of any door-to-door solicitations of orders, if more than one in-state place of business of the retailer participates in the sale.

The amendments to paragraph (b)(3) apply only to transactions entered into on or after July 1, 1990.

(4) Auctioneers. The place of sale by an auctioneer is the place at which the auction is held. Operative July 1, 1996, auctioneers shall report local sales tax revenue to the participating jurisdiction (as defined in subdivision (d) below) in which the sales take place, with respect to auction events which result in taxable sales in an aggregate amount of \$500,000 or more.

(5) Factory-built School Buildings. The place of sale or purchase of a factory-built school building (relocatable classroom) as defined in paragraph (c)(4)(B) of Regulation 1521 (18 CCR 1521), Construction Contractors, is the place of business of the retailer of the factory-built school building regardless of whether sale of the building includes installation or whether the building is placed upon a permanent foundation.

(6) Jet Fuel.

(A) For sales of jet fuel prior to January 1, 2008, the place of sale or purchase of jet fuel is the city, county, or city and county which is the point of the delivery of the jet fuel to the aircraft, if both of the following conditions are met:

1. The principal negotiations for the sale are conducted at the retailer's place of business in this state; and

2. The retailer has more than one place of business in the state.

(B) For sales of jet fuel on or after January 1, 2008, the place of sale or purchase of jet fuel is the city, county, or city and county which is the point of the delivery of the jet fuel to the aircraft.

(C) The local sales or use tax revenue derived from the sale or purchase of jet fuel under the conditions set forth in this subdivision shall be transmitted by the Board, to the city, county, or city and county where the airport is located at which such delivery occurs.

(D) Multi-Jurisdictional Airports. For the purposes of this regulation, the term “multi-jurisdictional airport” means and includes an airport that is owned or operated by a city, county, or city and county, that has enacted a state-administered local sales and use tax ordinance and as to which the owning or operating city, county, or city and county is different from the city, county, or city and county in which the airport is located. Through June 30, 2004, the local tax rate is imposed at 1.25% by Revenue and Taxation Code section 7202(a). Operative July 1, 2004, the local tax rate is imposed at 1% by Revenue and Taxation Code section 7203.1. The local tax revenue derived from sales of jet fuel at a “multi-jurisdictional airport” shall, notwithstanding subdivision (C), be transmitted by the Board as follows:

1. In the case of the 0.25% local sales tax imposed by counties under Government Code section 29530 and Revenue and Taxation Code section 7202(a), or operative July 1, 2004, imposed by counties under Revenue and Taxation Code section 7203.1(a)(1), half of the revenue to the county which owns or operates the airport (or in which the city which owns or operates the airport is located) and half to the county in which the airport is located.

2. In the case of the remaining 1% of the local sales tax imposed by counties under Revenue and Taxation Code section 7202(a), or operative July 1, 2004, the remaining 0.75%, imposed by counties under Revenue and Taxation Code section 7203.1(a)(2), and in the case of the local sales tax imposed by cities at a rate of up to 1%, or operative July 1, 2004, at a rate of up to 0.75% under Revenue and Taxation Code section 7203.1(a)(2), and offset against the local sales tax of the county in which the city is located under Revenue and Taxation Code section 7202(h), half of the revenue to the city which owns or operates the airport and half to the city in which the airport is located. If the airport is either owned or operated by a county or is located in the unincorporated area of a county, or is owned or operated by a county and is located in the unincorporated area of a different county, the local sales tax revenue which would have been transmitted to a city under this subdivision shall be transmitted to the corresponding county.

3. Notwithstanding the rules specified in subdivisions 1. and 2., the following special rules apply:

a. In the case of retail sales of jet fuel in which the point of the delivery of the jet fuel to the aircraft and place of sale or purchase, as described in subdivision (A) or (B), is San Francisco International Airport, the Board shall transmit one-half of the local sales tax revenues derived from such sales to the City and County of San Francisco, and the other half to the County of San Mateo.

b. In the case of retail sales of jet fuel in which the point of the delivery of the jet fuel to the aircraft and place of sale or purchase, as described in subdivision (A) or (B), is Ontario International Airport, the Board shall transmit local sales taxes with respect to those sales in accordance with both of the following:

c. All of the revenues that are derived from a local sales tax imposed by the City of Ontario shall be transmitted to that city.

d. All of the revenues that are derived from a local sales tax imposed by the County of San Bernardino shall be allocated to that county.

(E) Otherwise, as provided elsewhere in this regulation.

(c) Transactions Negotiated Out of State and Delivered from the Retailer's Stock of Tangible Personal Property in California.

(1) If an out-of-state retailer does not have a permanent place of business in this state other than a stock of tangible personal property, the place of sale is the city, county, or city and county from which delivery or shipment is made. Local tax collected by the Board for such sales will be distributed to that city, county, or city and county.

(2) If a retailer has a permanent place of business in this state in addition to its stocks of tangible personal property, the place of sale, in cases where the sale is negotiated out-of-state and there is no participation by the retailer's permanent place of business in this state, is the city, county, or city and county from which delivery or shipment is made. Local tax collected by the Board for such sales will be distributed to the city, county, or city and county from which delivery or shipment is made.

(d) Allocation of Sales Tax and Application of Use Tax. Local sales tax is allocated to the place where the sale is deemed to take place under the above rules. The local use tax ordinance of the jurisdiction where the property at issue is put to its first functional use applies to such use. As used in this subdivision, the term "participating jurisdiction" means any city, city and county, or county which has entered into a contract with the Board for administration of that entity's local sales and use tax.

(1) Direct Reporting By Retailers. Operative July 1, 1996, for transactions of \$500,000 or more, except with respect to persons who register with the Board to collect use tax under Regulation 1684(ee) (18 CCR 1684), the seller shall report the local use tax revenues derived therefrom directly to the participating jurisdiction where the first functional use is made.

Persons who voluntarily collect use tax under Regulation 1684(ee) may, solely at their own discretion, report the local use tax revenues on transactions of \$500,000 or more directly to the participating jurisdiction where first functional use is made.

(2) Direct Reporting By Purchasers. Operative July 1, 1996, if a person who is required to report and pay use tax directly to the Board makes a purchase in the amount of \$500,000 or more, that person shall report the local use tax revenues derived therefrom to the participating jurisdiction in which the first functional use of the property is made.

The amendments to paragraph (b)(4) and paragraph (d) shall apply prospectively only to transactions entered into on or after July 1, 1996. Paragraph (d) shall not apply to lease transactions.

Note: Authority cited: Sections 7051 and 7205, Revenue and Taxation Code. Reference: Sections 6012.6, 6015, 6359, 6359.45, 7202, 7203, 7203.1, 7204.03 and 7205, Revenue and Taxation Code.

Thursday, May 22, 2014

CHIEF COUNSEL MATTERS**RULEMAKING****Section 100 Changes****Sales and Use Tax Regulation 1802, *Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes***

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to make Rule 100 changes to update cross references in Regulation 1802 to make the regulation consistent with 2012 amendments to Regulation 1684 (Exhibit 5.9).

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved authorization to make Rule 100 changes to Regulation 1802 as recommended by staff.

ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

Action: Adopt the following resolutions, extending its sincere and grateful appreciation to the retirees for their dedicated service to the State Board of Equalization and to the State of California, their congratulations on each retiree's well-earned retirement, and best wishes to them and their families for continued success, happiness and good health in the years to come (Exhibit 5.10).

John Huk, Business Taxes Administrator III, San Francisco Office
Nancy Pin-Pin Li, Associate Tax Auditor, San Jose Office

Action: Approve the Board Meeting Minutes of April 22, 2014.

Action: Approve proposed revisions to the Compliance Policy and Procedures Manual Chapter 5, *Returns* (Exhibit 5.11).

Action: Adopted the property tax forms as presented by staff except form BOE-571-W (Exhibit 5.12).

BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION

450 N STREET

SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT

MAY 22, 2014

CHIEF COUNSEL MATTERS

J RULEMAKING

SECTION 100 CHANGES

J1 SALES AND USE TAX REGULATION 1802, PLACE OF SALE
AND USE FOR PURPOSES OF BRADLEY-BURNS UNIFORM LOCAL
SALES AND USE TAXES

REPORTED BY: Kathleen Skidgel

CSR NO. 9039

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For the Board
of Equalization:

Jerome E. Horton
Chairman

Michelle Steel
Vice-Chairwoman

Betty T. Yee
Member

George Runner
Member

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

Joann Richmond
Chief
Board Proceedings
Division

For Board of
Equalization Staff:

Bradley Heller
Tax Counsel IV
Legal Department

---oOo---

1 450 N STREET
2 SACRAMENTO, CALIFORNIA
3 MAY 22, 2014

4 ---oOo---

5 MR. HORTON: Ms. Richmond.

6 MS. RICHMOND: Our next item is Chief
7 Counsel matters. J, Rulemaking, Section 100 Change.
8 Item J1, Sales and Use Tax Regulation 1802, Place of
9 Sale and Use for Purposes of Bradley-Burns Uniform
10 Local Sales and Use Taxes.

11 MR. HORTON: Thank you. Welcome to the
12 Board, Mr. Heller.

13 MR. HELLER: Thank you.

14 Good -- good evening, Chairman Horton and
15 Members of the Board. I'm Bradley Heller from the
16 Board's Legal Department, and I'm here to request
17 that the Board authorize staff to complete Rule 100
18 changes to Regulation 1802 to update two
19 cross-references to Regulation 1684.

20 MR. RUNNER: So moved.

21 MR. HORTON: Thank you very much.

22 Move adoption by Member Runner to grant
23 staff request to adopt proposed --

24 MS. YEE: Second.

25 MR. HORTON: -- Regulation 1802.

26 No public comment is -- seeing and hearing
27 none.

28 Second by Member Yee.

1 Without objection, Members, such will be
2 the order.

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REPORTER'S CERTIFICATE

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State of California)
) ss
County of Sacramento)

I, KATHLEEN SKIDGEL, Hearing Reporter for the California State Board of Equalization certify that on May 22, 2014 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 pages 1 through 4 constitute a complete and accurate transcription of the shorthand writing.

Dated: May 27, 2014

Kathleen Skidgel

KATHLEEN SKIDGEL, CSR #9039
Hearing Reporter

