

802.0000 ADMINISTRATION

802.0010 Incorporation of Statutory Provisions by Reference. A city ordinance levying a district tax incorporates the provisions of Part 1.6 of the Revenue and Taxation Code, including, but not limited to, section 7261 and 7262, by reference “as they are written now and as they may later be amended.” The city seems to have used section 7262.2 as a pattern for this phrase. Does adopting the provisions of sections 7261 and 7262 by reference meet the statutory requirement of including the provisions “in substance” in the ordinance?

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 the statute being adopted (or even complete repeal) are not automatically adopted into the referring statute without saving language such as “as it now reads or may hereinafter be amended.” Section 7262.2 shows the Legislature favors adoption by reference, making it automatic in the case of districts. Thus, 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.” 4/28/04. (2005–2).

802.0020 Interest on Special Deposits. The Retail Sales Tax Fund (RSTF) is a sub-fund of the General Fund. Under the statutes, any revenues deposited in the RSTF not used for designated purposes are transferred to the General Fund. Section 7271 provides only that tax revenue which the Board collects on behalf of a district shall be transmitted to the district which levied the tax. There is no statutory basis for the Board to pay a district interest on such funds. Therefore, interest on moneys in the RSTF accrues only to the benefit of the General Fund. 3/26/97.

802.0090 Offsets—District Taxes. The overpayment of taxes imposed by one taxing jurisdiction such as a district transportation tax cannot be used to offset state sales tax, Bradley-Burns Tax or other district taxes. While the Board administers and enforces the taxes, each jurisdiction’s tax is individually imposed and may not be offset against another jurisdiction’s tax. 4/28/97.

802.0300 Termination of District Tax—Administrative Fees. The Board should continue to charge administrative fees even though the District tax has been terminated. Neither the contract nor the statute is keyed to whether or not the tax is currently being levied at the time the money comes in. Therefore, as long as the Board is collecting and transmitting tax, it is entitled both under the contract and the statute to take its administrative fees out of the revenues due the district. 10/13/95.

802.0310 Termination of District Tax—Future Tax Revenue. Even though a District Tax has been terminated, the Board will continue to receive revenue derived from it, based on accounts receivable, audits in progress, and other unpaid accounts. There is nothing in the statute or in the contract requiring that tax revenues be transmitted in advance of actual receipts. The Board has a policy of making advances of 90 percent of the actual revenue based on prepayments. Where there are no prepayments, such as in this situation, but some payments are still being made through audits and accounts receivable, there can be no advance payments to the district. Actual revenues should be transmitted “as promptly as feasible,” however, and “at least twice in each calendar quarter” if possible. 10/13/95.