



STATE BOARD OF EQUALIZATION

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May 31, 2013

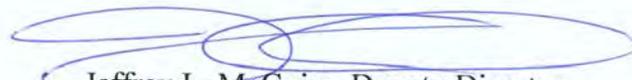
Dear Interested Party:

Enclosed are the Agenda, Issue Paper, and Revenue Estimate for the June 11, 2013 Business Taxes Committee meeting. This meeting will address proposed Lumber Products Assessment regulations to determine the amount of collected assessment retailers may retain for reimbursement of collection costs.

Please feel free to publish this information on your website or otherwise distribute it to your associates, members, or other persons that may be interested in this issue.

Thank you for your input on these issues and I look forward to seeing you at the Business Taxes Committee meeting at **10:00 a.m.** on **June 11, 2013** in Room 121 at the address shown above.

Sincerely,



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

JLM:lw

Enclosures

cc: (all with enclosures)

Honorable Jerome E. Horton, Chairman, Fourth District
Honorable Michelle Steel, Vice Chair, Third District
Honorable Betty T. Yee, Member, First District (MIC:71)
Senator George Runner (Ret.), Member, Second District (via email)
Honorable John Chiang, State Controller, c/o Ms. Marcy Jo Mandel

(via email)

Mr. David Hunter, Board Member's Office, Fourth District
Mr. Neil Shah, Board Member's Office, Third District
Mr. Tim Treichelt, Board Member's Office, Third District
Mr. Alan LoFaso, Board Member's Office, First District

Ms. Mengjun He, Board Member's Office, First District
Mr. Sean Wallentine, Board Member's Office, Second District
Mr. James Kuhl, Board Member's Office, Second District
Mr. Lee Williams, Board Member's Office, Second District
Mr. Alan Giorgi, Board Member's Office, Second District
Ms. Lynne Kinst, Board Member's Office, Second District
Ms. Natasha Ralston Ratcliff, State Controller's Office
Ms. Cynthia Bridges (MIC:73)
Mr. Randy Ferris (MIC:83)
Mr. Robert Tucker (MIC:82)
Mr. Bradley Heller (MIC:82)
Mr. Kevin Smith (MIC:82)
Mr. Stephen Smith (MIC:82)
Ms. Susanne Buehler (MIC:92)
Mr. Bradley Miller (MIC:92)
Ms. Kirsten Stark (MIC:50)
Ms. Lynn Whitaker (MIC:50)
Mr. Michael Panto (MIC:50)

AGENDA — June 11, 2013 Business Taxes Committee Meeting
Lumber Products Assessment Regulations – Retailer Reimbursement Retention

<p align="center">Action Item</p>	<p align="center">Alternative 1 - Staff Recommendation proposed Regulations 2000 and 2001</p> <p align="center">Total allowed retention: \$735 per location</p>	<p align="center">Alternative 2 – proposed Regulation 2000</p> <p align="center">Total allowed retention: \$250 per location</p>	<p align="center">Alternative 3 - Allow a higher amount for startup costs and an annual amount for ongoing costs</p>
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<p>Action 1 - Proposed Lumber Products Assessment Regulation(s)</p>	<p><u>Regulation 2000, Retailer Reimbursement Retention</u></p> <p><u>Public Resources Code section 4629.5, as added by Statutes 2012, chapter 289, requires the Board of Equalization to adopt a regulation to determine the amount of reimbursement a retailer may retain for costs associated with the collection of the Lumber Products Assessment imposed by Public Resources Code section 4629.5.</u></p> <p><u>A retailer required to collect the Lumber Products Assessment may retain no more than \$250 per location as reimbursement for startup costs associated with the collection of the assessment. Such reimbursement is to be taken on the retailer’s first return on which the Lumber Products Assessment is reported or, if the amount of the collected assessment is less than the allowed reimbursement, on the retailer’s next consecutive returns until</u></p>	<p><u>Regulation 2000, Retailer Reimbursement Retention</u></p> <p><u>Public Resources Code section 4629.5, as added by Statutes 2012, chapter 289, requires the Board of Equalization to adopt a regulation to determine the amount of reimbursement a retailer may retain for costs associated with the collection of the Lumber Products Assessment imposed by Public Resources Code section 4629.5.</u></p> <p><u>A retailer required to collect the Lumber Products Assessment may retain no more than \$250 per location as reimbursement for startup costs associated with the collection of the assessment. Such reimbursement is to be taken on the retailer’s first return on which the Lumber Products Assessment is reported or, if the amount of the collected assessment is less than the allowed reimbursement, on the retailer’s next consecutive returns until</u></p>	<p>[No language provided.]</p>
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AGENDA — June 11, 2013 Business Taxes Committee Meeting
Lumber Products Assessment Regulations – Retailer Reimbursement Retention

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	<p><u>the allowed reimbursement amount is retained.</u></p> <p><u>“Location” means and is limited to a business location registered under the retailer’s seller’s permit as of January 1, 2013, where sales of products subject to the assessment are made.</u></p> <p><u>Regulation 2001, Additional Allowed Retailer Reimbursement Retention</u></p> <p><u>Beginning January 1, 2014, a retailer required to collect the Lumber Products Assessment may retain \$485 per location, in addition to the \$250 allowed by Regulation 2000, as reimbursement for startup costs associated with the collection of the assessment. Such reimbursement is to be taken on the retailer’s first return after January 1, 2014, on which the Lumber Products Assessment is reported, or if the amount of the collected assessment is less than the allowed reimbursement, on the</u></p>	<p><u>the allowed reimbursement amount is retained.</u></p> <p><u>“Location” means and is limited to a business location registered under the retailer’s seller’s permit as of January 1, 2013, where sales of products subject to the assessment are made.</u></p>	

AGENDA — June 11, 2013 Business Taxes Committee Meeting
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	<p><u>retailer’s next consecutive returns until the allowed reimbursement amount is retained. If the retailer no longer sells products subject to the assessment, the retailer may file a claim for refund for assessment amounts paid in 2013 up to \$485.</u></p> <p><u>“Location” means and is limited to a business location registered under the retailer’s seller’s permit as of January 1, 2013, where sales of products subject to the assessment are made.</u></p>		

Issue Paper Number 13-005



BOARD OF EQUALIZATION
KEY AGENCY ISSUE

- Board Meeting
- Business Taxes Committee
- Customer Services and Administrative Efficiency Committee
- Legislative Committee
- Property Tax Committee
- Other

Proposed Lumber Products Assessment Regulations - Retailer Reimbursement Retention

I. Issue

Should the Board authorize publication of new Lumber Products Assessment regulations stating the amount of collected assessment retailers may retain for reimbursement of collection costs?

II. Alternative 1 – Staff Recommendation

Staff recommends the Board approve and authorize publication of

- Regulation 2000, *Retailer Reimbursement Retention*, allowing retailers to retain \$250 per location for reimbursement of startup costs beginning January 1, 2013, and
- Regulation 2001, *Additional Allowed Retailer Reimbursement Retention*, allowing retailers to retain an additional \$485 per location beginning January 1, 2014.

To preserve the emergency regulation provisions, the text of proposed Regulation 2000 is identical to the emergency regulation. Staff believes that a separate Regulation 2001 will make it clear that the changes beginning January 1, 2014 do not affect the emergency regulation provisions in place in 2013. See Exhibit 2.

III. Other Alternative Considered

Alternative 2: Readopt emergency Regulation 2000 without amendment. This alternative would allow retailers to retain \$250 per location for reimbursement of startup costs. See Exhibit 3. This alternative is supported by the California Forestry Association, California Native Plant Society, Forests Forever, Pacific Forest Trust, Sierra Club, and the Center for Biological Diversity. This alternative was also recommended by California Assemblymembers Bob Blumenfield, Wesley Chesbro, Richard Gordon, Richard Bloom, and Roger Dickinson. See Exhibit 4.

Alternative 3: Adopt a regulation that allows retailers to retain a higher amount for startup costs and an annual amount for reimbursement of ongoing costs. West Coast Lumber & Building Material Association (West Coast) requested that BOE set the startup cost retention amount at \$5,500 per retail location and the annual retention at \$1,500 per retail lumber location. In addition to West Coast, this alternative is supported by Home Depot, Caseywood, Bruce Bauer Lumber & Supply, Idaho Pacific Lumber, Mead Clark Lumber, Nichols Lumber & Hardware, Van Matre Lumber, Brisco Mill & Lumber, La Mesa Lumber, San Joaquin Lumber, Sunnyvale Lumber, Truckee-Tahoe Lumber, Valley Redwood, Roadside Lumber & Hardware, Ashby Lumber, Reliable Wholesale Lumber, Pine Tree Lumber, Monument Lumber, and Home Lumber. See Exhibit 5.

IV. Background

Assembly Bill (AB) 1492 (Chapter 289, statutes 2012) imposed, beginning January 1, 2013, a one-percent assessment on purchasers of lumber products and engineered wood products to be collected by the retailer at the time of sale. As enacted by AB 1492, Public Resources Code (PRC) section 4629.5(a)(3) provides:

The retailer shall collect the assessment from the person at the time of sale, and may retain an amount equal to the amount of reimbursement, as determined by the State Board of Equalization pursuant to regulations, for any costs associated with the collection of the assessment, to be taken on the first return or next consecutive returns until the entire reimbursement amount is retained. For purposes of this paragraph, the State Board of Equalization may adopt emergency regulations pursuant to Section 11346.1 of the Government Code. The adoption of any regulation pursuant to this paragraph shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, and general welfare.

To ensure that a Board-determined retention amount was authorized before the affected retailers' collection duties begin, the Board approved emergency Regulation 2000, *Retailer Reimbursement Retention*, at its October 23, 2012 Board meeting. The regulation provides that retailers may retain \$250 per location registered under the retailer's seller's permit as of January 1, 2013. That amount may be retained by retailers without any requirement that the retailer substantiate its costs.

The \$250 retention amount was based on BOE's understanding of the amount of retailer reimbursement discussed when the legislation was drafted. Although the statute and legislative analyses do not specify whether "retailer" was intended to mean "registered retailer" or "retail location," staff believed the statute could be interpreted to allow reimbursement on a per location basis. Staff supported the \$250 amount by using U.S. Census Bureau data and a 2006 PricewaterhouseCoopers report on gross retail sales tax compliance costs for programming and servicing cash registers for sales tax rate and bases changes. (See October 12, 2012 Chief Counsel [Memo](#)¹ on the adoption of emergency Regulation 2000.)

Regulation 2000 was approved by the Office of Administrative Law (OAL) on December 4, 2012 and became effective January 1, 2013. Approved emergency regulations remain effective for 180 days unless OAL approves a re-adoption of the emergency regulation during that time period. OAL may approve two re-adoptions of the same emergency regulation and each re-adoption may extend the emergency regulation's effective period for up to 90 days. Emergency regulations are repealed when their effective periods expire. However, an emergency regulation can become permanent if the Board re-adopts the regulation through the regular rulemaking process and transmits the completed rulemaking file to OAL during the period the emergency regulation is in effect.

In order to ensure retailers would be able to continue to claim \$250 in reimbursement while staff worked with interested parties through the Business Taxes Committee process, the Board approved re-adoption of the emergency regulation on May 22, 2013. Staff intends to request a second re-adoption of the emergency regulation while any permanent regulations are in the formal rulemaking OAL approval process.

¹ http://www.boe.ca.gov/meetings/pdf/102312_J1_AB1492_Emergency_Regs.pdf

V. Discussion

Staff and interested parties disagree on two main points: (1) whether PRC 4629.5 limits allowed retention to startup costs, and (2) the amount retailers should be allowed to retain for reimbursement of startup costs.

Retention for Startup Costs or Startup and Ongoing Costs

Staff and interested parties agree that retailers will have ongoing expenses to comply with the provisions of the Lumber Products Assessment. When lumber retailers add new products to inventory, they have to determine whether the product is subject to the assessment and adjust their recordkeeping system accordingly. In addition, PRC section 4629.4 requires the Board of Forestry and Fire Protection (BOF) to annually update the regulation that interprets and makes specific the lumber products and engineered wood products that the BOF determines are subject to the assessment. Changes to that regulation will require retailers to review their inventory and update their recordkeeping systems.

Despite these costs, staff believes the language of PRC section 4629.5 and the legislative intent behind AB 1492 only provide for a one-time reimbursement of startup costs to implement the Lumber Products Assessment on January 1, 2013. Staff bases this on the language in PRC 4629.5(a)(3) which explains that the retailer may retain an amount "...to be taken on the first return or next consecutive returns until the entire reimbursement amount is retained." The statute does not authorize retailers to retain additional amounts after a determined amount is retained. Staff believes if retention for ongoing costs was intended, the statute would have explicitly provided an amount or percentage to be routinely claimed on the taxpayer's return as in other BOE programs where taxpayers retain reimbursement amounts.²

The intent that reimbursement be limited to startup costs was noted in the BOE legislative [analysis](#)³ for AB 1492. In addition, the Senate and Assembly floor analysis for AB 1492 refer to retailers being reimbursed for "...costs to set up collection systems." Interested parties that supported AB 1492, including the California Forestry Association, California Native Plant Society, Forests Forever, Pacific Forest Trust, Sierra Club, and the Center for Biological Diversity confirm this intent. In their March 20, 2013 submission, California Assemblymembers Bob Blumenfield, Wesley Chesbro, Richard Gordon, Richard Bloom, and Roger Dickinson also recommended that reimbursement be limited to startup costs (see Exhibit 4).

Several interested parties, however, disagree with staff's interpretation of PRC section 4629.5 and believe BOE should adopt a regulation that compensates retailers for the ongoing costs they will incur complying with the assessment. In their submission, Home Depot explained:

...the Paper's conclusion contradicts with the plain language of the statute which does not limit reimbursement to the costs associated with setting up a collection system. Rather, PRC 4629.5(a)(3) specifically authorizes reimbursement for "**any** costs associated with the **collection** of the assessment." Where statutory language is clear and unambiguous, there is no need to look at legislative history or to go any further.

² Reimbursement is allowed under the California Tire Fee Law, Covered Electronic Waste Recycling Fee, and the Cigarette and Tobacco Products Tax Law. The California Tire Fee Law and Covered Electronic Waste Recycling Fee Law authorize a retail seller to retain 3 percent and 1.5 percent of the fee, respectively, as reimbursement of collection costs. The Cigarette and Tobacco Products Tax Law provides that cigarette tax stamps are to be sold to licensed distributors at a specified discount, which is intended to help defray the cost (leasing of equipment/labor cost) to the distributor for affixing the stamps.

³ <http://www.boe.ca.gov/legdiv/pdf/1492abenr12cw.pdf>

Hoeschst Celanese Corp. v. Franchise Tax Bd. (2001) 25 Cal.4th 508, 519. We submit that PRC 4629.5(a)(3) is clear and unambiguous and that it authorizes reimbursement for any costs of collection, including ongoing costs.

The statute's reference to reimbursement "on the first return or next consecutive return until the entire reimbursement amount is retained" does not change that plain meaning. Indeed, given that retailers are required to file quarterly returns, that reference likely means that the Legislature intended for BOE to set an annual reimbursement amount that retailers should retain "on the first return or next consecutive return" filed each year. ...

Home Depot also states that nothing in the statute suggests that retailers should not be reimbursed for these ongoing programming costs and that it makes no sense to reimburse retailers for initial programming costs and then require them to shoulder those same costs to capture new lumber products.

West Coast and other lumber retailers made similar comments in their submissions. Caseywood pointed out that ongoing costs affect sales, distribution, accounting, audit, and other cost centers. They anticipate ongoing costs of approximately \$1,500 to \$2,000 per year to ensure compliance with the new assessment. West Coast commented that changes to the list of products subject to the assessment will require additional computer software modifications, staff training, and management oversight by lumber dealers. West Coast requests an annual reimbursement amount of \$1,500 per retail location be allowed to accommodate updates and changes in the list of products subject to the assessment. This amount was also recommended by 15 other lumber retailers in their submissions (see Exhibit 5).

Amount of Retention for Startup Costs

Staff believes the language in PRC 4629.5(a)(3), "...and may retain an amount equal to the amount of reimbursement, as determined by the State Board of Equalization pursuant to regulations..." means that BOE was given the authority to determine a specific amount for reimbursement. Staff does not believe the Board has the authority to define costs as a percentage of collections or in a manner that would allow each affected retailer to come up with its own unique reimbursement amount.

Purpose of AB 1492. As noted in BOE's legislative bill analysis, the purpose of AB 1492 was, among other things, to ensure continued sustainable funding for California's forest program to protect the state's forest resources and to replace the current piecemeal funding structure with a single funding source. Since retailers are allowed to retain a determined amount for reimbursement for costs before paying the assessment, the amount of allowed retention directly affects the revenue the fund receives. Staff believes this revenue impact and the overall purpose of AB 1492 should be considered when determining the amount of allowed retention.

Actual Costs to Implement AB 1492. Most lumber retailers use computerized accounting software to account for inventory and sales. To get an idea of retailers' costs to update their software for the assessment, staff contacted three software companies that provide software packages for the retail lumber industry. These providers advised us that for current customers they generally charged \$250 per location to update their software to collect the Lumber Products Assessment. One company included the change in their annual updates and did not charge an additional amount. The providers explained that they priced updates to match the amount provided in BOE's emergency regulation as a courtesy to existing customers and as a selling point to attract new customers. However, one company estimated that for a new retail account, they would charge about \$30,000 plus a monthly fee to set up a

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whole new accounting system that included the lumber assessment. Software providers also explained that their charges did not include the hours spent reviewing inventory and coding SKU's (stock keeping units) for products subject to the assessment. These tasks were typically completed by the retailer's employees with the expense incurred directly by the retailer.

Retailers who use custom or proprietary accounting software were not able to take advantage of pricing discounts from package software providers and generally paid hourly rates for software technicians to update their systems. Caseywood estimated that it cost their company \$7,000 to implement computer system, internal process, and accounting changes necessary to comply with the new law. Other retailers advised us that while their current accounting systems could be readily modified to accommodate a new sales tax rate, they could not be updated to calculate the Lumber Products Assessment (requiring 1% assessment be calculated on identified items and a separate statement of the assessment on the invoice or receipt). Those retailers were forced to update both software and hardware in order to implement the assessment. One retailer estimated their cost to be \$45,000. Single location retailers also noted that while they incurred costs similar to other lumber retailers, they did not benefit from the allowed "per location" reimbursement provision of the emergency regulation. West Coast surveyed their members and estimated the average cost to implement the assessment was \$5,480 per location (see Exhibit 5).

Data from Filed Returns – Number of Locations. An obstacle in interested party discussions has been that BOE does not know the actual number of retail locations selling products subject to the Lumber Products Assessment. The assessment applies to products that could be sold by a variety of stores making it difficult for BOE to estimate the number of retailers required to collect the assessment. Using Census Bureau data, staff estimated in its Second Discussion Paper that the number of locations is close to 10,000.

Identifying these retailers has also been a challenge for BOE. In November 2012, BOE sent notices to 54,000 retailers advising them that they may be required to collect the Lumber Products Assessment. Retailers were identified by the NAICS (North American Industry Classification System) noted in BOE records based on the type of products primarily sold. In addition to lumber and construction material retailers, the selected retailers included hardware stores, home centers, nursery and garden centers, department stores, and general merchandise sellers. If the retailer filed sales and use tax returns more than once a year (28,000 of the noticed retailers), the retailer's account was adjusted so that the retailer received a Lumber Products Assessment schedule with their sales and use tax return. If the retailer does not sell products subject to the assessment, the retailer was instructed to contact BOE to have the schedule removed. The remaining retailers (26,000 yearly and fiscal yearly filers) must contact BOE in order to receive a schedule to report the assessment.

It was hoped that a clearer picture of the number of lumber retailer locations would develop after first quarter 2013 returns were received. For regular quarterly filers, first quarter sales and use tax returns were due April 30, 2013.

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On May 3, 2013, BOE had the following information about lumber schedules and retail locations:

	Taxpayers coded to receive a lumber schedule or filed a lumber schedule for 1 Qtr 2013	Number of sub-locations	Total locations
No sales and use tax return or lumber schedule filed	7,980	2,838	10,818
Reported transactions subject to the Lumber Products Assessment > \$0	1,261	1,192	2,453
Reported transactions subject to the Lumber Products Assessment of \$0	19,065	7,959	27,024
Total	28,306	11,989	40,295

Staff cannot definitively say what a zero return means. Retailers may have reported zero on their lumber schedule because they sell lumber products, but all of their sales were nontaxable in first quarter 2013 or they didn't sell any lumber products in first quarter, but will in subsequent quarters. Other retailers might not sell lumber products, but have not yet contacted BOE to have the lumber schedule removed from their account.

We also note that when fiscal year and annual filers complete their returns in July 2013 and January 2014 additional retailers may contact BOE to receive a lumber schedule. That is, the retailer collected the lumber assessment, but did not realize they needed to be coded to receive the lumber schedule until their returns were due.

Data from Filed Returns – Amount of Reported Assessment. In addition to regular quarterly filers, the following table includes lumber retailers with special reporting periods. The amounts received from these special filers include January sales, but not February and March transactions (approximately the month of January; special filer reporting periods do not begin exactly at the beginning of the month). First quarter 2013 returns for these special filers (February, March, and April sales) were not available at the time of this paper.

On May 3, 2013 reported amounts from all filers were:

Transactions subject to the Lumber Products Assessment	\$573,096,454
Gross Lumber Products Assessment	\$5,730,973
Reimbursement claimed	\$200,809
Net Assessment reported	\$5,530,509

Using the simplest projection method (multiplying amounts reported by regular filers by four quarters and special filers by twelve months), staff estimates \$28.7 million could be reported in gross Lumber Products Assessment in 2013. Staff notes that this projection is skewed by limited information available from special filers. In addition, January is generally regarded as a slow construction month and staff expects that lumber product sales will be greater in other months.

VI. Alternative 1 - Staff Recommendation

A. Description of Alternative 1

Staff recommends the Board approve and authorize publication of

- Regulation 2000, *Retailer Reimbursement Retention*, allowing retailers to retain \$250 per location for reimbursement of startup costs beginning January 1, 2013, and
- Regulation 2001, *Additional Allowed Retailer Reimbursement Retention*, allowing retailers to retain an additional \$485 per location beginning January 1, 2014.

To preserve the emergency regulation provisions, the text of proposed Regulation 2000 is identical to the emergency regulation. Staff believes that a separate Regulation 2001 will make it clear that the changes beginning January 1, 2014 do not affect the emergency regulation provisions in place in 2013.

Staff's recommendation results in a total \$735 retention amount. This amount was determined using additional data from the 2006 PricewaterhouseCoopers report used to support the emergency regulation. Although interested parties argued that this report did not adequately support the amount allowed in the emergency regulation, staff could not find a cost of tax compliance study that was identical to the implementation of the Lumber Products Assessment. Staff believes the PricewaterhouseCoopers report on retailer cost of collections, which was used in the Streamlined Taxable Sales Agreement, is the best available.⁴

To support the \$250 amount provided in the emergency regulation, staff looked at the data for programming and servicing cash registers. However, another portion of the study estimated compliance costs based on eight categories associated with the retail sales tax: (1) training personnel on sales tax; (2) documenting tax-exempt sales; (3) customer service relating to sales tax issues other than documenting exempt sales; (4) sales tax-related software acquisition and license fees; (5) programming and servicing cash registers and other Point-of-Sale (POS) systems to address sales-tax requirements; (6) return preparation, making remittances, refund and credit claims, and research relating to sales tax (tax remittances excluded); (7) dealing with sales tax audits and appeals; and (8) other costs (such as costs related to data storage, sales tax registration, etc.). The study shows an average gross compliance cost of 0.21 percent of taxable sales for the Building and Garden Supplies industry (Table V.B.2b of the study).

While staff recognizes that these categories do not include lumber retailers' costs to identify and code products subject to the assessment, the categories do include areas that are not related to startup costs associated with the assessment (for example, documenting tax-exempt sales, return preparation and making remittances, and dealing with tax audits and appeals). Staff believes that

⁴ *Retail Sales Tax Compliance Costs: A National Estimate*, Volume One: Main Report, PricewaterhouseCoopers, LLP, Prepared for Joint Cost of Collection Study, National Economic Consulting, April 7, 2006.

<http://www.bacssuta.org/Cost%20of%20Collection%20Study%20-%20SSTP.pdf>

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overall the 0.21 percent factor is fair to use as an estimate of costs. To calculate the \$735 amount, staff looked at the estimated number of retail locations and estimated revenue for the assessment.

As explained in the Discussion section, the actual number of retail locations selling products subject to the assessment is still unknown. Using Census Bureau data staff estimated in its Second Discussion Paper that the number of locations selling lumber and wood products is likely to be close to 10,000. Although the number of locations reporting more than \$0 in taxable sales for the first quarter 2013 was under 3,000, staff believes the 10,000 location estimate is reasonable given our uncertainty from thousands of unfiled returns and filed zero returns. Staff also believes it is reasonable to think that the revenue estimate of \$35 million cited in the BOE analysis of AB 1492 may be realized given the amounts already reported and expected increases in lumber product sales as the construction season begins.

Revenue of \$35 million equals lumber sales of \$3.5 billion since the assessment is one percent of lumber sales. If there are 10,000 locations, this means average lumber sales of \$350,000 per location. An assumption of average compliance costs of 0.21 percent results in an estimate of \$735 per location.

To implement the staff's proposed increase in the allowed retention amount for startup costs, staff recommends an additional \$485 be allowed beginning January 1, 2014 (see Exhibit 2). We expected this date to coincide with the effective date of a permanent Regulation 2000. In addition, this prospective change will be easier to implement, as it would limit the number of refund claims. Under staff's proposal, retailers who continue to sell lumber products will claim the additional amount on their lumber schedules for reporting periods beginning January 1, 2014. Retailers who no longer sell products subject to the assessment, however, may file a claim for refund for assessment amounts paid in 2013 up to \$485. For example, a single-location retailer who had \$65,000 in retail lumber product sales subject to the assessment in 2013 would have paid \$400 in assessment on those sales (\$650 assessment collected - \$250 retained for cost reimbursement under the provisions of Emergency Regulation 2000). If the retailer discontinues selling wood products in 2014, the retailer may file a claim for refund for \$400.

B. Pros of Alternative 1

- Staff believes this alternative provides retailers with an amount that will recover some of their costs to implement AB 1492 without a devastating revenue loss to the Timber Regulation and Forest Restoration (TRFR) Fund.
- Providing that the additional retention be allowed prospectively limits the refund claims, making implementation easier.

C. Cons of Alternative 1

- The proposed amount is less than the amount lumber retailers' reported they spent to implement AB 1492.
- This alternative does not allow retailers to retain an amount for reimbursement of ongoing costs retailers incur as new lumber products are added to their inventory or as the BOF's list of products subject to the assessment changes.
- Retailers who collect small amounts of assessment will need to keep track of an additional declining balance of unused allowed retention amounts.

D. Statutory or Regulatory Change for Alternative 1

No statutory change is required. However, staff's recommendation does require adoption of new regulations.

E. Operational Impact of Alternative 1

Staff will publish proposed Regulations 2000 and 2001 and thereby begin the formal rulemaking process. Staff will also send a special notice to retailers advising them of the increased retention amount, update the BOE Lumber Products Assessment webpage, and issue a Tax Information Bulletin (TIB) article. Staff will also revise the Lumber Products Assessment schedule instructions to explain the additional allowed retention beginning January 1, 2014.

F. Administrative Impact of Alternative 1**1. Cost Impact**

The workload associated with publishing the regulation, sending a special notice, preparing the TIB article, updating the BOE webpage, and revising the schedule instructions is considered routine. Any corresponding cost would be absorbed within the Board's existing budget.

2. Revenue Impact

Assuming 10,000 locations, staff estimates the allowed retention in 2013 would be \$2,500,000 (\$250 per location). The additional allowed retention beginning 2014 would be \$4,850,000. See Revenue Estimate (Exhibit 1).

G. Taxpayer/Customer Impact of Alternative 1

Retailers with small amounts of lumber product sales will need to keep track of an adjusted declining balance of unused retention amounts.

H. Critical Time Frames of Alternative 1

Staff expects the approval of the regulations by the Office of Administrative Law will be completed before emergency Regulation 2000 expires.

VII. Alternative 2**A. Description of Alternative 2**

Readopt emergency Regulation 2000 without amendment. This alternative would allow retailers to retain \$250 per location for reimbursement of startup costs.

This alternative is supported by the California Forestry Association, California Native Plant Society, Forests Forever, Pacific Forest Trust, Sierra Club, and the Center for Biological Diversity. This alternative was also recommended by California Assemblymembers Bob Blumenfield, Wesley Chesbro, Richard Gordon, Richard Bloom, and Roger Dickinson.

This alternative provides the safest option to protect the fund as BOE remains uncertain of the actual number of lumber retailers that could retain reimbursement amounts. The interested parties supporting this alternative believe that a retailer reimbursement level greater than \$250 would jeopardize the overall purpose of enacting the Lumber Products Assessment. They explained in their submissions that the Governor's proposed 2013/2014 budget proposes the expenditure of \$26.7 million including adding 49.3 new positions to the state's timber harvest review program.

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Both the Assembly and Senate Budget subcommittees responsible for this budget item have already adopted the Governor's proposed budget level regarding expenditures from the TRFR Fund. They further note that comments received during recent Legislative budget hearings pointed to the hope that in future years additional funding from the TRFR Fund would be available for forest land restoration projects.

B. Pros of Alternative 2

- This alternative has the smallest revenue impact on the TRFR Fund. By providing the fund with the maximum amount, the alternative will do the most to support the purpose of AB 1492 – funding a robust timber harvest review program and support existing restoration grant programs.
- Because the provisions are the same as the emergency regulation, this alternative is the easiest for retailers to understand and to claim. Many retailers will have already claimed the amount in 2013 (for example, a single location retailer with more than \$25,000 in retail lumber product sales in 2013). For retailers with small amounts of lumber product sales, they may not need to keep track of an adjusted declining balance of unused retention amounts.

C. Cons of Alternative 2

- The proposed amount is less than the amount lumber retailers' reported they spent to implement AB 1492.
- This alternative does not allow retailers to retain an amount for reimbursement of ongoing costs retailers incur as new lumber products are added to their inventory or as the BOF's list of products subject to the assessment changes.

D. Statutory or Regulatory Changes for Alternative 2

No statutory change is required. The alternative requires the adoption of a new regulation.

E. Operational Impact of Alternative 2

Staff will publish proposed Regulation 2000 and thereby begin the formal rulemaking process. Since this alternative continues the amount allowed by the emergency regulation, staff would not need to send a special notice to retailers. Staff will update the BOE Lumber Products Assessment webpage and issue a TIB article explaining the provisions of the emergency regulation were made permanent.

F. Administrative Impact of Alternative 2**1. Cost Impact**

The workload associated with publishing the regulation, preparing the TIB article, and updating the BOE webpage is considered routine. Any corresponding cost would be absorbed within the Board's existing budget.

2. Revenue Impact

Assuming 10,000 locations, staff estimates the total allowed retention would be \$2,500,000. See Revenue Estimate (Exhibit 1).

G. Taxpayer/Customer Impact of Alternative 2

There would be no change to the Lumber Products Assessment schedule. Retailers with small amounts of lumber product sales may not need to keep track of an additional adjusted declining balance of unused retention amounts. Retailers will likely not be reimbursed for actual incurred costs to implement AB 1492.

H. Critical Time Frames for Alternative 2

Staff expects the approval of the regulation by the Office of Administrative Law will be completed before emergency Regulation 2000 expires.

VIII. Alternative 3

A. Description of Alternative 3

Adopt a regulation that allows retailers to retain a higher amount for startup costs and an annual amount for reimbursement of ongoing costs. Interested parties did not provide specific regulation language, however, in their January 21, 2013 submission West Coast requested that BOE set the startup cost retention amount at \$5,500 per retail location and the annual retention at \$1,500 per retail lumber location.

Several interested parties submitted comments explaining that the \$250 and \$735 amounts proposed in staff's second discussion paper are unreasonably low given retailers' actual costs to change their reporting systems to collect the assessment. Both West Coast and Home Depot believe that PRC section 4629.5(a)(3) authorizes reimbursement for any costs associated with the collection of the assessment. They also disagree that the PricewaterhouseCoopers study should be used as support for any determined amount. They point out that the study analyzed programming costs associated with a general sales tax, while programming for the assessment requires more time and resources because it only applies to specific products identified by the BOF. They believe that a better determination of actual costs of collection would be made from a survey of retailers throughout the state.

If this alternative is chosen, staff recommends two regulations be drafted, a Regulation 2000 with provisions identical to emergency Regulation 2000, and a Regulation 2001 with the new provisions beginning January 1, 2014.

B. Pros of Alternative 3

- This alternative come the closest to reimbursing retailers for the costs they incurred implementing AB 1492.
- The alternative would provide continuing reimbursement for expected ongoing costs to comply with the assessment.

C. Cons of Alternative 3

- This alternative would have the greatest reduction to the TRFR Fund, thus jeopardizing the overall objectives of AB 1492.
- Some retailers may be reimbursed for more than their actual startup costs.

- Staff disagrees there is statutory authority to allow for retention of the assessment beyond reimbursement for startup costs.

D. Statutory or Regulatory Changes for Alternative 3

Interested parties believe no statutory change is required to allow retention for ongoing costs. The alternative requires the adoption of new regulations.

E. Operational Impact of Alternative 3

Staff will publish the proposed regulations and thereby begin the formal rulemaking process. Staff will also send a special notice to retailers advising them of the increased retention amount, update the BOE Lumber Products Assessment webpage, and issue a TIB article. Staff will also revise the Lumber Products Assessment schedule instructions to explain the additional allowed retention for startup costs and ongoing retention beginning January 1, 2014.

F. Administrative Impact of Alternative 3

1. Cost Impact

The workload associated with publishing the regulation, sending a special notice, preparing a TIB article, updating the BOE webpage, and revising the schedule instructions is considered routine. Any corresponding cost would be absorbed within the Board's existing budget. Since this alternative provides for ongoing retention, staff may consider building system checks to ensure that the retention amount is not over claimed in future years.

2. Revenue Impact

Assuming 10,000 locations, staff estimates the allowed retention in 2013 would be \$2,500,000 (\$250 per location). Allowing an additional \$5,250 for startup costs in 2014, the allowed retention beginning 2014 would be \$52,500,000. Allowing \$1,500 each year for ongoing costs would be \$15,000,000 each year. See Revenue Estimate (Exhibit 1).

G. Taxpayer/Customer Impact of Alternative 3

The Lumber Products Assessment schedule instructions would be revised to explain the additional allowed retention beginning January 1, 2014. Retailers with small amounts of lumber product sales will need to keep track of an additional adjusted declining balance of unused retention amounts; these retailers may not pay an assessment amount for several years.

H. Critical Time Frames for Alternative 3

Staff would need to work quickly with interested parties to develop language for this proposal so the regulation could be approved by the Office of Administrative Law before emergency Regulation 2000 expires.

Preparer/Reviewer Information

Prepared by: Tax Policy Division, Sales and Use Tax Department

Current as of: May 23, 2013

REVENUE ESTIMATE

STATE OF CALIFORNIA
BOARD OF EQUALIZATION



Proposed Lumber Products Assessment Regulations - Retailer Reimbursement Retention

I. Issue

Should the Board authorize publication of new Lumber Products Assessment regulations stating the amount of collected assessment retailers may retain for reimbursement of collection costs?

II. Alternative 1 – Staff Recommendation

Staff recommends the Board approve and authorize publication of

- Regulation 2000, *Retailer Reimbursement Retention*, allowing retailers to retain \$250 per location for reimbursement of startup costs beginning January 1, 2013, and
- Regulation 2001, *Additional Allowed Retailer Reimbursement Retention*, allowing retailers to retain an additional \$485 per location beginning January 1, 2014.

To preserve the emergency regulation provisions, the text of proposed Regulation 2000 is identical to the emergency regulation. Staff believes that a separate Regulation 2001 will make it clear that the changes beginning January 1, 2014 do not affect the emergency regulation provisions in place in 2013. See Exhibit 2.

III. Other Alternative Considered

Alternative 2: Readopt emergency Regulation 2000 without amendment. This alternative would allow retailers to retain \$250 per location for reimbursement of startup costs. See Exhibit 3. This alternative is supported by the California Forestry Association, California Native Plant Society, Forests Forever, Pacific Forest Trust, Sierra Club, and the Center for Biological Diversity. This alternative was also recommended by California Assemblymembers Bob Blumenfield, Wesley Chesbro, Richard Gordon, Richard Bloom, and Roger Dickinson.

Revenue Estimate

Alternative 3: Adopt a regulation that allows retailers to retain a higher amount for startup costs and an annual amount for reimbursement of ongoing costs. West Coast Lumber & Building Material Association (West Coast) requested that BOE set the startup cost retention amount at \$5,500 per retail location and the annual retention at \$1,500 per retail lumber location. In addition to West Coast, this alternative is supported by Home Depot, Caseywood, Bruce Bauer Lumber & Supply, Idaho Pacific Lumber, Mead Clark Lumber, Nichols Lumber & Hardware, Van Matre Lumber, Brisco Mill & Lumber, La Mesa Lumber, San Joaquin Lumber, Sunnyvale Lumber, Truckee-Tahoe Lumber, Valley Redwood, Roadside Lumber & Hardware, Ashby Lumber, Reliable Wholesale Lumber, Pine Tree Lumber, Monument Lumber, and Home Lumber.

Background, Methodology, and Assumptions

We obtained U.S. data on lumber sales from the U.S. Census Bureau 2007 *Economic Census* ("Wholesale Trade: Industry Series: Preliminary Product Lines Statistics by Kind of Business for the United States: 2007"). Taking California's 12 percent share of U.S. population and applying a typical retail margin, we estimate that California lumber retail sales were about \$7.0 billion in 2007. The economic recession that started December 2007 had a dramatic impact on California's housing and building material industry. Housing permits have declined by about 50 percent from 2007 to 2012. If we assume that lumber sales declined in a manner closely following the decline in housing permits, we estimate that 2012 California retail lumber sales were about \$3.5 billion.

An assessment of one percent on the retail value on those products would amount to \$35 million in annual state revenues.

The number of retail locations selling lumber and wood products in California is unknown. The most recent U.S. Census Bureau *County Business Patterns* data indicate that there were 6,834 establishments in California in NAICS industry 444, "Building material and garden equipment and supplies dealers," in 2011. Not all of these establishments necessarily sell lumber products. However, other retailers in different NAICS industries may sell lumber and wood products. Based on the Census Bureau numbers and allowing for additional sellers in other NAICS industries, we believe the number of locations selling lumber and wood products is likely to be close to 10,000.

Revenue Estimate

Revenue Summary

Revenues, cost reimbursement estimates and revenues after cost reimbursements are shown in the table below. Without reimbursements, revenues are estimated to be about \$35 million.

Alternative and Cost Reimbursement Amount	Revenue Estimate	Cost Reimbursement (Assume 10,000 Locations)	Revenues After Cost Reimbursement
Alternative 1 (\$735)	\$35,000,000	\$7,350,000	\$27,650,000
Alternative 2 (\$250)	\$35,000,000	\$2,500,000	\$32,500,000
Alternative 3 (\$5,500)	\$35,000,000	\$55,000,000	-\$20,000,000
Ongoing annual reimbursement (\$1,500)	\$35,000,000	\$15,000,000	\$20,000,000

- **Alternative 1.** The staff recommendation will reduce revenues by \$7.350 million. Revenues after reimbursements are estimated to be \$27.650 million.
- **Alternative 2.** This recommendation will reduce revenues by \$2.500 million. Revenues after reimbursements are estimated to be \$32.500 million.
- **Alternative 3.** This recommendation will reduce revenues by \$55.000 million for startup costs. Revenues after reimbursements are estimated to be *negative* \$20.000 million.

Preparation

Mr. Joe Fitz, Chief Economist, Board of Equalization. For additional information, please contact Mr. Fitz at 916-323-3802.

May 23, 2013.

Regulation 2000, Retailer Reimbursement Retention

Public Resources Code section 4629.5, as added by Statutes 2012, chapter 289, requires the Board of Equalization to adopt a regulation to determine the amount of reimbursement a retailer may retain for costs associated with the collection of the Lumber Products Assessment imposed by Public Resources Code section 4629.5.

A retailer required to collect the Lumber Products Assessment may retain no more than \$250 per location as reimbursement for startup costs associated with the collection of the assessment. Such reimbursement is to be taken on the retailer's first return on which the Lumber Products Assessment is reported or, if the amount of the collected assessment is less than the allowed reimbursement, on the retailer's next consecutive returns until the allowed reimbursement amount is retained.

"Location" means and is limited to a business location registered under the retailer's seller's permit as of January 1, 2013, where sales of products subject to the assessment are made.

Regulation 2001, Additional Allowed Retailer Reimbursement Retention

Beginning January 1, 2014, a retailer required to collect the Lumber Products Assessment may retain \$485 per location, in addition to the \$250 allowed by Regulation 2000, as reimbursement for startup costs associated with the collection of the assessment. Such reimbursement is to be taken on the retailer's first return after January 1, 2014, on which the Lumber Products Assessment is reported, or if the amount of the collected assessment is less than the allowed reimbursement, on the retailer's next consecutive returns until the allowed reimbursement amount is retained. If the retailer no longer sells products subject to the assessment, the retailer may file a claim for refund for assessment amounts paid in 2013 up to \$485.

"Location" means and is limited to a business location registered under the retailer's seller's permit as of January 1, 2013, where sales of products subject to the assessment are made.

Regulation 2000, Retailer Reimbursement Retention

Public Resources Code section 4629.5, as added by Statutes 2012, chapter 289, requires the Board of Equalization to adopt a regulation to determine the amount of reimbursement a retailer may retain for costs associated with the collection of the Lumber Products Assessment imposed by Public Resources Code section 4629.5.

A retailer required to collect the Lumber Products Assessment may retain no more than \$250 per location as reimbursement for startup costs associated with the collection of the assessment. Such reimbursement is to be taken on the retailer's first return on which the Lumber Products Assessment is reported or, if the amount of the collected assessment is less than the allowed reimbursement, on the retailer's next consecutive returns until the allowed reimbursement amount is retained.

"Location" means and is limited to a business location registered under the retailer's seller's permit as of January 1, 2013, where sales of products subject to the assessment are made.

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Assembly
California Legislature



ASSEMBLY COMMITTEE ON BUDGET
BOB BLUMENFIELD, CHAIR
ASSEMBLYMEMBER, FORTIETH DISTRICT

CHIEF CONSULTANT
CHRISTIAN GRIFFITH

COMMITTEE SECRETARIES
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MARK MARTIN
GABRIELLE MEINDL
NICOLE VAZQUEZ

March 20, 2013

Jerome E. Horton, Chairman
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279

Dear Chairman Horton:

As part of the 2012-13 budget package, the Assembly Budget Committee authored AB 1492, a bill intended to fund a robust timber harvest review program and support existing restoration grant programs. As chair and members of the Assembly Budget Committee, we respectfully request that you adopt the recommendations in Chief Counsel Randy Ferris' October 12, 2012 report, which suggests a \$250 reimbursement for each retail location that collects the lumber product assessment. We believe that this reimbursement amount is necessary to uphold the primary purpose of AB 1492: to ensure sustainable funding for a robust timber harvest review program.

As you may know, for several years leading up to AB 1492, General Fund budget cuts had seriously compromised the state's timber harvest permitting program. For example, the Department of Fish and Wildlife was forced to eliminate participation in timber-related activities in the Sierra and reduce its participation by more than half in other areas of northern California, leaving a small program on the north coast.

Since a timber harvest plan must be the "functional equivalent" of a CEQA analysis, and since CEQA requires interdisciplinary review, the cuts to the state's timber harvest review program put the entire program in legal jeopardy. This issue was highlighted when an environmental group submitted a demand letter to the Secretary for Natural Resources, John Laird, requesting the decertification of the timber harvest review program.



The General Fund cuts and the legal pressure to decertify the program prompted the Legislature to consider various proposals, including one that would have required timber companies and landowners to cover all regulatory costs associated with timber harvest plans. The timber industry concluded that paying for the entire cost of the program would stagger what is left of an industry that produces less than half the volume it did just a few decades ago.

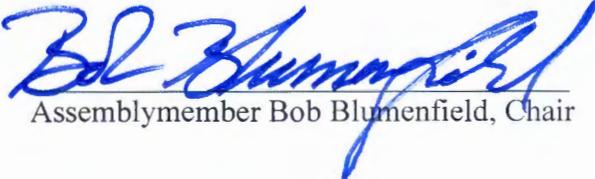
The Legislature ultimately decided that a one percent lumber product assessment would be the most appropriate way to fund the state's timber harvest review program and ensure adequate interdisciplinary review. AB 1492 received broad support among environmentalists and industry, which led to a rare supermajority vote in the Legislature.

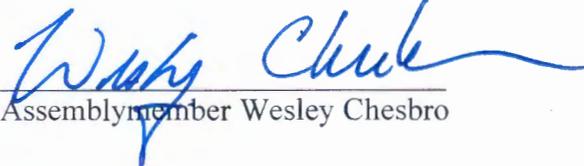
To meet the intent of AB 1492 and develop a program that can conduct "functional equivalent" timber harvest reviews, the Governor's office has asked the Legislature to add 49.3 new positions to the program. With these new positions, the program's costs will exceed \$20 million. The Board of Equalization estimates that the lumber product assessment will generate \$35 million in annual state revenues. As such, once these new positions are approved by the Legislature, there will be less than \$15 million to cover other AB 1492 expenses (e.g. retailer reimbursement, refunds, and the Board of Equalization's costs).

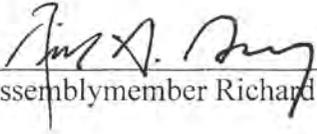
According to the Board of Equalization's Second Discussion Paper on the retailer reimbursement issue, a \$250 reimbursement per retailer will cost \$2.5 million to \$10 million. Reimbursement at this amount does not interfere with the staffing plan proposed by the Governor and contemplated by AB 1492. However, if the reimbursement amount is \$735, as recommended in the Second Discussion Paper, the AB 1492 fund will likely experience a deficit in 2014 and positions will have to be cut from the timber harvest review program. If the reimbursement amount is \$5,500 with an additional \$1,500 in annual on-going reimbursement, as recommended by the West Coast Lumber and Building Material Association¹, there is a potential that all positions in the timber harvest review program will be eliminated until the fund reaches a positive amount in 2021. This would be an absurd result and defeat the primary purpose of AB 1492, which as stated above, is to ensure sustainable funding for a robust timber harvest review program. Additionally, every legislative analysis for AB 1492 states that any reimbursement is for "set up" costs only.

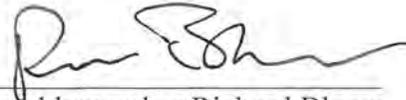
It should be clear from the circumstances surrounding AB 1492, the legislative analyses of AB 1492, and AB 1492 itself, that the Legislature did not intend to have the retailer reimbursement issue act as an impediment to developing a program that can conduct "functional equivalent" timber harvest reviews. Moreover, we anticipate that the Legislature will approve the Governor's request for 49.3 new positions since the relevant budget subcommittees in the Assembly and Senate have already approved these positions. This approval should be construed as the Legislature's intent to limit the retailer reimbursement amount to a level that will allow these new positions to be funded.

Sincerely,


Assemblymember Bob Blumenfield, Chair


Assemblymember Wesley Chesbro


Assemblymember Richard S. Gordon


Assemblymember Richard Bloom


Assemblymember Roger Dickinson

cc: The Honorable Betty T. Yee, First District
The Honorable George Runner, Second District
The Honorable Michelle Steel, Third District
The Honorable John Chiang, California State Controller

¹ It should be noted that the West Coast Lumber and Building Material Association (WCLBMA) “strongly opposed” AB 1492 last year, stating, among other things, that “[c]ollecting an additional tax at the point of sale requires, at the least, a significant and costly reconfiguration of computer based programs that monitor sales taxes.” Based on this statement, one can reasonably assume that WCLBMA expected to absorb costs associated with collecting the lumber assessment.

California Native Plant Society
Forests Forever
Pacific Forest Trust
Sierra Club
Center for Biological Diversity

March 21, 2013

Ms. Susanne Buehler, Chief
Tax Policy Division (MIC: 92)
Board of Equalization
PO Box 942879
Sacramento CA 94279-4530

Dear Ms. Buehler:

Subject: Lumber Products Assessment

We appreciate the opportunity to submit these brief comments regarding an appropriate Retailer Reimbursement Retention for the costs of collecting the new Lumber Products Assessment. Each of our organizations was a party to the negotiations and discussions between the Administration, Legislature, timber industry, and public stakeholders. And each of our organizations has a major interest in ensuring the intent of the assessment is realized – namely fully funding the State’s forest management program to protect public environmental resources.

We support and agree with the staff analysis and conclusions regarding the reimbursement question. The legislation provides a modest one-time set up reimbursement for each retail location at which lumber and lumber products subject to the assessment are sold. The reasons supporting this are as follows:

1. The plain language of Section 4629.5(a)(3), PRC, refers to a specified amount of reimbursement and authorizes retailers to retain from the collected assessment “until the entire reimbursement amount is retained,” clearly indicating the amount retained was to be a finite amount. It is inappropriate to add, as some have, words to the Section stating an “annual” reimbursement was intended, it is simply not there.
2. This conclusion that a single reimbursement for start up costs is also consistent with both formal and informal discussions during the Legislature’s consideration of the implementing AB 1492 and this is clearly documented in Legislative bill analyses.
3. A principle in legislative drafting and interpretation holds that the Legislature is consistent and intentional in drafting of statutes. As the Board’s staff has noted, where the Legislature has in other circumstances intended annual ongoing reimbursement for collection costs an explicit amount or percentage was clearly provided.

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TAX POLICY DIVISION

4. Reflecting the Governor's interpretation and intent in approving AB 1492, the 2013/14 FY Administration budget for forest management purposes from the Timber Regulation and Forest Restoration Fund (TRFR) proposes the expenditure of \$26.7 million. A retailer reimbursement greater than the emergency rate of \$250 would more than likely preempt this budget amount.
5. Likewise, both the Assembly and Senate Budget subcommittees responsible for this budget item have already adopted the Governor's proposed budget level regarding expenditures from the TRFR Fund, affirming the Legislative intent regarding the enactment of the Lumber Products Assessment.
6. Numerous comments during recent Legislative budget hearings pointed to the hope that in future years additional funding from the TRFR Fund would be available for forest land restoration projects, another primary reason for enacting AB 1492 but an impossible scenario under the high annual reimbursements proposed by some retailers.
7. Accepting the unreasonable recommendation of some in the retail sector would, as the Board's staff has estimated, prevent consideration of the current budget initiative for several years. It is dubious to think the Legislature and Governor approved a forest management funding mechanism in order to have the bulk of the funding annually go to upgrading and maintaining the sales, distribution and accounting systems of retailers.

For these reasons we urge the Board of Equalization to make permanent the emergency Regulation 2000, providing a \$250 per retail sales location reimbursement and not undermine the intent of the Lumber Products Assessment enacted into law in 2012.

Thank you for considering our views on this matter and we will be available for further discussion as appropriate.

Sincerely,

Greg Suba
California Native Plant Society

Luke Breit
Forests Forever

Paul Mason
Pacific Forest Trust

Kathryn Phillips
Sierra Club

Justin Augustine
Center for Biological Diversity

Contact: Vern Goehring, 444-8194, vern@cal.net



CALIFORNIA FORESTRY ASSOCIATION

PHONE 916.444.6592 • FAX 916.444.0170 • E-MAIL cfa@cwo.com • www.foresthealth.org

1215 K STREET • SUITE 1830 • SACRAMENTO, CA 95814

October 19, 2012

Honorable Jerome E. Horton, Chairman
Honorable Michelle Steel, Vice Chair
Honorable Betty T. Yee, 1st District
Senator George Runner, 2nd District
Honorable John Chiang, State Controller

California State Board of Equalization
450 N Street
Sacramento, CA 95814

Re: Support for Staff Recommendation on Lumber Products Assessment

Dear Chairman Horton and Board Members:

On behalf of the California Forestry Association, I write to urge your adoption of the staff recommendation for the emergency regulations to implement AB 1492, the forestry reform package, including the 1% assessment on the purchase of lumber products in this state. This is in the State Board of Equalization (SBE) Board Meeting agenda for October 23 under Chief Counsel Matters – Item J – Rulemaking – Adoption of Emergency Regulation – Lumber Products Assessment.

CFA was a key sponsor of AB 1492, working closely with the Legislature and the administration, and we believe that the staff's recommendation reflects the legislative intent regarding retailer compensation. Therefore, we urge you to approve and adopt proposed Regulation 2000, Retailer Reimbursement Retention for implementation of the Lumber Products Assessment. AB 1492 provides the SBE with the authority to adopt an emergency regulation to determine the amount of reimbursement retailers may retain for their compliance costs for collecting the fee beginning January 1, 2013. We concur with the staff's analysis that the legislative intent and history was to allow only a one-time amount to cover initial costs of compliance, which the Legislature had been informed would be no more than \$250 per retail establishment.

As you may be aware, in instances wherein retailers receive ongoing compensation for collection of a fee, the underlying statutes clearly specify an amount and that they are ongoing reimbursements to the retailer. No such provisions exist in AB 1492. Therefore, there is no authority to provide retailers with reimbursement of actual or ongoing costs of compliance.

Thank you for your consideration. If you have any questions, please feel free to contact me.

Sincerely,

David A. Bischel
President

WEST COAST LUMBER & BUILDING MATERIAL ASSOCIATION

177 Parkshore Drive • Folsom, California 95630 Telephone 916/235-7490 Fax 916/235/7496
www.lumberassociation.org

January 21, 2013

Ms. Susanne Buehler, Chief
Tax Policy Division (MIC:92)
Board of Equalization
450 N Street
PO Box 942879
Sacramento CA 94279-0092

Re: Proposed Regulation 2000, *Retail Reimbursement Retention*

Ladies and Gentlemen:

The West Coast Lumber & Building Material Association (WCLBMA) recommends the following as a permanent regulation establishing the amount of collected lumber products assessment retailers may retain for costs reimbursement.

WCLBMA is a regional lumber and building material trade association with more than 300 member firms, the majority of whom are in California. Within that total membership are 172 separate retail lumber locations, representing 92 separate firms. The association represents in excess of 80% of the retail lumber dealers in California.

WCLBMA requests the following:

1. **Set the reimbursement amount at \$5,500 per retail lumber location.**
2. **Set an annual reimbursement amount of \$1,500 per retail lumber location to accommodate updates and changes in the list of products subject to the assessment.**

Comments:

1. The source of the \$250 "emergency rule" reimbursement is open to question and concern. The manner in which the enabling legislation, AB 1492, was passed by the legislature in the early morning hours of the final day of the 2012 session was a charade. Passing such a significant piece of legislation with major implications and costs for those responsible for collecting the

assessment was an injustice. Calling the hastily cobbled-together legislation an "emergency," thus circumventing any hearings, debate or discussion of the legislation was a mistake.

- a. The Board of Equalization staff counsel's memorandum proposing the \$250 reimbursement in October, 2012, was based largely on a 2006 *"Retail Sales Tax Compliance Costs: A National Estimate,"* prepared by PriceWaterhouseCooper. That report has been demonstrated to be inaccurate, incomplete and non-germane.
 - i. The report used data from 2003, compiled in 2006, and is seriously out of date.
 - ii. The report focuses on updating "cash registers" for sales tax collection. This current issue involves complex computer software systems, not cash registers.
 - iii. The report focuses on this as a sales tax issue, which it is not. It is the collection of an additional assessment on selected products, not a general sales tax increase.
 - iv. The reports itself acknowledges its inaccuracies and irrelevance with numerous comments of "coverage error," "missing data," "measurement error," and "sampling error." It notes a significant non-response and incomplete response rate.
 - v. The report appears to be a sample based on response from some general retail businesses, certainly not retail lumber retailers.
 - b. There has been discussion on the legislative intent of what "reimbursement" actually meant to those involved. Several who were part of the late night actions of AB 1492 acknowledge their understanding that what was passed included full reimbursement of costs involved in implementing the tax.
2. WCLBMA presented data at the October, 2012, BOE hearing that the average cost of implementation reported by lumber retailer respondents was \$4,251. At the time, WCLBMA noted this was based on estimates lumber retailers had received from computer software providers and estimates of time involved internally to enact the assessment.

Since that time, many retail lumber dealers have received more complete estimates, have in some cases paid for software upgrades and reconfigurations, or made the necessary programming changes to in-house computer systems. **The average cost to implement the assessment is \$5,480 per lumber location as reported by 74 independent lumber retail locations.**

See Exhibit A. Costs estimated to Implement California Lumber Tax

3. WCLBA also requests an annual reimbursement per retail lumber location of \$1,500 beginning in 2014 to reimburse lumber retailers for the anticipated updates as products subject to the assessment or not subject to the assessment are determined by the California State Board of Forestry and Fire Protection.

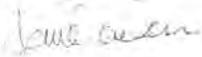
At the September 2012 public hearing conducted by the Board of Forestry and Fire Protection, staff acknowledged their short time period in which to develop an "emergency regulation" to produce the list of products subject to and not subject to the assessment. The board also recognized the complexity of the product list and included a provision for annual review of the lumber products lists. Any changes to the list of products will require additional computer

software modifications, staff training and management oversight by retail lumber dealers. It is the opinion of WCLBMA that this additional cost is reimbursable under the language of AB 1492.

The California independent retail lumber dealers have objected to this unfortunate piece of legislation that was drafted behind closed doors and passed with tawdry deal-making and inappropriate pressure from the administration. Nevertheless the legislation is now law and the retail lumber dealers are making every possible good faith effort to comply.

There are many watching this process to observe if state government can and will rectify as much as possible a most unfortunate legislative action.

Sincerely,



KEN DUNHAM
Executive Director

CC: BOE Members
Governor of California
California Forestry Association
California Taxpayers Association

EXHIBIT A - COSTS ESTIMATED TO IMPLEMENT CALIFORNIA LUMBER ASSESSMENT (AB1492)

FIRM(names dedacted)	TOTAL COST	PER LOCATION
a	\$30,000	\$4,285
b	\$6,000	\$6,000
c	\$42,000	\$3,500
d	\$44,250	\$4,425
e	\$8,000	\$4,000
f	\$8,000	\$8,000
g	\$5,400	\$5,400
h	\$28,000	\$7,000
i	\$15,000	\$3,750
j	\$24,000	\$4,000
k	\$2,270	\$2,270
l	\$6,900	\$6,900
m	\$1,250	\$1,250
n	\$16,000	\$4,000
o	\$6,250	\$6,250
p	\$25,000	\$25,000
q	\$5,600	\$5,600
r	\$18,000	\$6,000
s	\$90,000	\$10,000
t	\$6,000	\$6,000
u	\$12,000	\$6,000
xv	\$5,600	\$5,600
74 retail locations reporting data	\$405,520	
Average cost per location		\$5,480

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January 22, 2013

BY FACSIMILE & U.S. MAIL

Ms. Susanne Buehler, Chief
Tax Policy Division (MIC:92)
Board of Equalization
450 N. Street
P.O. Box 942879
Sacramento, CA 94279-0092

Re: Comments to Initial Discussion Paper -
Lumber Products Assessment Regulation 2000

Dear Ms. Buehler:

On behalf of Home Depot U.S.A., Inc. ("Home Depot"), below are comments to the Initial Discussion Paper (the "Paper") for the Lumber Products Assessment (the "Assessment"), Regulation 2000.

Startup Costs or Continuous Reimbursement

The first issue raised in the Paper is whether the authorizing statute allows retailers to retain an amount sufficient to cover their ongoing costs of collecting the Assessment or merely initial costs of setting up a collection system. The Paper appears to acknowledge that PRC 4629.5(a)(3) does not explicitly limit reimbursement to one-time startup costs. However, it effectively concludes that the statute does so by implication, citing the requirement that the reimbursement "be taken on the first return or next consecutive returns until the entire reimbursement amount is retained." According to the Paper, if the Legislature had intended ongoing reimbursement, the statute would have explicitly provided an amount or percentage to be routinely claimed.

We respectfully disagree for two reasons. First, the Paper's conclusion contradicts the plain language of the statute, which does not limit reimbursement to the costs associated with setting up a collection system. Rather, PRC 4629.5(a)(3) specifically authorizes reimbursement for "*any* costs associated with the *collection* of the assessment." Where statutory language is clear and unambiguous, there is no need to look at legislative history or to go any further. *Hoechst Celanese Corp. v. Franchise Tax Bd.* (2001) 25 Cal.4th 508, 519. We submit that PRC 4629.5(a)(3) is clear and unambiguous and that it authorizes reimbursement for any costs of collection, including ongoing costs.

The statute's reference to reimbursement "on the first return or next consecutive return until the entire reimbursement amount is retained" does not change that plain meaning. Indeed,

Ms. Susanne Buehler, Chief
January 22, 2013
Page 2

given that retailers are required to file quarterly returns, that reference likely means that the Legislature intended for BOE to set an annual reimbursement amount that retailers should retain “on the first return or next consecutive return” filed each year.

Second, the Paper’s conclusion fails to appreciate that retailers will face ongoing costs to maintain their collection systems. The list of lumber products and engineered wood products subject to the Assessment is not static, nor is the retailer’s product mix. Although the list is to be updated each year by the Board of Forestry, items sold in the retailer’s store are changing weekly. PRC 4629.4(a). That necessarily means that retailers will have to reprogram their collection systems continually to capture new products. Nothing in the statute suggests that retailers should not be reimbursed for these ongoing programming costs and, indeed, it makes no sense to reimburse retailers for initial programming costs and then require them to shoulder those same costs to capture new lumber products. The proposed interpretation is also unfair given that other retailers are reimbursed for their ongoing costs of collecting the California Tire Fee, Covered Electronic Waste Recycling Fee and Cigarette and Tobacco Products Tax.

We thus respectfully submit that PRC 4629.5(a)(3) requires BOE to set an amount sufficient to reimburse retailers for their ongoing costs of collecting the Assessment.

Amount of Reimbursement

The second issue raised in the Paper concerns the amount of the reimbursement. The Paper concludes that a \$250 per location reimbursement is sufficient because (1) a PricewaterhouseCoopers study concluded that the average cost of programming and servicing cash registers to collect sales tax is .01% of taxable sales; and (2) a 2007 economic census says 50% of retail lumber establishments had taxable sales of \$2.5 million or less ($\$2.5 \text{ million} \times .01 = \250).

Again, however, this analysis contradicts the plain language of the statute. PRC 4629.5(a)(3) authorizes reimbursement for *any* costs associated with the collection of the assessment. But the .01% figure referenced in the PricewaterhouseCoopers study only covers the costs of programming and servicing cash registers. There are various other costs cited in that study, including training personnel and purchasing tax-related software, that go into tax collection. In fact, the total weighted cost of all the collection factors in the PricewaterhouseCoopers study is .19%, not .01%. Given the plain language of PRC 4629.5(a)(3), all of these costs must be considered in setting the reimbursement amount.

Another problem with the Paper’s use of the PricewaterhouseCoopers study is that the study analyzed programming costs associated with a general sales tax. By contrast, the Assessment only applies to the lumber products and engineered wood products specified in the regulation updated annually by the Board of Forestry. Programming an assessment for specific lumber products will necessarily require more time and resources than a sales tax that can be uniformly applied across all products.

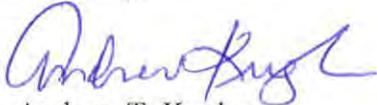
Mayer Brown LLP

Ms. Susanne Buchler, Chief
January 22, 2013
Page 3

We thus respectfully submit that BOE should not rely on the PricewaterhouseCooper study to set the reimbursement amount, but rather poll retailers throughout the State to ascertain the actual costs of collection. To that end, we note that the West Coast Lumber & Building Material Association estimated that the average cost per location is \$4,521. Home Depot is currently determining its own costs and will update these comments when that analysis is complete.

We appreciate the opportunity to submit these comments and look forward to continuing to work with BOE on a final rule.

Sincerely,



Andrew T. Kugler

cc: Ms. Karen Polyakov, Home Depot U.S.A., Inc.
Ms. Lynn Monsalvatge, Home Depot U.S.A., Inc.



February 22, 2013

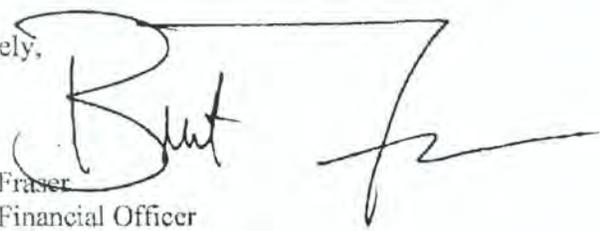
Susanne Buehler, Chief
Tax Policy Division (MIC 92)
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

RE: Emergency Regulations - AB 1492 Timber Assessment

Dear Susanne Buehler:

- 1) The \$735 recommended one-time compensation forces the cost burden for this new legislation onto business owners. It is an indirect tax on business. The compliance cost should be fully funded by the revenue from this new legislation. In our case, we will pay approximately \$7,000 the first year and between \$1,500 and \$2,000 each year after that to comply with this new law. It will cost a large percentage of the \$735 reimbursement just to have my accounting firm figure out how to get the reimbursement credit.
- 2) Cost of sales tax compliance and collection is dramatically different for small retailers than large retailers. This is supported by the data in the Pricewaterhouse Coopers study. A scaled reimbursement should be calculated based on annual receipts.
- 3) The Pricewaterhouse Coopers study is a good analysis but is not pertinent to this discussion. **The extraordinary cost that retailers will incur from the Lumber Tax Assessment is due to the fact that not all items that lumber retailers sell are being taxed the same.** The analysis in the exhibits provided by individual retailers and the CRA points to a start up cost that is five to ten times what staff is suggesting. This gap needs to be explained!!!

Sincerely,


Brent Fraser
Chief Financial Officer
Caseywood Corporation

12249 Charles Drive Grass Valley, CA 95945
(530)273-3883 Fax (530) 273-5780 (800) 772-6671
www.caseywood.com sales@caseywood.com

RECEIVED
FEB 22 2013
TAX POLICY DIVISION

From: Brent Fraser [mailto:fraserb@caseywood.com]
Sent: Monday, March 25, 2013 7:31 AM
To: Whitaker, Lynn; Stark, Kirsten
Subject: RE: Lumber Products Assessment regulation - issue postponed until June 11, 2013

Lynn/Kirsten,

One more piece of information that might help staff and board members as they discuss this matter. From 1/1/2013 to 3/25/13 (less than three months) our company has collected \$16,251.91 in lumber assessment tax revenue. There was a lot of discussion during the last meeting about how long it would take the fund to collect the money required to reimburse retailers before it would start accumulating tax revenue. The people in the meeting guessed that it would take a year or more for the fund to be cash positive. **Again, the lack of data and analysis is a huge problem.** If the BOE were to reimburse my company \$7,000 for implementation and \$2,000 per year for compliance, the fund would have already collected \$7,251.91 of net tax revenue with over nine months remaining in the year. In addition, January to March are the slowest months in the construction industry so the monthly tax revenue for the balance of the year will be much higher.

***** report generated directly from our transaction/ERP system*****

ADDONS	AMOUNT	MEMO	AMOUNT	MEMO
3 FORKLIFT RENTAL	1.90		1.90	
4 RESTOCKING	33.85		33.85	
9 FREIGHT-IN	416.32		1,716.38	
19 DOOR SHOP LABOR	1,393.14		3,554.47	
30 LUMBER ASSESS TAX 1%	4,103.34		16,251.91	
	-----		-----	
TOTAL	5,948.55		21,558.51	

This is the type of hard data and analysis that is critical for your decision making process. It is not fair to tax without adequate research and analysis. The BOE cannot rely on hearsay, guesses, irrelevant data, etc.

Please forward this submission to the appropriate board members and decision makers.

Thank you.

Brent Fraser
Caseywood Corporation

brent.fraser@caseywood.com

PH 530.273.3883

FAX 530.273.5780

From: [Connie Nickerson](#)
To: [Whitaker, Lynn](#)
Cc: [Ken Dunham \(KenD@lumberassociation.org\)](#); [dave](#); [Darryl Thom](#)
Subject: Lumber Tax Reimbursement letter
Date: Friday, March 15, 2013 10:14:09 AM
Attachments: [Lumber Tax Reimbursement letter.docx](#)
Importance: High

Dear Lynn,

Please read the attached letter regarding the proposed retailer reimbursement. In addition to the costly and time consuming computer software and hardware updates, there has been a significant amount of time training staff to ensure they capture the tax at the point of sale since the majority of products we sell at our establishment are not subject to this tax. The cost of tracking the information for purposes of reporting on our sales tax return has also consumed an inordinate amount of my time. If I can provide additional clarification to justify what we are asking, please don't hesitate to contact me directly.

Cordially,

Connie Nickerson
Comptroller
Bruce Bauer Lumber & Supply
134 San Antonio Circle
Mountain View, CA. 94040
650-948-1089 x223
www.brucebauer.com (check out our new updated website)

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March 15, 2013

Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Ladies and Gentlemen:

On behalf of my company Bruce Bauer Lumber & Supply I urge the Board of Equalization to provide the reimbursement of up to \$5,500 per retail lumber location for set-up costs to implement the “Lumber Assessment”, and provide for an annual ongoing reimbursement of up to \$1,500 to enable ongoing changes to the list of assessed products.

The rationale and data used to implement the “emergency” regulation in October 2012 used seriously flawed data, as has been well-documented by others. That same flawed data continues to be used in subsequent staff reports.

The costs of implementation per business location are also well-documented and significantly more than present staff recommendations.

The legislation that enacted this assessment was ill-advised and passed on a so-called “emergency” basis without any considerations of the costs, complexity and difficulty for the retail lumber dealer to implement the assessment.

This legislation and subsequent regulation is a significant cost to my business and is difficult to implement and comply with. Most retail lumber business have had costly and time-consuming computer software and hardware updates.

The law, as passed, clearly provides for the full reimbursement of lumber retailers for their costs associated with setting up the collection system. Please do not make it even more difficult for businesses to operate in California.

Sincerely,

Connie Nickerson
Comptroller, Bruce Bauer Lumber & Supply
134 San Antonio Circle
Mountain View, CA. 94040
650-948-1089 x223



March 15, 2013

Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Ladies and Gentlemen:

On behalf of my company, Idaho Pacific Lumber, I urge the Board of Equalization to provide the reimbursement of up to \$5,500 per retail lumber location for set-up costs to implement the "Lumber Assessment", and provide for an annual ongoing reimbursement of up to \$1,500 to enable ongoing changes to the list of assessed products.

The rationale and data used to implement the "emergency" regulation in October 2012 used seriously flawed data, as has been well-documented by others. That same flawed data continues to be used in subsequent staff reports.

The costs of implementation per business location are also well-documented and significantly more than present staff recommendations.

The legislation that enacted this assessment was ill-advised and passed on a so-called "emergency" basis without any considerations of the costs, complexity and difficulty for the retail lumber dealer to implement the assessment.

This legislation and subsequent regulation is a significant cost to retail lumber businesses and is difficult to implement and comply with. Most retail lumber business have had costly and time-consuming computer software and hardware updates.

The law, as passed, clearly provides for the full reimbursement of lumber retailers for their costs associated with setting up the collection system. Please do not make it even more difficult for businesses to operate in California.

Sincerely,

Eric Grandeen
President
Idaho Pacific Lumber

RECEIVED

MAR 20 2013

TAX POLICY DIVISION

From: [Matt Petersen](#)
To: [Whitaker, Lynn](#)
Cc: [Ken Dunham](#)
Subject: Lumber Assessment TAX
Date: Friday, March 15, 2013 9:07:52 AM
Attachments: [ole0.bmp](#)



3/15/2013
Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Ladies and Gentlemen:

On behalf of my company, Mead Clark Lumber, I urge the Board of Equalization to provide the reimbursement of up to \$5,500 per retail lumber location for set-up costs to implement the "Lumber Assessment", and provide for an annual ongoing reimbursement of up to \$1,500 to enable ongoing changes to the list of assessed products.

The rationale and data used to implement the "emergency" regulation in October 2012 used seriously flawed data, as has been well-documented by others. That same flawed data continues to be used in subsequent staff reports.

The costs of implementation per business location are also well-documented and significantly more than present staff recommendations.

The legislation that enacted this assessment was ill-advised and passed on a so-called "emergency" basis without any considerations of the costs, complexity and difficulty for the retail lumber dealer to implement the assessment.

This legislation and subsequent regulation is a significant cost to my business and is difficult to implement and comply with. Our company spent an enormous amount of time reviewing our entire inventory and filtering out what we needed to collect the additional tax on what items didn't get the extra tax. Our software supplier also invested considerable time on our behalf re-writing the programming to enable us to collect and list the new tax

separately on all of our invoice copies. We expect we will need to update our computer on a regular basis in order to comply with this new tax regulation.

The law, as passed, clearly provides for the full reimbursement of lumber retailers for their costs associated with setting up the collection system. Please do not make it even more difficult for businesses to operate in California.

Sincerely,
Matt Petersen
Vice President
707 576 3333
Mead Clark Lumber Co.

Nichols

LUMBER & HARDWARE CO.

13470 DALEWOOD • BALDWIN PARK, CA 91706
TEL (626) 960-4802 • FAX (626) 962-1067



March 15, 2013

Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Ladies and Gentlemen:

On behalf of my company, *(Nichols Lumber & Hardware Company)*, I urge the Board of Equalization to provide the reimbursement of up to \$5,500 per retail lumber location for set-up costs to implement the "Lumber Assessment", and provide for an annual ongoing reimbursement of up to \$1,500 to enable ongoing changes to the list of assessed products.

The rationale and data used to implement the "emergency" regulation in October 2012 used seriously flawed data, as has been well-documented by others. That same flawed data continues to be used in subsequent staff reports.

The costs of implementation per business location are also well-documented and significantly more than present staff recommendations.

The legislation that enacted this assessment was ill-advised and passed on a so-called "emergency" basis without any considerations of the costs, complexity and difficulty for the retail lumber dealer to implement the assessment.

This legislation and subsequent regulation is a significant cost to my business and is difficult to implement and comply with. Most retail lumber business have had costly and time-consuming computer software and hardware updates that are still being worked on in order to comply with the destination tax that works in conjunction with this tax. There are many programs that have to be rewritten in order to make this happen. It takes more than a simple tax code program change.

The law, as passed, clearly provides for the full reimbursement of lumber retailers for their costs associated with setting up the collection system. Please do not make it even more difficult for businesses to operate in California.

Sincerely,


Rick Deen, V.P.



03/15/2013

Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Ladies and Gentlemen:

On behalf of my company, Van Matre Lumber Company, Inc., I urge the Board of Equalization to provide the reimbursement of up to \$5,500 per retail lumber location for set-up costs to implement the "Lumber Assessment", and provide for an annual ongoing reimbursement of up to \$1,500 to enable ongoing changes to the list of assessed products.

The rationale and data used to implement the "emergency" regulation in October 2012 used seriously flawed data, as has been well-documented by others. That same flawed data continues to be used in subsequent staff reports.

The costs of implementation per business location are also well-documented and significantly more than present staff recommendations.

The legislation that enacted this assessment was ill-advised and passed on a so-called "emergency" basis without any considerations of the costs, complexity and difficulty for the retail lumber dealer to implement the assessment.

This legislation and subsequent regulation is a significant cost to retail lumber businesses and is difficult to implement and comply with. Most retail lumber business have had costly and time-consuming computer software and hardware updates.

The law, as passed, clearly provides for the full reimbursement of lumber retailers for their costs associated with setting up the collection system. Please do not make it even more difficult for businesses to operate in California.

Sincerely,

A handwritten signature in black ink, appearing to read "William Van Matre", is written over a light blue horizontal line.

William Van Matre
CFO



From: [Howard Mankins](#)
To: [Whitaker, Lynn](#)
Cc: kend@lumberassociation.org
Subject: Proposed Regulation 2000, reimbursement retention
Date: Monday, March 18, 2013 3:19:58 PM

Brisco Mill & Lumber
1005 El Camino Real
Arroyo Grande, California 93420
SINCE 1909

Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, Ca 94279-0092

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Brisco Lumber Yard would like to ask the Board of Equalization to provide the reimbursement of up to \$ 5,000.00 for set-up costs to implement the "Lumber Assessment", and provide for an annual ongoing disbursement of up to \$ 1,500.00 to enable ongoing changes to the list of assessed products.

This legislation was enacted without any consideration of the costs to small retail lumber dealers such as ours. We are a small family business and over the past 104 years, we have been inundated with more and more government regulations, taxation and restrictions, that make it nearly impossible to maintain a family business. You have heard about the "straw that broke the camels back", well that is just about where we are!

Please consider the above request or still better, ask for the removable of this legislation permanently

Thank you most sincerely for your consideration.

Howard D. Mankins 4th generation lumber dealer
Brisco Mill & Lumber Yard



8255 UNIVERSITY AVE., P.O. BOX 156, LA MESA, CA 91944-0156 (619) 466-0511 FX (619) 466-1200 E-MAIL info@lamesalumber.com WEBSITE lamesalumber.com

March 18, 2013

Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Ladies and Gentlemen:

On behalf of my company, La Mesa Lumber Co., I urge the Board of Equalization to provide the reimbursement of up to \$5,500 per retail lumber location for set-up costs to implement the "Lumber Assessment", and provide for an annual ongoing reimbursement of up to \$1,500 to enable ongoing changes to the list of assessed products.

The rationale and data used to implement the "emergency" regulation in October 2012 used seriously flawed data, as has been well-documented by others. That same flawed data continues to be used in subsequent staff reports.

The costs of implementation per business location are also well-documented and significantly more than present staff recommendations.

The legislation that enacted this assessment was ill-advised and passed on a so-called "emergency" basis without any considerations of the costs, complexity and difficulty for the retail lumber dealer to implement the assessment.

This legislation and subsequent regulation is a significant cost to my business and is difficult to implement and comply with. My company was forced to upgrade software and hardware at a cost of \$6,000 simply to facilitate the collection of the Lumber Assessment. Most retail lumber business have had costly and time-consuming computer software and hardware updates.

The law, as passed, clearly provides for the full reimbursement of lumber retailers for their costs associated with setting up the collection system. Please do not make it even more difficult for businesses to operate in California.

Sincerely,

Carol Baxter
President

**San Joaquin
Lumber Co.**

STOCKTON (209) 465-5651

MANTECA (209) 823-3175

"A Provider of Quality Building Materials Since 1910"

March 18, 2013

Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Ladies and Gentlemen:

It has been brought to my attention that the Board of Equalization is debating the cost of implementing the recently passed Lumber Assessment Fee. I cannot express how frustrating it has been trying to get our computer system to cooperate with calculating and displaying the assessment. The system we have was not designed to charge multiple taxes and our current invoices and quotes are not laid out to display multiple taxes. In order for us to comply with this "emergency" regulation, we must calculate what is taxable and what is not taxable by hand and write in the totals. For us to become fully automated, we would have to 1) purchase a new computer system, 2) purchase new paper products. The cost of doing this will far exceed the proposed amount being debated at this time.

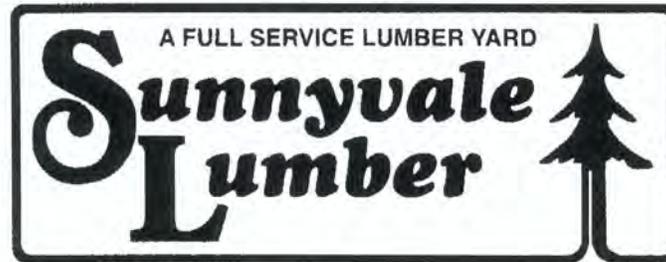
Our system is old, but until now it has served us very well and my staff knows the system inside and out. With our economic struggles the past four years, we cannot afford an upgrade now.

Again, I cannot express my frustration in the way this regulation was passed with total disregard to the tax payer, the method for collecting the tax and the insulting amount of reimbursement for implementation.

Respectfully,

Jeff French
General Manager
San Joaquin Lumber Company
Stockton, California

SUNNYVALE
870 W. Evelyn Ave.
Sunnyvale, CA 94086
(408) 736-5411
FAX (408) 736-6738



FREMONT
44580 Old Warm Springs Blvd.
Fremont, CA 94538
(510) 651-8730
FAX (510) 651-6563

Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, Ca 94279-0092

03/18/13

Re: Proposed Regulation 2000, Retailer Reimbursement Retention.

Ladies and Gentlemen,

On behalf of Sunnyvale Lumber Inc, I urge the B.O.E. to provide the actual cost to us of implementing the "Lumber Assessment". It is my understanding that the original legislation required that we be reimbursed for the rather substantial costs of implementing this legislation.

The original amount of \$250 per location was an insult to us and clearly did not fulfill the requirements of the legislation as written. Our costs so far are close to \$8,000 and we continue to spend time and effort as the list of items subject to the tax evolves.

Our company uses a proprietary software system and in its original form there was nothing in the inventory master file for each sku to be taxed or not. All of the things we sell are subject to sales tax so all were treated the same. Now every sku needs one additional field to list if it is taxable or not for the lumber tax. We have over 20,000 sku's so this is a monumental task.

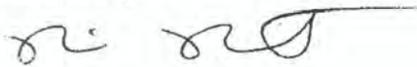
We have many different ways we can give a customer a quote (phone, fax, email in person etc.) and each of these involves a



separate program in our software. The tax needs to be figured correctly for each process and honestly this has been a nightmare. We have over 100 hours of programming time involved to date and more in the future as the list of taxable or non taxable items changes. In addition to the software we have hundreds of hours of clerical staff time checking that the correct items are being taxed and that the tax is figured properly.

This tax is going to bring in large amounts of money to the state treasury and is unconscionable to cheat the retailers out of our fair reimbursement as promised in the legislation. I urge you to do what was required in the original legislation and pay all retailers a fair and reasonable amount to defray their costs for implementing this law. In my mind, anything less than \$8,000 per location is short changing the retailers and is a violation of the text of the law as written.

Sincerely,



Rick Roberts
CEO Sunnyvale Lumber Inc.



March 18, 2013

Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

Via e-mail to: Lynn.whitaker@boe.ca.gov

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Ladies and Gentlemen:

On behalf of my company, Truckee-Tahoe Lumber Company, I urge the Board of Equalization to provide the reimbursement of up to \$5,500 per retail lumber location for set-up costs to implement the "Lumber Assessment", and provide for an annual ongoing reimbursement of up to \$1,500 to enable ongoing changes to the list of assessed products.

The rationale and data used to implement the "emergency" regulation in October 2012 used seriously flawed data, as it has been well-documented by others. That same flawed data continues to be used in subsequent staff reports.

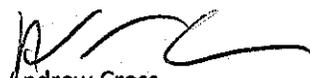
The costs of implementation per business location are also well-documented and significantly more than present staff recommendations.

The legislation that enacted this assessment was ill-advised and passed on a so-called "emergency" basis without any considerations of the costs, complexity and difficulty for the retail lumber dealer to implement the assessment.

This legislation and subsequent regulation is a significant cost to my business and is difficult to implement and comply with. Most retail lumber business have had costly and time-consuming computer software and hardware updates, and in my case, it took my IT Manager 48 hours at \$100, i.e. \$4,800.

The law, as passed, clearly provides for the full reimbursement of lumber retailers for their costs associated with setting up the collection system. Please do not make it even more difficult for businesses to operate in California.

Sincerely,


Andrew Cross
Owner, President & CEO



VALLEY REDWOOD INC.

"The One Stop Yard Improvement Center"

4836 Auburn Blvd., Sacramento, CA 95841 • (916) 334-9500

March 18, 2013

Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Ladies and Gentlemen:

On behalf of my company, Valley Redwood, Inc., I urge the Board of Equalization to provide the reimbursement of up to \$5,500 per retail lumber location for set-up costs to implement the "Lumber Assessment", and provide for an annual ongoing reimbursement of up to \$1,500 to enable ongoing changes to the list of assessed products.

The rationale and data used to implement the "emergency" regulation in October 2012 used seriously flawed data, as has been well-documented by others. That same flawed data continues to be used in subsequent staff reports.

The costs of implementation per business location are also well-documented and significantly more than present staff recommendations.

The legislation that enacted this assessment was ill-advised and passed on a so-called "emergency" basis without any considerations of the costs, complexity and difficulty for the retail lumber dealer to implement the assessment.

This legislation and subsequent regulation is a significant cost to retail lumber businesses and is difficult to implement and comply with. Most retail lumber business have had costly and time-consuming computer software and hardware updates.

The law, as passed, clearly provides for the full reimbursement of lumber retailers for their costs associated with setting up the collection system. Please do not make it even more difficult for businesses to operate in California.

Sincerely,

Steven C Triebwasser, President

RECEIVED
MAR 21 2013

TAX POLICY DIVISION



"Where Professionals Buy"

29112 Roadside Drive • PO Box 339 • Agoura Hills • California • 91301
Telephone No.: 1.818.991.1880
Fax No.: 1.818.991.2262

March 19, 2013

Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Ladies and Gentlemen:

On behalf of our company, Roadside Lumber & Hardware, Inc., I urge the Board of Equalization to provide the reimbursement of up to \$5,500 per retail lumber location for set-up costs to implement the "Lumber Assessment", and provide for an annual ongoing reimbursement of up to \$1,500 to enable ongoing changes to the list of assessed products.

The rationale and data used to implement the "emergency" regulation in October 2012 relied on seriously flawed data, as has been well-documented by others. That same flawed data continues to be used in subsequent staff reports.

The costs of implementation per business location are also well-documented and significantly more than present staff recommendations. Every retail lumber dealer has had to modify its computer programs to accommodate this legislation incurring either internal or external programming costs to target specific lumber products subject to this assessment and to modify the printing of the invoice segregating this assessment charge.

The legislation that enacted this assessment was ill-advised and passed on a so-called "emergency" basis without any considerations of the costs, complexity and difficulty for retail lumber dealers to implement the assessment.

The law, as passed, clearly provides for the full reimbursement of lumber retailers for their costs associated with setting up the collection system. Please do not make it even more difficult for businesses to operate in California.

Sincerely,

Roadside Lumber & Hardware, Inc.

A handwritten signature in black ink, appearing to be "Michael Tuchman", with a stylized flourish at the end.

Michael Tuchman
President

RECEIVED
MAR 21 2013
TAX POLICY DIVISION

ASHBY LUMBER

Hardware and Building Materials

824 Ashby Avenue ♦ Berkeley, CA 94710-2804 ♦ Phone 510.843.4832 ♦ Fax 510.843.1080
2295 Arnold Industrial Way ♦ Concord, CA 94520-5344 ♦ Phone 925.689.8999 ♦ Fax 925.288.9368

3/22/13

Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Ladies and Gentlemen:

On behalf of Ashby Lumber, I urge the Board of Equalization to provide a reimbursement of \$5,500 per retail lumber location for set-up costs to implement the "Lumber Assessment" and to provide for an annual ongoing reimbursement of up to \$1,500 to enable ongoing changes to the list of assessed products.

This legislation and subsequent regulation has created significant cost to my business as it is a change to the way in which items have traditionally been taxed in the State of California. Items have been taxed or non-taxable, and the rate of taxation has been based on region. Implementation to add a tax to only specified items, in addition to regional taxes, has required most retail lumberyards to have costly and time-consuming computer software and hardware updates. In our case, we have spent over 163 hours implementing the necessary changes at a cost of \$9,650. Should any changes be necessary to the list of assessed products, each time changes are made, it will require an estimated 24 hours of programming work.

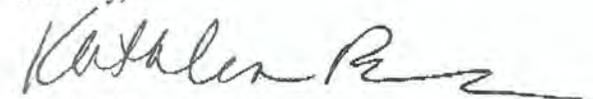
We understand that only 30% of the lumber sold is grown and harvested in the State of California. We have invested many hours of our time for you to collect additional revenue on the 70% of lumber sold in the State, but grown and harvested outside the State. The increase in revenues will be substantial and the program should not be a burden to those attempting to comply with the assessment.

The rationale and data used to implement the "emergency" regulation in October 2012 was seriously flawed, as has been well-documented by others. That same flawed data continues to be used in subsequent staff reports without proper consideration of the costs, complexity, and difficulty for the retail lumber dealer to implement the assessment.

The costs of implementation per business location are also well-documented and significantly more than present staff recommendations.

The law, as passed, clearly provides for the full reimbursement of lumber retailers for their costs associated with setting up the collection system. Building is just beginning to recover. We have suffered enough. Please do not make it even more difficult for us to operate in California.

Sincerely,



Kathleen Brown
President, Ashby Lumber



RELIABLE WHOLESALE LUMBER, INC.

7600 REDONDO CIRCLE / P.O. BOX 181 / HUNTINGTON BEACH, CALIFORNIA 92648
TELEPHONES (714) 848-8222 / FAX (714) 847-1605 / SALES FAX (714) 848-5286
WEBSITE: www.rwli.net

3/22/13

Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Ladies and Gentlemen:

On behalf of my company, Reliable Wholesale Lumber, Inc., I urge the Board of Equalization to provide the reimbursement of up to \$5,500 per retail lumber location for set-up costs to implement the "Lumber Assessment", and provide for an annual ongoing reimbursement of up to \$1,500 to enable ongoing changes to the list of assessed products.

The rationale and data used to implement the "emergency" regulation in October 2012 used seriously flawed data, as has been well-documented by others. That same flawed data continues to be used in subsequent staff reports.

The costs of implementation per business location are also well-documented and significantly more than present staff recommendations.

The legislation that enacted this assessment was ill-advised and passed on a so-called "emergency" basis without any considerations of the costs, complexity and difficulty for the retail lumber dealer to implement the assessment.

This legislation and subsequent regulation is a significant cost to my business and is difficult to implement and comply with. To date, we have incurred over \$45,000.00 in IT costs to comply with this new regulation. Most retail lumber businesses have had costly and time-consuming computer software and hardware updates.

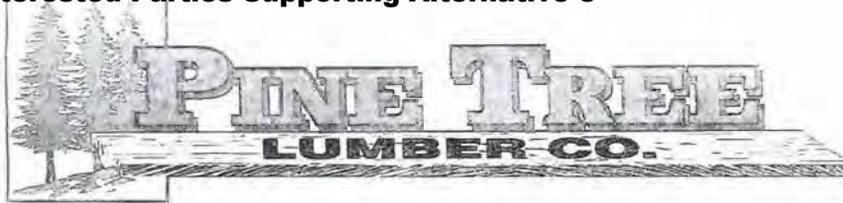
The law, as passed, clearly provides for the full reimbursement of lumber retailers for their costs associated with setting up the collection system. Please do not make it even more difficult for businesses to operate in California.

Sincerely,

Will Higman - COO

RECEIVED
MAR 22 2013

TAX POLICY DIVISION



April 1, 2013

Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Ladies and Gentlemen:

On behalf of my company, Pine Tree Lumber Company, I urge the Board of Equalization to provide the reimbursement of up to \$5,500 per retail lumber location for set-up costs to implement the "Lumber Assessment", and provide for an annual ongoing reimbursement of up to \$1,500 to enable ongoing changes to the list of assessed products.

The rationale and data used to implement the "emergency" regulation in October 2012 used seriously flawed data, as has been well-documented by others. That same flawed data continues to be used in subsequent staff reports.

The costs of implementation per business location are also well-documented and significantly more than present staff recommendations.

The legislation that enacted this assessment was ill-advised and passed on a so-called "emergency" basis without any considerations of the costs, complexity and difficulty for the retail lumber dealer to implement the assessment.

This legislation and subsequent regulation has been time consuming to our business and was difficult to implement and remains so to comply with. Most retail lumber business have had costly and time-consuming computer software and hardware updates.

The law, as passed, clearly provides for the full reimbursement of lumber retailers for their costs associated with setting up the collection system. Please do not make it even more difficult for businesses to operate in California.

Sincerely,

Gail Esqueda
Office Manager

RECEIVED
APR 4 2013

TAX POLICY DIVISION



Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Ladies and Gentlemen:

On behalf of my company, Monument Lumber Co, I urge the Board of Equalization to provide the reimbursement of up to \$5,500 per retail lumber location for set-up costs to implement the "Lumber Assessment", and provide for an annual ongoing reimbursement of up to \$1,500 to enable ongoing changes to the list of assessed products.

The rationale and data used to implement the "emergency" regulation in October 2012 used seriously flawed data, as has been well-documented by others. That same flawed data continues to be used in subsequent staff reports.

The costs of implementation per business location are also well-documented and significantly more than present staff recommendations.

The legislation that enacted this assessment was ill-advised and passed on a so-called "emergency" basis without any considerations of the costs, complexity and difficulty for the retail lumber dealer to implement the assessment.

This legislation and subsequent regulation is a significant cost to my business and is difficult to implement and comply with. Most retail lumber business have had costly and time-consuming computer software and hardware updates.

The law, as passed, clearly provides for the full reimbursement of lumber retailers for their costs associated with setting up the collection system. Please do not make it even more difficult for businesses to operate in California.

Sincerely,

Mark D. [unclear]

RECEIVED
MAR 25 2013

TAX POLICY DIVISION



1130 N. Main Street • Bishop, CA 93514 • 760-873-6379 • FAX 760-873-7999

May 2, 2013

Tax Policy Division
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0092

Re: Proposed Regulation 2000, Retailer Reimbursement Retention

Ladies and Gentlemen:

On behalf of my company, Home Lumber Company, I urge the Board of Equalization to provide the reimbursement of up to \$5,500 per retail lumber location for set-up costs to implement the "Lumber Assessment", and provide for an annual ongoing reimbursement of up to \$1,500 to enable ongoing changes to the list of assessed products.

The rationale and data used to implement the "emergency" regulation in October 2012 used seriously flawed data, as has been well-documented by others. That same flawed data continues to be used in subsequent staff reports.

The costs of implementation per business location are also well-documented and significantly more than present staff recommendations.

The legislation that enacted this assessment was ill-advised and passed on a so-called "emergency" basis without any considerations of the costs, complexity and difficulty for the retail lumber dealer to implement the assessment.

This legislation and subsequent regulation is a significant cost to my business and is difficult to implement and comply with. My small location in Bishop, Ca cost me \$3,200 in programming alone. Most retail lumber business have had costly and time-consuming computer software and hardware updates.

The law, as passed, clearly provides for the full reimbursement of lumber retailers for their costs associated with setting up the collection system. Please do not make it even more difficult for businesses to operate in California.

Sincerely,

A handwritten signature in black ink that reads "Brent M. Johnson". The signature is written in a cursive style and extends to the right with a long horizontal line.

Brent M. Johnson
President