REGULATION 1507, TECHNOLOGY TRANSFER AGREEMENTS

FINAL STATEMENT OF REASONS
Overview/Non-Controlling Summary

Update

Regulation 1507, Technology Transfer Agreements, is promulgated to interpret and explain the application of tax to sales involving technology transfer agreements. It explains how sales and use tax applies to such transactions.

Specific Purpose

The purpose of the proposed regulation is to interpret, implement, and make specific Revenue and Taxation Code sections 6011 and 6012 as they apply to sales involving technology transfer agreements. This regulation is necessary to provide guidance to the taxpayers that engage in such transactions.

Factual Basis

Current law provides in Revenue and Taxation Code sections 6011(c)(10) and 6012(c)(10), enacted by Assembly Bill 103, Stats. 1993, Chap. 887 (AB 103), that gross receipts do not include amounts attributable to a patent or copyright interest transferred as part of a technology transfer agreement. The term "technology transfer agreement" is specifically defined in Revenue and Taxation Code sections 6011(c)(10)(D) and 6012 (c)(10)(D).

Regulation 1507, Technology Transfer Agreements, is proposed to interpret, implement and make specific Revenue and Taxation Code sections 6011 and 6012. The regulation is proposed to incorporate the California Supreme Court decision of *Preston vs. State Board of Equalization;* clarify how the statutory language applies to technology transfer agreements that include transfers of patent interests; an describe the application of tax to sales involving technology transfer agreements.

Local Mandate Determination

The Board of Equalization has determined that the regulation does not impose a mandate on local agencies or school districts.

Response to Public Comment

On March 27, 2002, the Board held a public hearing on proposed Regulation 1507. No one appreared at the public hearing and no written comments were received.

Small Business Impact

The Board of Equalization has determined that the proposed regulation will not have a significant adverse economic impact on small businesses.

Adverse Economic Impact on Private Persons/Businesses not Including Small Business

No impact.

Federal Regulations

Proposed Regulation 1507 has no comparable federal regulations.

Alternatives Considered

By its motion, the Board determined no alternative to promulgating the regulation would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons that the adopted regulation.