

**BOARD OF EQUALIZATION
BUSINESS TAXES COMMITTEE MEETING MINUTES**

HONORABLE MICHELLE STEEL, COMMITTEE CHAIR

450 N STREET, SACRAMENTO

MEETING DATE: SEPTEMBER 23, 2014, TIME: 10:00 A.M.

ACTION ITEMS & STATUS REPORT ITEMS**Agenda Item No: 1****Title: Proposed Amendments to Regulation 1588, *Seeds, Plants and Fertilizer*
(Carbon Dioxide)****Issue:**

Whether the Board should amend Sales and Use Tax Regulation 1588, *Seeds, Plants and Fertilizer*, to specifically include carbon dioxide in the definition of fertilizer.

Committee Discussion:

Staff introduced the issue. Mr. John Gamper, from the California Farm Bureau Federation, expressed support for the proposed amendments. Ms. Jeanette Lombardo, from California Food and Agribusiness Advocates, representing Houweling's Tomatoes, appeared along with Mr. Martin Weijters, Senior Corporate Grower, Houweling's Tomatoes, to state that they were available to answer any questions the Members may have.

Committee Action:

Upon motion by Mr. Horton and seconded by Mr. Runner, without objection, the Committee approved and authorized for publication the proposed amendments to Regulation 1588, *Seeds, Plants and Fertilizer*. A copy of the proposed amendments to Regulation 1588 is attached.

Honorable Michelle Steel, Committee Chair

Cynthia Bridges, Executive Director

BOARD APPROVED

at the 9/23/14 Board Meeting

Joann Richmond, Chief
Board Proceedings Division

REGULATION 1588. SEEDS, PLANTS AND FERTILIZER.

(a) SEEDS AND PLANTS. Tax does not apply to sales of seeds, annual plants, and operative January 1, 1999, non-annual plants, the products of which ordinarily constitute food for human consumption or the products of which are to be sold in the regular course of the purchaser's business, including fruit trees, berry vines, and grape rootlings or rootstock, or cuttings of every variety. Tax does not apply to sales of seed, the products of which will be used as feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption or the products of which are to be sold in the regular course of the purchaser's business.

(b) FERTILIZER.

(1) DEFINITION. The term "fertilizer" includes commercial fertilizers, agricultural minerals, ~~and manure, and carbon dioxide~~. The terms "commercial fertilizers" and "agricultural minerals" as used herein are defined in Sections 14522 (commercial fertilizer) and 14512 (agricultural minerals) of the Food and Agricultural Code. "Manure" means the excreta of any domestic animal or domestic fowl which is not artificially mixed with any material except a material which has been used for bedding, sanitary, or feeding purposes for such an animal or fowl or for the preservation of the manure. The term "fertilizer" does not include "packaged soil amendments" or "auxiliary soil and plant substances" as these terms are defined (with the exceptions noted below) in Sections 14552 (packaged soil amendments) and 14513 (auxiliary soil and plant substances) of the Food and Agricultural Code. For the purposes of this regulation, "manures sold without guarantees for plant nutrients" as described in Section 14552 of the Food and Agricultural Code are not packaged soil amendments and carbon dioxide is not an auxiliary soil and plant substance as that term is defined in section 14513 of the Food and Agricultural Code.

(2) APPLICATION OF TAX. Tax does not apply to sales of fertilizer to be applied to land ~~or (including in foliar application)~~ the products of which are to be: (a) used as food for human consumption, (b) used as feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption, or (c) sold in the regular course of the purchaser's business.

When insecticides are mixed with fertilizer and the mixture sold, that portion of the total price allocable to the fertilizer may be excluded from the measure of the tax if the mixed product is applied to land ~~or (including in foliar application)~~ the products of which are to be: (a) used as food for human consumption, (b) used as feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption, or (c) sold in the regular course of the purchaser's business.

The proposed amendments contained in this document may not be adopted. Any revisions that are adopted may differ from this text.