

# Memorandum

802.0010

To : Mr. Cleveland Turner  
Local Revenue Allocation Section (MIC:27)

Date: April 28, 2004

From : John L. Waid  
Senior Tax Counsel (MIC:82)

Telephone: (916) 324-3828

Subject: [No Permit Number]  
City of [---] Transactions and Use Tax  
Incorporation of Statutes by Reference

I am answering your memorandum to me dated March 11, 2004. You ask if incorporation by reference meets the requirements of section 7261 and 7262 that their provisions be included in the taxing entities' ordinances "in substance." The City of [---]' Ordinance 2318, Section 15.219.080(b) incorporates the provisions of Part 1.6 of the Code, including, but not limited to, section 7261 and 7262, by reference "as they are written now and as they may later be amended." We agree with you that the city seems to have used section 7262.2 as a pattern for this phrase.

Under the principles of "adoption by reference," the adopting statute is deemed to set forth the statute being adopted in full as it reads on the date the adopting act was enacted. Amendments to (or even repeal of) the statute being adopted are not automatically adopted into the referring statute without saving language such as "as it now reads or may hereinafter be amended." (58 Cal. Jr. 3d, Statutes, § 56, "Adoption.") Section 7262.2 shows the Legislature favors adoption by reference, making it automatic in the case of districts. Hence, we conclude that incorporation by reference does meet the requirement that a district tax ordinance contain the provisions of sections 7261 and 7262 "in substance."

JLW/ef