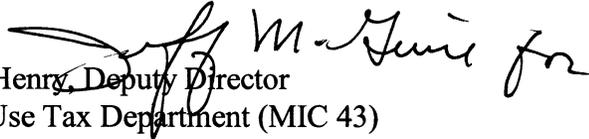


M e m o r a n d u m

To : Mr. Ramon J. Hirsig
Executive Director (MIC 83)

Date: August 11, 2006

From : Randie L. Henry, Deputy Director
Sales and Use Tax Department (MIC 43)



**Subject : Section 6355 Coins and Bullion Bulk Sale Adjustment
August 29, 2006 Administrative Agenda**

As mandated by Revenue and Taxation Code (RTC) section 6355, by September 1st each year, the Board of Equalization is required to index the coins and bullion bulk sale exemption threshold for inflation, based on the (June to June) California Consumer Price Index (CCPI).

RTC section 6355 and Regulation 1599, *Coins and Bullion*, provide an exemption from the sales and use tax for sales in bulk of monetized bullion, nonmonetized gold or silver bullion, and numismatic coins that are substantially equivalent to transactions in securities. Bulk is currently deemed as having a market value of \$1,000 or more, or its equivalent. Pursuant to the statute, when the cumulative inflation adjustment equals or exceeds five hundred dollars (\$500), the coins and bullion bulk sale exemption threshold will automatically increase to the next nearest multiple of \$500. The increase would then become effective January 1st of the succeeding calendar year. After making the calculation for 2006, the cumulative adjustment totals \$416.38, which is below the \$500 amount that would automatically trigger the increase in the operative bulk sale threshold.

We request your approval to place the matter as a consent item on the Administrative Agenda on August 29, 2006, to continue the current bulk sale threshold for coins and bullion.

Attached is a schedule that shows the cumulative adjustment from 1994 through 2006. To date, no increase in the bulk sale threshold has ever occurred. If you have any questions regarding this calculation or section 6355, please let me know.

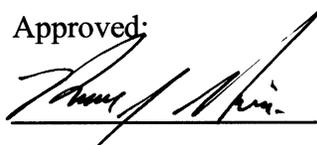
Attachment

Recommendation by:



Randie L. Henry, Deputy Director

Approved:



Ramon J. Hirsig, Executive Director

Approved:



Kristine Cazadd, Chief Counsel
Legal Division

BOARD APPROVED

At the August 31, 2005 Board Meeting

Gary Evans, Acting Chief
Board Proceedings Division

cc: Mr. Robert Lambert (MIC 82)
Ms. Margaret Shedd (MIC 66)
Ms. Randie L. Henry (MIC 43)
Ms. Kari Hammond (MIC 19)
Ms. Freda Orendt (MIC 47)
Mr. Stephen Rudd (MIC 46)
Mr. Joseph Young (MIC 49)
Mr. Jeffrey L. McGuire (MIC 92)
Mr. Gary Evans (MIC 80)
Mr. Charles Daly (MIC 85)
Mr. Geoff Lyle (MIC 50)
Mr. Vic Anderson (MIC 44)
Ms. Susanne Buehler (MIC 40)
Ms. Leila Khabbaz (MIC 50)
Ms. Lisa Andrews (MIC 50)

**Rev. & Tax. Code Section 6355
Coins and Bullion Adjustment**

	A	B	C	D	E
	(1)	(2)	(3)	(4)	(5)
	Tentative Bulk				
Year	CCPI Index	CCPI % Change	Sale Adjustment	Yearly Increase	Cumulative Adjustment
1993	148.9		1000.00		\$0.00
1994	150.7	1.209%	1000.00	12.09	\$12.09
1995	154.2	2.322%	1012.09	23.51	\$35.59
1996	156.6	1.556%	1035.59	16.12	\$51.71
1997	160.0	2.171%	1051.71	22.83	\$74.55
1998	163.6	2.250%	1074.55	24.18	\$98.72
1999	167.8	2.567%	1098.72	28.21	\$126.93
2000	174.0	3.695%	1126.93	41.64	\$168.57
2001	183.2	5.287%	1168.57	61.79	\$230.36
2002	185.9	1.474%	1230.36	18.13	\$248.49
2003	189.9	2.152%	1248.49	26.86	\$275.35
2004	195.8	3.107%	1275.35	39.62	\$314.97
2005	201.3	2.809%	1314.97	36.94	\$351.91
2006	210.9	4.769%	1351.91	64.47	\$416.38

- (1) The factor used is the California Consumer Price Index as determined by the FTB pursuant to RTC section 17041. The CCPI is available at the Department of Industrial Relations website at www.dir.ca.gov.
- (2) $\frac{\text{Current Year (A)} - \text{Prior Year (A)}}{\text{Prior Year (A)}}$
- (3) Prior Year (C) + Prior Year (D).
The base rate in 1993 was \$1,000.
- (4) $(B * C)$
The base rate was multiplied by the CPPI percentage (%) change in 1994 to determine the tentative bulk sale adjustment for the succeeding year.
Each year thereafter, the tentative adjustment is multiplied by the CPPI % change.
- (5) Prior Year (E) + Current Year (D)
A new operative bulk sale threshold is reached when the cumulative adjustment equals or exceeds \$500.

Notes

- ** By September 1st each year, the Sales and Use Tax Department Regulation Coordinator computes the RTC section 6355 tentative adjustment for bulk sales of Coins and Bullion.
- ** The exemption threshold is indexed for inflation.
- ** When the cumulative adjustment equals or exceeds \$500, the exemption threshold automatically increases to the nearest multiple of \$500, beginning January 1st of the following year.

**Rev. & Tax. Code Section 6355
Coins and Bullion Adjustment**

	A	B	C	D	E
	(1)	(2)	(3)	(4)	(5)
	Tentative Bulk				
Year	CCPI Index	CCPI % Change	Sale Adjustment	Yearly Increase	Cumulative Adjustment
1993	148.9		1000.00		\$0.00
1994	150.7	1.209%	1000.00	12.09	\$12.09
1995	154.2	2.322%	1012.09	23.51	\$35.59
1996	156.6	1.556%	1035.59	16.12	\$51.71
1997	160.0	2.171%	1051.71	22.83	\$74.55
1998	163.6	2.250%	1074.55	24.18	\$98.72
1999	167.8	2.567%	1098.72	28.21	\$126.93
2000	174.0	3.695%	1126.93	41.64	\$168.57
2001	183.2	5.287%	1168.57	61.79	\$230.36
2002	185.9	1.474%	1230.36	18.13	\$248.49
2003	189.9	2.152%	1248.49	26.86	\$275.35
2004	195.8	3.107%	1275.35	39.62	\$314.97
2005	201.3	2.809%	1314.97	36.94	\$351.91
2006	210.9	4.769%	1351.91	64.47	\$416.38

(1) The factor used is the California Consumer Price Index as determined by the FTB pursuant to RTC section 17041. The CCPI is available at the Department of Industrial Relations website at www.dir.ca.gov.

(2) $\frac{\text{Current Year (A)} - \text{Prior Year (A)}}{\text{Prior Year (A)}}$

(3) Prior Year (C) + Prior Year (D).
The base rate in 1993 was \$1,000.

(4) $(B * C)$
The base rate was multiplied by the CPPI percentage (%) change in 1994 to determine the tentative bulk sale adjustment for the succeeding year.
Each year thereafter, the tentative adjustment is multiplied by the CPPI % change.

(5) Prior Year (E) + Current Year (D)
A new operative bulk sale threshold is reached when the cumulative adjustment equals or exceeds \$500.

Notes

SUTD (or Sales and Use Tax Department)

** By September 1st each year, the Regulation Coordinator computes the RTC section 6355 tentative adjustment for bulk sales of Coins and Bullion.

** The exemption threshold is indexed for inflation.

** When the cumulative adjustment equals or exceeds \$500, the exemption threshold automatically increases to the nearest multiple of \$500, beginning January 1st of the following year.

**CONSUMER PRICE INDEX (CPI) FOR U.S. AND CALIFORNIA
ALL URBAN CONSUMER SERIES**

	United States		San Francisco	Los Angeles	California
			CMSA	CMSA	
2004 January	185.2			188.5	
February	186.2		198.1	190.1	193.1
March	187.4			191.5	
April	188.0		198.3	191.9	194.4
May	189.1			193.3	
June	189.7		199.0	193.7	195.8
July	189.4			193.4	
August	189.5		198.7	193.1	195.3
September	189.9			194.5	
October	190.9		200.3	196.3	198.0
November	191.0			196.9	
December	190.3		199.5	195.2	197.0
2005 January	190.7			195.4	
February	191.8		201.2	197.4	199.1
March	193.3			199.2	
April	194.6		202.5	201.1	202.0
May	194.4			201.5	
June	194.5		201.2	200.7	201.3
July	195.4			201.4	
August	196.4		203.0	203.1	203.5
September	198.8			205.8	
October	199.2		205.9	206.9	207.1
November	197.6			205.6	
December	196.8		203.4	203.9	204.2
2006 January	198.3			206.0	
February	198.7		207.1	207.5	207.8
March	199.8			208.5	
April	201.5		208.9	210.5	210.5
May	202.5			212.4	
June	202.9		209.1	211.1	210.9

YTD Average (thru June)					
2005	193.2			199.2	
2006	200.6			209.3	
Percent Change	3.8			5.1	

r/ US, LA & SF CPI revised by Bureau of Labor Statistics (BLS)
Note: In September 2000, the BLS reissued CPI data for the
January to August 2000 period. For further information, contact
the U.S. Bureau of Labor Statistics at (202) 606-7000.

All Urban Consumers: Includes, in addition to wage earners
and clerical workers, groups such as professional, managerial,
and technical workers, the self-employed, short-term workers,
the unemployed, and retirees, and others not in the labor force.
San Francisco CMSA: Includes the counties of Alameda,
Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa
Clara, Santa Cruz, Solano, and Sonoma.
Los Angeles CMSA: Includes the counties of Los Angeles,
Orange, Riverside, San Bernardino, & Ventura
California: Weighted average of San Francisco CMSA, Los
Angeles CMSA and (from 1965-1986) San Diego indices.

Sources:

San Francisco CMSA, Los Angeles CMSA and United States
States -- US Department of Labor, Bureau of Labor Statistics
(BLS).
California -- Calculated by the CA Department of Finance using
a formula developed by the CA Department of Industrial
Relations (DIR).

Updated: July 19, 2006
Filename: bbcpium

State of California
BOARD OF EQUALIZATION

SALES AND USE TAX REGULATIONS

Regulation 1599. COINS AND BULLION.

Reference: Sections 6007, 6008, 6009, 6011, 6354, 6355, Revenue and Taxation Code.

(a) GENERAL.

(1) **SALES OF COINS.** The transfer of coins for use solely as a medium of exchange, i.e., as legal tender, is not subject to tax even though the transferee pays an amount exceeding the face amount. For example, tax does not apply to a transaction whereby a coin changer returns only 95 cents on a dollar. On the other hand, tax does apply to sales of coins as collector's items or as an investment, except as otherwise specified in this regulation.

(2) **SALES OF GOLD OR SILVER BULLION.** Tax applies to sales of gold or silver bullion except as provided in subdivision (a) (3) below.

(3) **SALES IN BULK OF MONETIZED BULLION, NONMONETIZED GOLD OR SILVER BULLION, AND NUMISMATIC COINS.** Sales in bulk of "monetized bullion," nonmonetized gold or silver bullion, and numismatic coins which sales are substantially equivalent to transactions in securities or commodities through a national securities or commodities exchange, are exempt from both the sales tax and the use tax. The exemption for sales in bulk of nonmonetized gold or silver bullion and numismatic coins is effective with respect to sales occurring on and after January 1, 1986.

"Monetized bullion" means coins or other forms of money manufactured of gold, silver, or other metal and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation. The medium of exchange must have had a legal status equivalent to legal tender.

Effective September 28, 1983, "monetized bullion" includes gold medallions struck under authority of the American Arts Gold Medallion Act (Title IV of Public Law 95-630).

Nonmonetized bullion means gold or silver which has been smelted or refined and has a value dependent primarily upon its gold or silver content and not upon its form.

Neither the sales tax nor the use tax applies to sales of "monetized bullion," nonmonetized gold or silver bullion, and numismatic coins provided the following conditions are met:

(A) The sale is in bulk amount. A sale in bulk occurs if the total market value of the monetized bullion, nonmonetized gold or silver bullion, and numismatic coins sold in a single transaction is \$1,000 or more or is equal to or exceeds the adjusted amount as computed by Revenue and Taxation Code Section 6355. For purposes of this regulation, market value means sales price as defined in Section 6011 of the Sales and Use Tax Law.

(B) The sale is by or through a person registered pursuant to the Commodity Exchange Act (7 U.S.C. Sec. 1 et seq.) or not required to be registered under the Commodity Exchange Act.

(4) **SALES OF COMMEMORATIVE "CALIFORNIA GOLD" MEDALLIONS.** Effective September 27, 1985, tax does not apply to the sale of or the storage, use, or other consumption in this state of commemorative "California Gold" medallions produced and sold in accordance with Chapter 25 (commencing with Section 7551) of Division 7 of Title 1 of the Government Code.

(b) APPLICATION OF TAX TO SPECIFIC TYPES OF TRANSACTIONS.

(1) **OPTIONS TO BUY.** "Options to buy" are contracts in which the seller agrees to sell specified property, usually at a predetermined price, while the buyer obtains the right but not the duty to purchase the property. Accordingly, the "buyer" has the option to purchase the property but may decide not to purchase without breaching the contract. A sale happens if the buyer exercises his or her option to purchase the property and tax applies at the time the option is exercised unless the sale is otherwise exempt. On the other hand, if the option is not exercised, no sale happens and no tax applies.

Regulation 1599. (Continued)

(2) **OPTIONS TO SELL.** "Options to sell" are contracts in which the buyer agrees to buy specified property, usually at a predetermined price, while the seller obtains the right but not the duty to sell the property. A sale happens if the option is exercised and tax applies unless otherwise exempt.

(3) **FUTURE SALES AND PURCHASES.** A contract to sell and buy goods in the future obligates the seller to sell and the buyer to buy goods at a particular time in the future. The price of the goods is usually set at the time of contracting, but neither the title nor possession of the goods is then transferred. If the title (or the possession in lieu of title) is later transferred, the sale happens, and tax applies unless the sale is otherwise exempt. However, the seller and the buyer or their assignees may agree to cancel the contract before performance. If they do so, no sale happens and no tax applies. "Future" sales do not include present sales of tangible personal property for future delivery.

(4) **PRESENT SALES FOR FUTURE DELIVERY.** A present sale for future delivery is a contract in which the title is intended to pass from seller to buyer at the time the contract is entered but the seller is not obligated to deliver possession of the goods until some future date. The sale happens when title passes and tax applies unless the sale is otherwise exempt.

(5) **CREDIT TRANSACTIONS.** When a consumer makes a down payment and enters a contract for the purchase of coins, the parties may regard it as a credit transaction. But the sale may or may not happen at the time the "credit" is extended.

In some instances, the buyer receives a loan of the balance of the purchase price, and the title to the coins is transferred to the buyer. But the creditor, who may be the buyer's broker or the seller, retains possession of the property owned by the buyer as collateral for the loan to him or her. The buyer's creditor has the power to sell the buyer's property and pay off the loan if the market price of the property falls and approaches the amount of the loan. Often the broker or seller has power to repledge the property to his or her creditor to secure a loan to him or her. In any event a sale of tangible personal property to the consumer happens and tax applies unless otherwise exempt. These transactions are usually referred to as "margin" or "marginized" purchases.

In other instances, the contract conditions the passage of title to the goods to the buyer on his or her payment of the full purchase price (conditional sales contract). The seller does not deliver possession of the goods until the payment of the full purchase price. Under this arrangement neither title nor possession in lieu of title can pass until full payment, and so a sale cannot happen until then. The seller and the buyer can agree to cancel the contract before title passes to the buyer and so no sale may ever happen under the contract. But if the title does pass after full payment, the sale happens and tax applies unless otherwise exempt. Because the seller may hold goods for the buyer, and the market price of the goods may fluctuate, the seller may regard the contract as an extension of credit to the buyer or may refer to the transaction as a "margin" or "marginized" purchase.

Other "credit" arrangements are possible. Each transaction must be examined to determine if or when a sale or purchase happened.

(6) **FEES.** "Fees" charged by a seller for services in connection with the sale of coins, silver and gold bullion, or other precious metals are a part of the sales price of the property with the exception of insurance, interest, finance and carrying charges as provided in Regulation 1641 (18 CCR 1641) with respect to credit sales.

(7) **INTERSTATE SALES.** The same rules with respect to interstate sales that are applicable to sales and purchases of other tangible personal property also apply to sales of coins, silver and gold bullion, and other precious metals.

(c) PURCHASE OF COINS AND BULLION AS INVESTMENT. Purchases of coins and bullion as investments are purchases at retail. It is immaterial that a gain, benefit, or advantage may not be realized until the resale of the coins and bullion. A resale certificate may not be issued for purchases for this purpose.

A person purporting to hold coins or bullion solely for resale in the regular course of business must be able to prove that they actively engage in business as a seller of coins and bullion. The following are some examples of relevant evidence:

Regulation 1599. (Continued)

- (1) The number, scope, and character of the person's purchases and sales of coins or bullion.
- (2) Evidence of the person's continuing efforts to advertise and sell coins or bullion.
- (3) Evidence that the person held out to the public that they were engaged in business as a seller of coins or bullion at an identified place of business.
- (4) The manner in which income from transactions in coins or bullion was reported by that person for income tax purposes.
- (5) Whether a local business license was issued to that person to engage in sales of coins or bullion.

Seller's permits may be held only by persons activity engaged in the business of selling tangible personal property.

History: Adopted April 23, 1975, effective May 29, 1975.

Amended July 27, 1978, effective September 7, 1978. In (a) (4) (A) deleted paragraphs referring to "monetized bullion;" criterion for value of U.S.A. coins is face amount, and for foreign coins is sales price; adds provision for single sale of combined types of coins. Amendment meets requirements of *Alan Van Vliet Enterprises, Inc. v. SBOE* 65 Cal.App.3d 164 (1977).

Amended February 7, 1980, effective March 3, 1980. In (a) (2) added "Until July 1, 1980" to first sentence of second paragraph and added a fourth paragraph; in (a) (3) added "Until July 1, 1980" to first sentence of the first paragraph and added a third paragraph; and rewrote (a) (4) (B) adding registered persons.

Amended April 1, 1981, effective August 19, 1981. In (a) (2) deleted "a bank." In (a) (4) (B) deleted provisions regarding registration pursuant to "California Commodity Law" and substituted provisions regarding "Commodity Exchange Act" with applicable dates.

Amended May 9, 1984, effective August 25, 1984. Deleted former subdivisions (a) (2) and (a) (3) and added new subdivision (a) (2). Renumbered former (a) (4) to (a) (3); deleted effective date and added third paragraph; completely revised (a) (3) (B).

Amended April 9, 1986, effective July 5, 1986. In subdivision (a) (3), amended regulation to add provisions concerning the sales in bulk of nonmonetized gold or silver bullion and numismatic coins. In subdivision (a) (3) (A), amended definition of sale in bulk. In subdivision (a) (4), added provision concerning "California Gold" medallions.

Amended March 30, 1988, effective June 8, 1988. Amended subdivision (a) (4) to delete the January 1, 1988 exemption expiration date pursuant to AB 257, Statutes of 1987, Chapter 1095.

Amended November 18, 1994, effective December 16, 1994. Amended subparagraph (a) (3) (A) to incorporate the new definition of "bulk sale" and the method of adjusting the bulk sale threshold provided in Statutes 1993, Chapter 977; deleted gender-based language from subparagraphs (b) (1) and (5), (c), and (c) (3); and added a reference to the California Code of Regulations to subparagraph (b) (6).

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.