Alcoholic Beverage Tax

Regulations and Instructions

September 2006

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Article 9.9 Special Taxes Administration - Miscellaneous

INTRODUCTION

This pamphlet is designed for licensees under the California Alcoholic Beverage Tax Law: Part 14, Division 2 of the Revenue and Taxation Code. It contains the following information:

- Part I: Regulations that apply to the Alcoholic Beverage Tax Law
- Part II: Instructions on recordkeeping and completion of the excise tax returns for sellers of distilled spirits
- Part III: Instructions for completion of the excise tax returns for sellers of beer and wine

Part II and Part III have indexes which cross-reference the instructions to the appropriate regulation.

If you have any questions regarding the information contained in this publication, please call the Excise Taxes and Fees Division at 800-400-7115.

We welcome your suggestions for improving this or any other of the Board's publications. Please send your suggestions to:

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Note: This publication contains the applicable regulations in effect when the publication was written, as noted on the cover. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this publication and the law, the law is controlling.

PART I

ALCOHOLIC BEVERAGE TAX REGULATIONS

Pursuant to

Sec. 22 of Article XX
Of the Constitution of California

and

The Alcoholic Beverage Tax Law

ARTICLE 1. RECORDS

REGULATION 2500. RECORDS.

Reference: Sections 33452 and 32453, Revenue and Taxation Code.

A taxpayer shall maintain and make available for examination on request by the board or its authorized representatives, records in the manner set forth at California Code of Regulations, Title 18, Section 4901.

History: Effective April 17, 1955.

Amended November 13, 2002, effective March 6, 2003. Entire regulation amended to implement and make specific Revenue and Taxation Code Sections 32452 and 32453 by clarifying the record keeping requirements for all alcoholic beverage licensees. Added language concerning machine sensible records and alternative storage media in order to make the regulation consistent with Sales and Use Tax Regulation 1698 (Title 18. Cal. Code of Regs., Section 1698). Title of regulation changed from "General" to "Records".

Amended February 5, 2003, effective May 28, 2003. The underscored citation indicates an electronic hyperlink to the cite. Common administrative provisions for special taxes programs have been consolidated in Chapter 9.9 Special Taxes Administration. General record-keeping requirements can be found at the referenced cite.

REGULATION 2504. DISTILLED SPIRITS PRODUCED, PACKAGED, OR BOTTLED.

Reference: Sections 32001-32556, Revenue and Taxation Code

Every distilled spirits manufacturer, manufacturer's agent, brandy manufacturer, and rectifier shall keep and preserve a record of all distilled spirits produced, manufactured, cut, blended, rectified, bottled, packaged, or otherwise acquired in this State.

A daily record of such acquisitions shall be made in book forms prescribed by the Board. All distilled spirits received from licensee's own bottling or packaging department shall be recorded in SBE Form 240A. Receipts from the bottling or packaging department shall include all distilled spirits bottled or packaged, whether or not the distilled spirits are owned by the licensee.

History: Effective April 17, 1955

Amended May 4, 1978, effective June 21, 1978. Added "packaged" in first, "or packaging" in third and fourth, and "or packaged" in last sentence, respectively.

REGULATION 2505. BOTTLED OR PACKAGED DISTILLED SPIRITS ACQUIRED IN CALIFORNIA.

Reference: Sections 32001-32556, Revenue and Taxation Code

Every distilled spirits taxpayer shall keep a record in SBE Form 241A of all bottled or packaged distilled spirits acquired from other distilled spirits taxpayers in California and of all distilled spirits received from licensee's own branches in California.

History: Effective April 17, 1955

Amended May 4, 1978, effective June 21, 1978. Added "or packaged."

REGULATION 2506. BOTTLED OR PACKAGED DISTILLED SPIRITS IMPORTED.

Reference: Sections 32001-32556, Revenue and Taxation Code

Every distilled spirits or brandy importer shall keep a record in SBE Form 242A of all bottled or packaged distilled spirits acquired by direct importation from without the State.

History: Effective April 17, 1955

Amended May 4, 1978, effective June 21, 1978. Added "or packaged."

REGULATION 2507. DISTILLED SPIRITS SOLD OR EXPORTED.

Every distilled spirits taxpayer shall keep a record of all distilled spirits sold, and in addition thereto, shall make a daily record in book forms prescribed by the Board covering all distilled spirits sold or delivered to other taxpayers in California and all distilled spirits exported or sold for export from California, as follows:

(a) All sales or deliveries of distilled spirits to other California distilled spirits taxpayers, all transfers of distilled spirits to licensee's own branches in California, and all returns of distilled spirits to original vendors in California, shall be recorded in SBE Form 243B.

REGULATION 2507. DISTILLED SPIRITS SOLD OR EXPORTED. (Continued)

(b) All sales of distilled spirits exported or sold for export from California and actually exported and all sales of distilled spirits to common carriers engaged in interstate or foreign passenger service, shall be recorded in SBE Form 244B.

History: Effective April 17, 1955

REGULATION 2508. DISTILLED SPIRITS INVOICES AND BOTTLING OR PACKAGING RECORDS.

Reference: Sections 32001-32556, Revenue and Taxation Code

All purchase invoices and bottling or packaging records covering distilled spirits acquisitions and all sales invoices, credit memoranda, or other data supporting such sales or deliveries, must be retained by the licensee and filed in such manner as to be readily available for verification by employees of the Board.

History: Effective April 17, 1955
Amended May 4, 1978, effective June 21, 1978 added "or packaging."

REGULATION 2509. PREPAYMENT OF DISTILLED SPIRITS TAX; CONSOLIDATED RETURNS.

Any distilled spirits wholesaler may make an application to the Board for permission to prepay the distilled spirits excise tax on his inventory of distilled spirits on hand as of the first day of any calendar month, and for permission thereafter to pay the excise tax levied on sales of distilled spirits on the basis of subsequent purchases and acquisitions of distilled spirits by him. Any wholesaler who has been granted such permission and who operates more than one location for which distilled spirits wholesalers' licenses are issued and who elects to file a consolidated tax return covering distilled spirits transactions for all of his branch premises, need not include in his SBE Forms 241A and 243B transfers of distilled spirits between his own premises as otherwise provided in this article.

History: Effective April 17, 1955

REGULATION 2512. BEER AND WINE PRODUCTION; BEER BOTTLING; WHOLESALERS' BEER AND WINE PURCHASES.

Every beer manufacturer or wine grower shall keep and preserve a record of all beer or wine manufactured or produced in this State. Such records must show the quantity produced and the disposition thereof. Duplicates of federal production and bottling records, if available to employees of the Board, shall suffice to comply with this regulation.

Every beer manufacturer shall keep and preserve separately a record of all beer received by the bottling, canning, and cooperage departments and packaged therein.

Every beer and wine wholesaler shall keep and preserve a record of all beer and wine purchased in this State. This record must show the kind and quantity of beer or wine purchased, the name and address of the person from whom purchased, and the date received.

Purchase invoices containing all of the above information, if filed so as to be readily accessible for verification by employees of the Board, shall suffice to comply with this regulation.

History: Effective April 17, 1955

REGULATION 2513. BEER AND WINE IMPORTED.

Every importer of beer and wine shall keep a record in SBE Form 269A of all beer and wine imported into this State. This record must be supported by purchase invoices filed in such manner as to be readily accessible for verification by employees of the Board.

History: Effective April 17, 1955

REGULATION 2514. BEER AND WINE SOLD.

Every manufacturer, wine grower, importer, and beer and wine wholesaler shall keep and preserve a record of all beer and wine sold. This record must show the name and address of the purchaser, the date sold, the kind and quantity, the size and capacity of packages of beer or wine sold, the price, container charges or deposits and any discount offered.

REGULATION 2514. BEER AND WINE SOLD. (Continued)

Sales invoices containing all of the above information, if filed so as to be readily accessible for verification by employees of the Board, shall suffice to comply with this regulation.

History: Effective April 17, 1955

REGULATION 2520. PAYMENT BY ELECTRONIC FUNDS TRANSFER.

Reference: Sections 32260 and 32262, Revenue and Taxation Code.

Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.

History: Adopted March 22, 2005, effective July 7, 2005.

ARTICLE 2. INVOICES

REGULATION 2525. CONTENTS.

(a) Every sale or delivery of alcoholic beverages, except beer, from one licensee to another licensee must be recorded on a sales invoice, whether or not consideration is involved. Invoices covering the sale or purchase of alcoholic beverages must be filed in such manner as to be readily accessible for examination by employees of the Board and shall not be commingled with invoices covering commodities other than alcoholic beverages.

Each sales invoice shall have printed thereon the name and address of the seller and shall show the following information:

(1) Name and address of the purchaser.

(2) Date of sale and invoice number.

(3) Kind, quantity, size, and capacity of packages of alcoholic beverages sold.

(4) The cost to the purchaser, together with any discount which at any time is to be given on or from the price as shown on the invoice.

(5) The place from which delivery of the alcoholic beverages was made unless delivery was made from the premises of the licensee or from a public warehouse located in the same county.

(6) Invoices covering sales of distilled spirits by distilled spirits taxpayers to other distilled spirits taxpayers shall show, in addition to the above, the total number of wine gallons covered by the invoice.

(b) Invoices covering sales of wine in internal revenue bond by a wine grower to another wine grower must also show that delivery was made “in bond.”

(c) Invoices covering sales of alcoholic beverages for use in trades, professions, or industries, and not for beverage use, must be marked or stamped: “No State tax — not for beverage use.”

(d) Invoices covering the sale of alcoholic beverages for export must be marked or stamped: “Sold for export.”

History: Effective April 17, 1955

ARTICLE 3. INVENTORIES

REGULATION 2530. INVENTORIES.

Reference: Sections 32151, 32152, 32211, 32452, Revenue and Taxation Code.

(a) DISTILLED SPIRITS. Every distilled spirits taxpayer shall furnish to the Board a statement of the gallonage of finished packaged distilled spirits on hand at the end of each month, or other reporting period authorized by the Board.

This statement shall be made on the Distilled Spirits Taxpayer’s Return. Except as provided below, at least two of these statements shall be prepared from semi-annual physical inventories, a detailed record of which must be available at all times for verification by employees of the Board. For taxpayers reporting on an annual basis, the statement shall be prepared from the December semi-annual physical inventory. A detailed record of the semi-annual physical inventories must be available at all times for verification by employees of the Board.

REGULATION 2530. INVENTORIES. (Continued)

A distilled spirits taxpayer shall be relieved of the requirement of taking one of the required semi-annual physical inventories upon the filing with the Board of a copy of an order of the regional director (compliance) of the Federal Bureau of Alcohol, Tobacco and Firearms waiving the taking of such inventory and approving the taxpayer's taking of physical inventories on an annual basis. Said taxpayer may continue to take physical inventories on an annual basis until such waiver is rescinded by the Board or by the federal regional director (compliance). The Board may rescind the waiver and reimpose the requirement of semi-annual physical inventories if it finds that such semi-annual physical inventories are necessary to law enforcement or protection of the revenue. A distilled spirits taxpayer shall furnish to the Board a copy of any order of the federal regional director (compliance) affecting the taking of physical inventories by such taxpayer within 10 days of the taxpayer's receipt of such order.

(b) BEER. Every licensed beer manufacturer shall take a physical inventory monthly of bulk and bottled beer in the brewery bottling house in such manner as provided in Title 27, Code of Federal Regulations, Section 25294 as it reads on April 1, 1989.

(c) WINE. Every licensed wine grower shall take a physical inventory of all wine and distilling material on hand in United States internal revenue bond on June 30th of each year or, if an annual inventory period ending on other than June 30 has been approved by the regional director (compliance) of the Bureau of Alcohol, Tobacco, and Firearms, then the inventory shall be taken at the end of such annual inventory period.

(d) SUPPORTING RECORDS. All records used in preparing inventories for certification to the Board shall be kept at the licensee's premises for verification by employees of the Board.

History: Effective April 17, 1955.

Amended September 5, 1969.

Amended December 17, 1975, effective January 1, 1976.

Amended August 16, 1978, effective October 6, 1978. In (a) added that statement of gallonage be made on the return; specified condition for waiver of semi-annual physical inventory.

Amended December 1, 1983, effective August 22, 1984. In (b) changed "Title 26" to "Title 27." In (c) deleted requirements for two physical inventories annually and added language following "each year."

Amended November 1, 1989, effective February 1, 1990. Corrected the federal title of "regulatory administrator" to "director (compliance)." Amended subparagraph (b) to reflect a change in numbering in the Code of Federal Regulations.

ARTICLE 4. REPORTS

REGULATION 2535. DISTILLED SPIRITS.

Reference: Sections 32201, 32211, 32251, 32251.5, 32452, Revenue and Taxation Code

Every distilled spirits taxpayer shall, on or before the fifteenth day of each and every month, or, on or before the fifteenth day of the month following the close of such other reporting period authorized by the Board, file with the Board at Sacramento a tax return on the form prescribed by the Board of all sales of distilled spirits for the reporting period, together with such other information as is required on said form.

Every distilled spirits taxpayer shall immediately following the close of business on the last day of each month forward the original page, or pages, of SBE Forms 241A, 242A, 243B, and 244B to the Board at Sacramento, provided that additional entries in these forms as required by Article 1 have been made since the last reporting date.

History: Effective April 17, 1955

Amended September 5, 1969

Amended December 17, 1975, effective January 1, 1976.

Amended December 1, 1983, effective June 8, 1984. In second paragraph inserted "242A" and deleted dates prior to "last day of each month." Deleted last paragraph.

REGULATION 2536. BEER MANUFACTURERS.

Reference: Sections 32151, 32152, 32175, 32176, 32251, 32251.5, 32452, Revenue and Taxation Code

Every licensed beer manufacturer shall, on or before the fifteenth of each and every month, or, on or before the fifteenth day of the month following the close of such other reporting period authorized by the Board, file with the Board

REGULATION 2536. BEER MANUFACTURES. (Continued)

at Sacramento, a tax return on forms prescribed by the Board of all sales of beer for the preceding reporting period together with such other information as is required on said forms.

In determining the tax due on the sale of beer in bottles or cans, the quantity sold shall be computed in accordance with the following table:

NUMBER OF BOTTLES OR CANS PER CASE	FLUID CONTENTS (Ounces) OF EACH BOTTLE OR CAN	BARREL EQUIVALENT
4	64	0.06452
6	64	.09677
12	6	.01815
12	7	.02117
12	8	.02419
12	12	.03629
12	14	.04234
12	30	.09073
12	32	.09677
24	6	.03629
24	7	.04234
24	8	.04839
24	9	.05444
24	10	.06048
24	11	.06653
24	12	.07258
24	13	.07863
24	14	.08468
24	15	.09073
24	16	.09677
36	6	.05444
36	7	.06351
36	8	.07258
48	12	.14516
50	12	.15120

Since the determination of tax liability is based upon a count of cases of bottles or cans, only bottles or cans of uniform size and content may be packaged in the same case or shipping container.

If beer is to be packaged in cases of sizes other than shown above, the beer manufacturer shall notify the Board in advance and request to be advised of the proper fractional barrel equivalent of the proposed container.

Reports of inventories required to be made on each tax return shall be in agreement with Federal Form 5130.9.

REGULATION 2536. BEER MANUFACTURES. (Continued)

History: Effective April 17, 1955.
Amended September 5, 1969.
Amended December 17, 1975, effective January 1, 1976.
Amended October 19, 1988, effective January 14, 1989.
Amended to delete paragraph regarding SBE Form 259 which is no longer required.
Amended November 1, 1989, effective January 27, 1990. Corrected the last paragraph to reflect the correct number of a federal form which was changed by the Federal Government.

REGULATION 2537. WINE GROWERS.

Reference: Sections 32151, 32152, 32173, 32174, 32175, 32176, 32251, 32251.5, 32452, Revenue and Taxation Code.

Every licensed wine grower shall, on or before the fifteenth day of each and every month, or, on or before the fifteenth day of the month following the close of such other reporting period authorized by the board, file with the board at Sacramento, a tax return on forms prescribed by the board of all sales of wine for the preceding reporting period, together with such other information as is required on said form.

Reports of inventories required to be made on each tax return must be in agreement with the data on Federal Report Form 5120.17 (702). The amounts reported must be book inventories for all month except for the end of the annual inventory period as described in Regulation 2530. The inventory reported in that month must be a physical inventory.

History: Effective April 17, 1955.
Amended September 5, 1969.
Amended December 17, 1975, effective January 1, 1976.
Amended December 1, 1983, effective August 22, 1984. Revised second paragraph.
Amended October 19, 1988, effective January 11, 1989.
Amended to delete paragraph regarding SBE Form 259 which is no longer required.

REGULATION 2538. BEER AND WINE IMPORTERS.

Reference: Sections 32151, 32171, 32173, 32174, 32175, 32176, 32251, 32251.5, 32452, Revenue and Taxation Code.

Every licensed beer and wine importer shall, on or before the fifteenth day of each and every month, or, on or before the fifteenth day of the month following the close of such other reporting period authorized by the board, file with the board at Sacramento, a tax return on the form prescribed by the board of all sales of beer or wine for the preceeding reporting period, together with such other information as is required on such form.

A wine grower holding both a winegrower's license and a beer and wine importer's license shall include the total imports of wine for the reporting period on the "Winegrower's Tax Return."

A beer manufacturer holding both a beer manufacturer's license and a beer and wine importer's license shall include the total imports of beer on the "Tax Return of Beer Manufacturer."

Every licensed beer and wine importer shall on or before the fifteenth day of the month following the close of each reporting period, file BOE 269-A.

History: Effective April 17, 1955.
Amended September 5, 1969.
Amended December 15, 1975, effective January 1, 1976.
Amended December 8, 1970, effective January 15, 1971.
Amended October 19, 1988, effective January 14, 1989. Amended to delete paragraph regarding SBE Form 259 which is no longer required.
Amended November 13, 2002, effective March 6, 2003. Amended second and third paragraphs to clarify return reporting requirements when a taxpayer holds two types of licenses.

REGULATION 2540. COMMON CARRIER RECEIPTS AND DELIVERY REPORTS.

Common carriers and holders of interstate alcoholic beverage transporters' permits, transporting alcoholic beverages into this State from without this State for delivery or use within this State, shall obtain from the licensed importer or customs broker a receipt for the alcoholic beverages so transported and delivered. This receipt must show the following information:

REGULATION 2540. COMMON CARRIER RECEIPTS AND DELIVERY REPORTS. (Continued)

Name of shipper, point of origin, name of importer or customs broker to whom delivery is made, place of delivery, name of carrier making delivery, a complete description of the shipment, and the number of the waybill covering the shipments. In the case of rail shipments the receipt shall show also the car number and in the case of water shipments the receipt shall show also the name of the vessel and the number of the steamship bill of lading.

A copy of the freight bill or other shipping document containing all of this information shall be deemed to be in compliance with this requirement. A copy of such receipt must be delivered to the importer or customs broker to whom delivery is made. With respect to pool shipments in which more than one licensed importer or customs broker participates, the common carrier shall furnish a copy of the receipt to each participating importer or customs broker.

All deliveries of alcoholic beverages, shipment of which originated outside California, made to California importers or customs brokers, shall be reported to the board at Sacramento by common carriers and holders of interstate alcoholic beverage transporters' permits. Such report shall be filed with the board on forms prescribed by the board not later than the fifteenth day of each month covering such deliveries made in the previous calendar month.

History: Effective April 17, 1955
Amended September 5, 1969

REGULATION 2541. COMMON CARRIER TAX REPORTS.

Reference: Section 32202, Revenue and Taxation Code

Every common carrier engaged in interstate or foreign passenger service making sales of distilled spirits in California and every person licensed to sell distilled spirits aboard such a carrier, shall, on or before the first day of the second calendar month following the close of each calendar month, or such other reporting period as is authorized by the Board, file with the Board at Sacramento, a report of all sales of distilled spirits in California for the preceding reporting period. The report shall be in such form as the Board shall prescribe and shall be accompanied by a remittance of the amount of tax due for the period covered by the report.

For the purpose of making these reports, such common carrier or other licensed person may compute its sales of distilled spirits in California by allocating a portion of the total distilled spirits sales for the entire system served by the reporting taxpayer to California based on the ratio that passenger miles in California bears to total passenger miles for the entire system served by the reporting taxpayer. The ratio of passenger miles in California to total passenger miles may be determined by tests. New tests should be made when there is any significant change in routes, schedules, or other operating conditions. The tests will be made by the reporting taxpayer and will be subject to review by the Board. All detail and test data should be retained for inspection by the Board.

This method of computing sales of distilled spirits in California is authorized only for the purpose of making reports under this regulation. Determinations may be imposed or refunds granted if the Board, upon audit of the taxpayer's accounts and records, or upon the basis of tests or other information, determines that the report did not disclose the correct amount of tax due.

A report must be filed for each reporting period even though no sales of distilled spirits were made in California during that period. Any person who fails to file a timely report and pay any tax that may be due shall be required to pay the applicable penalties and interest as provided by the Alcoholic Beverage Tax Law.

History: Effective April 17, 1955.
Amended September 5, 1969.
Amended May 4, 1976, effective June 5, 1976.
Amended June 27, 1979, effective August 12, 1979. Added second and third paragraphs regarding computation by formula based on tests.

REGULATION 2542. PUBLIC WAREHOUSES.

Licensed public warehouses shall report on or before January 15 and July 15 of each year, all distilled spirits held in storage by them, in bottled form, at the close of business on December 31 and June 30. Such reports shall be filed with the board at Sacramento on forms prescribed by the board, and shall show the name of each person for whom distilled spirits are stored, the size of containers, number of cases, and the units per case stored for each such person.

History: Effective April 17, 1955

REGULATION 2543. CUSTOMS BROKERS.

Every person holding a Federal customhouse broker's license and making customs entries in connection with original importations of alcoholic beverages into California in customs bond for California licensed importers shall, on or before the fifteenth day of each month, report to the board in Sacramento on forms prescribed by the board, every such importation of alcoholic beverages handled by him as a customhouse broker during the preceding calendar month. Every person holding a customs broker's license under the Alcoholic Beverage Control Act and making customs entries in connection with the importation of alcoholic beverages in customs bond into California for a person who does not hold the appropriate importer's license under the Alcoholic Beverage Control Act shall, on or before the fifteenth day of each month, report to the board in Sacramento on forms prescribed by the board, every such transaction in alcoholic beverages handled by him as a customs broker during the preceding calendar month.

History: Effective April 17, 1955
Amended September 5, 1969

REGULATION 2544. CONVERSION OF LITERS TO GALLONS.

Reference: Sections 32151, 32152, 32201, Revenue and Taxation Code

The Federal Bureau of Alcohol, Tobacco and Firearms has authorized the bottling of wine and distilled spirits in standard metric sizes. Reports of California licensees must be in wine gallons. To convert liters to wine gallons for reporting purposes, licensees shall use the standards established by the Bureau.

These are: (a) For wine, to convert liters to wine gallons on any record or report, the quantity in liters shall be multiplied by 0.26417 to determine the equivalent quantity in wine gallons. The resulting figure shall be rounded to the nearest one-hundredth of a gallon.

(b) For distilled spirits, to convert liters to wine gallons on any record or report, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. The resulting figure shall be rounded to the nearest one-hundredth of a gallon.

History: Adopted December 14, 1976, effective January 20, 1977.

ARTICLE 5. LOSSES AND ALLOWANCES

REGULATION 2550. DESTRUCTION AND UNACCOUNTED FOR LOSSES OF DISTILLED SPIRITS.

Reference: Section 32211, Revenue and Taxation Code

(a) UNINTENTIONAL DESTRUCTION. The term "unintentional destruction" shall mean destruction of distilled spirits by fire, earthquake, floods, breakage in transit, accident, or by any other cause, when the exact quantity destroyed is known. Claims for loss by unintentional destruction must be filed with the Board in Sacramento immediately following the close of business on the last day of the month in which the loss is discovered. The claim must state under oath of the licensee that the distilled spirits were so damaged that they could not be used for any purpose. Proof of loss satisfactory to the Board in the form of paid insurance or carrier claims must be retained on the taxpayer's premises for verification.

(b) UNACCOUNTED FOR LOSSES. Unaccounted for losses shall include all other losses disclosed by physical inventory due to pilferage, handling, etc. The allowable tolerance for unaccounted for losses of distilled spirits acquired by any distilled spirits taxpayer shall not exceed one-tenth of one percent of the total sales of the distilled spirits. In the case of distilled spirits taxpayer who holds licenses for two or more premises, the tolerance allowed by this rule shall be computed and applied separately to the transactions for each premises unless the Board has granted the taxpayer permission to file a consolidated tax return.

History: Effective April 17, 1955.
Amended September 5, 1969.
Amended January 11, 1978, effective February 19, 1978. Second paragraph, second sentence, the word "taxable" is changed to "total".
Effective December 29, 1995. The title of the regulation was made more informative by changing "DISTILLED SPIRITS" to "DESTRUCTION AND UNACCOUNTED FOR LOSSES OF DISTILLED SPIRITS". Grammatical and editorial changes were made to clean up or clarify the language of the regulation. For better understanding, the regulation was divided into two sub-sections entitled "UNINTENTIONAL DESTRUCTION" AND "UNACCOUNTED FOR LOSSES", respectively. In the first paragraph, the words "examination or verification by employees of the board" were changed to "verification". The word "examination" is unnecessary because it is a type of "verification" and not

REGULATION 2550. DESTRUCTION AND UNACCOUNTED FOR LOSSES OF DISTILLED SPIRITS. (Continued)

an alternative to verification. It is not necessary to say "by employees of the board."

In the second paragraph, the word "acquired" was deleted because it is confusing. The rest of the language changes in the second paragraph are plain English changes which clarify that the taxpayer must be granted permission by the board to file a consolidated tax return.

REGULATION 2551. UNACCOUNTED FOR LOSSES OF BEER.

Reference: Section 32152, Revenue and Taxation Code.

There shall be no unaccounted for losses of beer other than those, if any, permitted under Federal law.

History: Effective April 17, 1955.

Amended April 1, 1983, effective June 1, 1983.

Effective January 7, 1996. Previously, Regulation 2551 combined two unrelated concepts: "unaccounted for losses of beer" and "consumption of beer on brewery premises." Two regulations were formed to address the unrelated issues separately, with Regulation 2551 now entitled "UNACCOUNTED FOR LOSSES OF BEER."

The authority cited for this regulation is Revenue and Taxation Code section 32152, which requires the Alcoholic Beverage Tax regulations "to coordinate so far as permitted by the provisions of this part the system of beer and wine taxation imposed by this part with the system of beer and wine taxation imposed by the internal revenue laws of the United States." Previously, the regulation stated that the "allowable tolerance for unaccounted for losses of beer . . . shall be in accordance with losses allowable under Title 27, Code of Federal Regulations, Part 245." However, under current federal law, all losses of beer must be accounted for. Therefore, the language was changed to coordinate with federal law. Under the new language, no unaccounted for losses of beer are permitted "other than those, if any, permitted under Federal law."

REGULATION 2552. SPOILED BEER AND WINE.

Reference: Sections 32171, 32173, and 32176, Revenue and Taxation Code.

A beer and wine importer will be allowed a credit for beer and wine sold and subsequently returned as spoiled, when the spoiled beer or wine is destroyed under the supervision of a representative of the board. For small quantities of beer or wine destroyed, which are not supervised by a representative of the Board, the exemption or credit is allowed only after prior written approval is obtained from the Board.

To secure prior written approval, the beer and wine importer must submit a written request to the Board, listing the type of beverage, the number of containers, the container sizes and the total gallons to be destroyed.

After receiving approval from the Board and after destroying the beer or wine, the beer and wine importer must submit a declaration signed under penalty of perjury, listing the number of containers, the container sizes, the total gallons destroyed and the date and manner of destruction. The declaration must be signed by a person in authority in the importer's organization who witnessed the destruction of the beer or wine.

For the purposes of this regulation, small quantities means 2,500 gallons or less of beer, 2,500 gallons or less of still wine, and 1,500 gallons or less of champagne or sparkling wine by volume.

History: Effective April 17, 1955.

Amended August 17, 1976, effective September 19, 1976.

Amended April 9, 1980, effective June 19, 1980. Adjusted "small quantities" in the last sentence.

Amended November 28, 1995, effective March 8, 1996.

The title was expanded to indicate that the regulation contains the rules for obtaining an exemption and credit for spoiled beer and wine. Previously, the regulation required that spoiled beer and wine be destroyed in the physical presence of a Board representative. Language in the first paragraph was changed from "in the presence" to "under the supervision of a representative of the Board" to eliminate the often unnecessary physical presence requirement. There is also clarification that small quantities of beer and wine may be destroyed without Board supervision provided that prior written approval is obtained.

The third paragraph describes the way in which the beer and wine importer verifies that the produce has been destroyed. Previously, the regulation required submission of an affidavit. The word "affidavit" was changed to "declaration" to conform to California Code of Civil Procedure section 2015.5, which states that a declaration under penalty of perjury is the form preferred in this state.

In the fourth paragraph, the definition of "small quantities" was changed from "1250" to "2500 gallons or less of beer" and from "150" to "1500 gallons or less of champagne or sparkling wine by volume." The previous definitions derived from a time when there was a significant excise tax differential on the different alcoholic beverages. Currently, the taxes on beer and wine are the same. The purpose of the definitional change was to equalize the situation for all of the alcoholic beverages.

Amended November 13, 2002, effective March 6, 2003. Amended to clarify that credit is allowable only for tax-paid beer or wine that has spoiled, pursuant to section 32176 of the Alcoholic Beverage Tax Law.

REGULATION 2553. LOSSES RESULTING FROM DISASTER, VANDALISM, MALICIOUS MISCHIEF, OR INSURRECTION.

Reference: Section 32407, Revenue and Taxation Code.

(a) IN GENERAL. An amount equal to the state alcoholic beverage taxes included in the sales price of beverages to the licensee shall be refunded by the Board if:

(1) The beverages are lost, rendered unmarketable, or condemned by a duly authorized official by reason of fire, flood, casualty, or other disaster, or by reason of breakage, destruction, or other damage resulting from vandalism, malicious mischief, or insurrection;

(2) The beverages were held and intended for sale at the time of the disaster or other damage;

(3) The disaster or damage occurred in this state;

(4) The licensee has not and will not be compensated, by insurance or otherwise, for the loss in the amount of the tax included in the purchase price paid for the beverages;

(5) The disaster or other loss occurred on or after April 1, 1980;

(6) The amount to be refunded with respect to a single disaster or other loss is two hundred fifty dollars ($250) or more; and

(7) A claim for refund is filed with the Board within six months after the date on which the beverages were lost, rendered unmarketable, or condemned by a duly authorized official.

The refund shall be made to the licensee holding the beverages for sale at the time of the loss, and no interest shall be paid on the amount refunded. No refund shall be made with respect to losses resulting from theft.

(b) CLAIMS FOR REFUND. A claim for refund under this regulation must be in writing and must state all of the facts upon which the claim is based, including the type and date of occurrence of the disaster or other cause of loss and the location of the beverages at the time. The claim must specify the amount of the state tax included in the purchase price paid for the beverages lost, rendered unmarketable, or condemned and contain a certification under penalty of perjury that such amount has not and will not be compensated by insurance or otherwise. The claim must be accompanied by a record of the inventory of the beverages lost, rendered unmarketable, or condemned showing the size and number of containers of each kind of beverage and the total wine gallons of each kind of beverage.

(c) PROOF OF LOSS. Claims for refund under this regulation will be approved only upon proof satisfactory to the Board that the beverages were destroyed or so damaged that they could not be sold. In the case of beverages lost due to a disaster or other specified cause, the claim must be supported by inventory records, purchase invoices, container labels, settled insurance claims, or similar evidence which establishes the quantity and kind of beverages lost. In the case of beverages which are rendered unmarketable or condemned, but not lost, the claim must be supported by evidence that the beverages were destroyed under the supervision of a state or federal official responsible for witnessing such destruction. Proof of refund of federal alcoholic beverage taxes pursuant to the disaster, vandalism, or malicious mischief loss provisions of 26 United States Code Section 5064 will constitute proof of loss satisfactory of the Board.

History: Adopted April 9, 1980, effective June 19, 1980.

REGULATION 2554. CONSUMPTION OF BEER ON BREWERY PREMISES.

Reference: Sections 32171 and 32172, Revenue and Taxation Code

All beer consumed on a brewery's premises shall be accounted for.

(a) Except as provided in Subdivision (b), tax shall be paid on all beer consumed by brewery employees, visitors and others in a brewery tavern. Beer manufactured by the brewery for consumption in a brewery tavern, and which is placed in a storage tank designed for this purpose, shall be subject to tax at the time it is placed in the storage tank. For purposes of this Regulation, a "tavern" means a federally approved portion of the brewery premises where beer is sold to consumers.

(b) Beer consumed by brewery employees, visitors and others is not subject to tax if consumed without charge within the brewery's bonded premises and not in a brewery tavern.

History: Adopted December 9, 1998, effective March 31, 1999.

ARTICLE 6. CLASSIFICATION OF PARTICULAR BEVERAGES

REGULATION 2555. CLOSURES.

Bitters, Chinese liquors, and other products which bear the federal closure or other device as provided in Title 27 Code of Federal Regulation, Part 19 shall, for tax purposes, be deemed to be distilled spirits.

History: Effective April 17, 1955.
Amended November 1, 1989, effective January 27, 1990.
Amended to change the term "federal strip stamp" to "federal closure or other device" to reflect more accurately current terminology.

REGULATION 2557. POWDERED DISTILLED SPIRITS.

Reference: Sections: 32001–32556, Revenue and Taxation Code

(a) IN GENERAL. The Alcoholic Beverage Tax Law and Alcoholic Beverage Tax Regulations apply with respect to powdered distilled spirits in the same manner and to the same extent as with respect to other distilled spirits. Tax will be paid at the same rate per wine gallon, and at a proportionate rate for any quantity, as for distilled spirits of the same proof strength in liquid form.

(b) RECORDS AND REPORTS. Transactions involving powdered distilled spirits, including any powdered alcoholic beverage containing powdered distilled spirits, must be stated by volume in wine gallons to the nearest one-hundredth of a gallon in all required records and reports. The importer, in the case of powdered distilled spirits imported into California packaged in containers for sale to the general public, and the rectifier in the case of powdered distilled spirits packaged within California shall:

(1) Label the outside of each case with the volume in wine gallons of the powdered product contained in the case and of the powdered product contained in each individual package within the case.

(2) Print on each invoice, credit memorandum, or similar document the total volume in wine gallons of the powdered product or products listed on that document.

(3) Print on each invoice, credit memorandum, or similar document the volume in wine gallons of the powdered product contained in each size case and in each individual package listed on that document.

(c) CONVERSION OF WEIGHT TO VOLUME. The weight of powdered distilled spirits, and powdered distilled spirits products, shall be converted to volume as follows:

(1) One pound equals .16 wine gallons;
(2) One ounce equals .01 wine gallons;
(3) One gram equals .000353 wine gallons.

History: Adopted May 4, 1978, effective June 21, 1978.

ARTICLE 7. SAMPLES

REGULATION 2560. TREATED AS SALES.

Reference: Sections 32003, 32151, 32201, Revenue and Taxation Code

Samples and donations of alcoholic beverages shall be reported as sales.

Each transfer of samples between licensees authorized to possess alcoholic beverages on which the California state alcoholic beverages taxes have not been paid (manufacturers, manufacturers' agents, distilled spirits wholesalers and rectifiers) shall be on an ex-tax basis, and shall be recorded on an invoice marked: "Samples."

Distilled spirits taxpayers receiving samples from other licensees in California shall record the receipt in SBE Form 241-A. Samples received by direct importation shall be recorded in SBE Form 242-A.

Distilled spirits picked up at the licensed premises of a distilled spirits rectifier or wholesaler by a representative of a manufacturer or of a manufacturer's agent to be used by him for sampling purposes, shall not be considered to be a transfer of samples between the licensees referred to in the second paragraph of this rule. Such deliveries of distilled spirits shall be reported as taxable sales by the rectifier or wholesaler.

History: Effective April 17, 1955
Amended September 5, 1969

ARTICLE 8. EXPORTS AND SALES FOR EXPORT

REGULATION 2561. EXPORTS AND SALES FOR EXPORT.

Reference: Sections 32171, 32173, 32175, 32176, 32179, 32211 and 32212, Revenue and Taxation Code

(a) PROOF OF CLAIM FOR EXEMPTION FOR EXPORTS AND SALES FOR EXPORT. The claim for exemption from tax for exports of alcoholic beverages or sales of alcoholic beverages for export shall be allowed only when the alcoholic beverages are actually exported to a point outside this state (and, in the case of distilled spirits sold for export, actually exported to a point outside this state within 90 days from the date of the sale) and one or more of the following conditions is met:

(1) The beverages are delivered to an armed force of the United States at a depot of the armed force in this state for transport out of the State, and the taxpayer's record of such sales is supported by a copy of the official purchase order and documentary evidence of export.

(2) The beverages are shipped to a point in a foreign country, and the federal tax on alcoholic beverages is not imposed or is refunded.

(3) The beverages are shipped to a point outside this state by a carrier who is independent of the buyer and the seller and the claim for tax exemption is supported by a copy of the shipping documents receipted for by the carrier. For purposes of this regulation, the term "carrier" means a person or firm regularly engaged in the business of transporting for compensation property owned by other persons.

(4) The beverages are shipped to or delivered to a point outside this state by any means, and the claim for tax exemption is supported by Form BT-260 signed by the purchaser and containing the certificate of the appropriate liquor control or tax authority of the state in which the beverages have been delivered to the effect that receipt of the delivery of the beverages has been reported to such authority by the purchaser.

(b) SALES WHICH ARE NOT EXPORTS. Alcoholic beverages on which federal taxes have been paid and which are sold to persons operating commercial fishing boats or private carrier freight vessels for use as ships' stores outside of the state upon the high seas are not exports and are subject to tax.

History: Adopted May 23, 1979, effective July 13, 1979.

ARTICLE 9. RELIEF FROM LIABILITY

REGULATION 2570. RELIEF FROM LIABILITY.

Reference: Section 32257, Revenue and Taxation Code.

A person may be relieved from the liability for the payment of alcoholic beverage taxes, including any penalties and interest added to those taxes, when that liability resulted from the failure to make a timely return or a payment and such failure was found by the board to be due to reasonable reliance on written advice given by the board as described in California Code of Regulations, Title 18, Section 4902.

History: Adopted November 13, 2002, effective March 6, 2003.
Amended February 5, 2003, effective May 28, 2003. The underscored citation indicates an electronic hyperlink to the cite. Common administrative provisions for special taxes programs have been consolidated in Chapter 9.9 Special Taxes Administration. Requirements for relief from liability can be found at the referenced cite.

ARTICLE 9.9. SPECIAL TAXES ADMINISTRATION - MISCELLANEOUS

REGULATION 4901. RECORDS.

Reference: Sections 8301, 8302, 8303, 8304, 9253, 9254, 30453, 30454, 32551, 32453, 40172, 40173, 40174, 40175, 41056, 41073, 41129.30, 43502, 45852, 46602, 46603, 50153, 55302, 60604, 60605, and 60606, Revenue and Taxation Code.

(a) DEFINITIONS.

(1) "Applicable Tax Laws" means any of the following:

(A) Aircraft Jet Fuel Tax, Revenue and Taxation Code Sections 7385-7398, 7486-8406;

(B) Alcoholic Beverage Tax, Revenue and Taxation Code Sections 32001-32557;

REGULATION 4901. RECORDS. (Continued)

(C) Ballast Water Management Fee, Public Resources Code Sections 71200-71271; Revenue and Taxation Code Sections 44000-44008, 55001-55381;

(D) California Tire Fee, Public Resources Code Sections 42860-42895; Revenue and Taxation Code Sections 55001-55381;

(E) Childhood Lead Poisoning Prevention Fee, Health and Safety Code Section 105310; Revenue and Taxation Code Sections 43001-43651;

(F) Cigarette and Tobacco Products Tax, Revenue and Taxation Code Sections 30001-30481;

(G) Diesel Fuel Tax, Revenue and Taxation Code Sections 60001-60709;

(H) Emergency Telephone Users Surcharge, Revenue and Taxation Code Sections 41001-41176;

(I) Energy Resources Surcharge, Revenue and Taxation Code Sections 40001-40216;

(J) Hazardous Substances Tax, Health and Safety Code Sections 25174.1, 25205.2, 25205.5, 25205.6, and 25205.7; Revenue and Taxation Code Sections 43001-43651;

(K) Integrated Waste Management Fee, Public Resources Code Sections 40000-48008; Revenue and Taxation Code Sections 45001-45984;

(L) Motor Vehicle Fuel Tax, Revenue and Taxation Code Sections 7301-8526;

(M) Natural Gas Surcharge, Public Utilities Code Sections 890-900; Revenue and Taxation Code Sections 55001-55381;

(N) Occupational Lead Poisoning Prevention Fee, Health and Safety Code Section 105190; Revenue and Taxation Code Sections 43001-43651;

(O) Oil Spill Response, Prevention, and Administration Fees, Revenue and Taxation Code Sections 46001-46751;

(P) Underground Storage Tank Maintenance Fee, Revenue and Taxation Code Sections 50101-50162;

(Q) Use Fuel Tax, Revenue and Taxation Code Sections 8601-9355.

(2) "Database Management System" — a software system that controls, relates, retrieves, and provides accessibility to data stored in a database.

(3) "Electronic data interchange" or "EDI technology" — the computer to computer exchange of business transactions in a standardized structured electronic format.

(4) "Hardcopy" — any document, record, report or other data maintained in a paper format.

(5) "Machine-sensible record" — a collection of related information in an electronic format. Machine-sensible records do not include hardcopy records that are created or recorded on paper or stored in or by a storage-only imaging system such as microfilm or microfiche.

(6) "Taxpayer" includes "fee payer" and means any person liable for the payment of a tax or a fee specified under any of the applicable tax laws.

(7) "Tax" includes "fee" and means any amount of tax or fee specified under any of the applicable tax laws.

(b) GENERAL.

(1) A taxpayer shall maintain and make available for examination on request by the board or its authorized representative, all records necessary to determine the correct tax liability under the applicable tax laws and all records necessary for the proper completion of the required tax return or report. Such records include but are not limited to:

(A) Books of account or other similar summary information ordinarily maintained by the taxpayer as required by law or practice or otherwise in the possession of the taxpayer or third party at the direction or request of the taxpayer.

(B) Bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account.

(C) Schedules or working papers used in connection with the preparation of tax returns and reports.

REGULATION 4901. RECORDS. (Continued)

(2) Machine-sensible records are considered records under Revenue and Taxation Code Sections 8301-8306, 9253, 9254, 30453, 30454, 32551, 32453, 40172-40175, 41056, 41073, 41129.30, 43502, 45852, 46602, 46603, 50153, 55302, 60604-60606, Revenue and Taxation Code.

(c) MACHINE-SENSIBLE RECORDS.

(1) General.

(A) Machine-sensible records used to establish tax compliance shall contain sufficient source document (transaction-level) information so that the details underlying the machine-sensible records can be identified and made available to the board upon request. A taxpayer has discretion to discard duplicated records and redundant information provided the integrity of the audit trail is preserved and the responsibilities under this regulation are met.

(B) At the time of an examination, the retained records must be capable of being retrieved and converted to a standard magnetic record format which the board has the technological capability to use, such as Extended Binary Coded Decimal Interchange Code (EBCDIC) or American Standard Code for Information Interchange (ASCII) flat file.

(C) Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer who does not create the electronic equivalent of a traditional paper document in the ordinary course of business is not required to construct such a record for tax purposes.

(2) ELECTRONIC DATA INTERCHANGE REQUIREMENTS.

(A) Where a taxpayer uses electronic data interchange (EDI) processes and technology, the level of record detail, in combination with other records related to the transactions, must be equivalent to that contained in an acceptable paper record. For example, the retained records should contain such information as vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of tax status (e.g., exempt), and shipping detail. Codes may be used to identify some or all of the data elements, provided the taxpayer maintains a method which allows the board to interpret the coded information.

(B) The taxpayer may capture the information necessary to satisfy subdivision (c)(2)(A) at any level within the accounting system and need not retain the original EDI transaction records provided the audit trail, authenticity, and integrity of the retained records can be established. For example, a taxpayer using EDI technology receives electronic invoices from its suppliers. The taxpayer decides to retain the invoice data from completed and verified EDI transactions in its accounts payable system rather than to retain the EDI transactions themselves. Since neither the EDI transaction nor the accounts payable system capture information from the invoice pertaining to product description and vendor name (i.e., they contain only codes for that information), the taxpayer must also retain other records, such as its vendor master file and product code description lists, and make them available to the board. In this example, the taxpayer need not retain its EDI transaction for tax purposes.

(3) ELECTRONIC DATA PROCESSING SYSTEMS REQUIREMENTS. The requirements for an electronic data processing (EDP) accounting system should be similar to that of a manual accounting system, in that an adequately designed accounting system should incorporate methods and records that will satisfy the requirements of this regulation.

(4) BUSINESS PROCESS INFORMATION.

(A) Upon request of the board, the taxpayer shall provide a description of the business process that created the retained records. Such description shall include the relationship between the records and the tax documents prepared by the taxpayer and the measures employed to ensure the integrity of the records.

(B) The taxpayer shall be capable of demonstrating:

1. the functions being performed as they relate to the flow of data through the system;
2. the internal controls used to ensure accurate and reliable processing, and;
3. the internal controls used to prevent unauthorized addition, alteration, or deletion of retained records.

(C) The following specific documentation is required for machine sensible records retained pursuant to this regulation:

1. record formats or layouts;
2. field definitions (including the meaning of all codes used to represent information);

REGULATION 4901. RECORDS. (Continued)

3. file descriptions (e.g., data set name); and

4. detailed charts of accounts and account descriptions.

(d) MACHINE-SENSIBLE RECORDS MAINTENANCE REQUIREMENTS

(1) The taxpayer's computer hardware or software shall accommodate the extraction and conversion of retained machine-sensible records to a standard magnetic record format as provided in subdivision (c)(1)(B).

(2) The board recommends but does not require that taxpayers refer to the National Archives and Record Administration's (NARA) standards for guidance on the maintenance and storage of electronic records, such as the labeling of records, the location and security of the storage environment, the creation of back-up copies, and the use of periodic testing to confirm the continued integrity of the records.

(e) ACCESS TO MACHINE–SENSIBLE RECORDS.

(1) The manner in which the board is provided access to machine-sensible records may be satisfied through a variety of means that shall take into account a taxpayer's facts and circumstances through consultation with the taxpayer.

(2) Such access will be provided in one or more of the following manners:

(A) The taxpayer may arrange to provide the board with the hardware, software, and personnel resources to access the machine-sensible records.

(B) The taxpayer may arrange for a third party to provide the hardware, software, and personnel resources necessary to access the machine-sensible records.

(C) The taxpayer may convert the machine-sensible records to a standard record format specified by the board, including copies of files, on a magnetic medium that is agreed to by the board.

(D) The taxpayer and the board may agree on other means of providing access to the machine-sensible records.

(f) TAXPAYER RESPONSIBILITY AND DISCRETIONARY AUTHORITY.

(1) In conjunction with meeting the requirements of subdivision (c), a taxpayer may create files solely for the use of the board. For example, if a data base management system is used, it is consistent with this regulation for the taxpayer to create and retain a file that contains the transaction-level detail from the data base management system and that meets the requirements of subdivision (c). The taxpayer should document the process that created the separate file to show the relationship between that file and the original records.

(2) A taxpayer may contract with a third party to provide custodial or management services of the records. Such a contract shall not relieve the taxpayer of its responsibilities under this regulation.

(g) HARDCOPY RECORDS.

(1) Except as specifically provided, taxpayers are not relieved of the responsibility to retain hardcopy records that are created or received in the ordinary course of business as required by existing law and regulations. Hardcopy records may be retained on a record keeping medium as provided in subdivision (h).

(2) If hardcopy transaction level documents are not produced or received in the ordinary course of transacting business (e.g., when the taxpayer uses electronic data interchange technology), such hardcopy records need not be created.

(3) Hardcopy records generated at the time of a transaction using a credit or debit card must be retained unless all the details necessary to determine correct tax liability relating to the transaction are subsequently received and retained by the taxpayer in accordance with this regulation. Such details include those listed in subdivision (c)(2)(A).

(4) Computer printouts that are created for validation, control, or other temporary purposes need not be retained.

(h) ALTERNATIVE STORAGE MEDIA.

(1) For purposes of storage and retention, taxpayers may convert hardcopy documents received or produced in the normal course of business and required to be retained under this regulation to storage-only imaging media such as microfilm, microfiche or other media used in electronic imaging and may discard the original hardcopy documents, provided the conditions of subdivision (h) are met. Documents which may be stored on these media include, but are

REGULATION 4901. RECORDS. (Continued)

not limited to general books of account, journals, voucher registers, general and subsidiary ledgers, and supporting records of details, such as sales invoices, purchase invoices, exemption certificates, and credit memoranda.

(2) Storage-only imaging media such as microfilm, microfiche or other media used in electronic imaging systems shall meet the following requirements.

(A) Documentation establishing the procedures for converting the hardcopy documents to the storage-only imaging system must be maintained and made available on request. Such documentation shall, at a minimum, contain a sufficient description to allow an original document to be followed through the conversion system as well as internal procedures established for inspection and quality assurance.

(B) Procedures must be established for the effective identification, processing, storage, and preservation of the stored documents and for making them available for the period they are required to be retained under subdivision (i).

(C) Upon request by the board, a taxpayer must provide facilities and equipment for reading, locating, and reproducing any documents maintained on storage-only imaging media

(D) When displayed on such equipment or reproduced on paper, the documents must exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognizable as words or complete numbers.

(E) All data on storage-only imaging media must be maintained and arranged in a manner that permits the location of any particular record.

(F) There is no substantial evidence that the storage-only imaging medium lacks authenticity or integrity.

(i) RECORD RETENTION – TIME PERIOD. All records required to be retained under this regulation must be preserved for a period of not less than four years unless the State Board of Equalization authorizes in writing their destruction within a lesser period.

(j) RECORD RETENTION LIMITATION AGREEMENTS.

(1) The board has the authority to enter into or revoke a record retention limitation agreement with the taxpayer to modify or waive any of the specific requirements in this regulation. A taxpayer's request for an agreement must specify which records (if any) the taxpayer proposes not to retain and provide the reasons for not retaining such records, as well as, proposing any other terms of the requested agreement. The taxpayer shall remain subject to all requirements of this regulation that are not modified, waived, or superseded by a duly approved record retention limitation agreement.

(A) If a taxpayer seeks to limit its retention of machine-sensible records, the taxpayer may request a record retention limitation agreement, which shall;

1. document understandings reached with the board, which may include, but is not limited to, any one or more of the following issues:

   a. the conversion of files created on an obsolete computer system;

   b. restoration of lost or damaged files and the actions to be taken;

   c. use of taxpayer computer resources, and

2. specifically identify which of the taxpayer's records the board determines are not necessary for retention and which the taxpayer may discard, and

3. authorize variances, if any, from the normal provisions of this regulation.

(B) The board shall consider a taxpayer's request for a record retention limitation agreement and notify the taxpayer of the actions to be taken.

(C) The board's decision to enter or not to enter into a record retention limitation agreement shall not relieve the taxpayer of the responsibility to keep adequate and complete records supporting entries shown on any tax or information return.

(2) A taxpayer's record retention practices shall be subject to evaluation by the board when a record retention limitation agreement exists. The evaluation may include a review of the taxpayer's relevant data processing and accounting systems with respect to EDP systems, including systems using EDI technology.

REGULATION 4901. RECORDS. (Continued)

(A) The board shall notify the taxpayer of the results of any evaluation, including acceptance or disapproval of any proposals made by the taxpayer (e.g., to discard certain records) or any changes considered necessary to bring the taxpayer's practices into compliance with this regulation.

(B) Since the evaluation of a taxpayer's record retention practices is not directly related to the determination of tax reporting accuracy for a particular period or return, an evaluation made under this regulation is not an "examination of records" under the applicable tax law.

(C) Unless otherwise specified, an agreement shall not apply to accounting and tax systems added subsequent to the completion of the record evaluation. All machine-sensible records produced by a subsequently added accounting or tax system shall be retained by the taxpayer in accordance with this regulation until a new evaluation is conducted by the board.

(D) Unless otherwise specified, an agreement made under this subdivision shall not apply to any person, company, corporation, or organization that, subsequent to the taxpayer's signing of a record retention limitation agreement, acquires or is acquired by the taxpayer. All machine-sensible records produced by the acquired or the acquiring person, company, corporation, or organization, shall be retained pursuant to this regulation.

(3) In addition to the record retention evaluation under subdivision (j)(2), the board may conduct tests to establish the authenticity, readability, completeness, and integrity of the machine-sensible records retained under a record retention limitation agreement. The state shall notify the taxpayer of the results of such tests. These tests may include the testing of EDI and other procedures and a review of the internal controls and security procedures associated with the creation and storage of the records.

(k) FAILURE TO MAINTAIN RECORDS. Failure to maintain and keep complete and accurate records will be considered evidence of negligence or intent to evade the tax and may result in penalties or other appropriate administrative action.

History: Adopted February 5, 2003, effective May 28, 2003.

REGULATION 4902. RELIEF FROM LIABILITY.

Reference: Sections 7657.1, 8879, 30284, 32257, 40104, 41098, 43159, 45157, 46158, 50112.5, 55045, and 60210, Revenue and Taxation Code.

(a) GENERAL. A person may be relieved from the liability for the payment of tax, defined in section 4901(a)(7), imposed pursuant to applicable tax laws, defined in section 4901(a)(1), including any penalties and interest added to the tax, when that liability resulted from the failure to make a timely return or a payment and such failure was found by the board to be due to reasonable reliance on:

(1) Written advice given by the board under the conditions set forth in subdivision (b) below, or

(2) Written advice in the form of an annotation or legal ruling of counsel under the conditions set forth in subdivision (d) below; or

(3) Written advice given by the board in a prior audit of that person under the conditions set forth in subdivision (c) below. As used in this regulation, the term "prior audit" means any audit conducted prior to the current examination where the issue in question was examined.

Written advice from the board may only be relied upon by the person to whom it was originally issued or a legal or statutory successor to that person. Written advice from the board which was received during a prior audit of the person under the conditions set forth in subdivision (c) below, may be relied upon by the person audited or by a legal or statutory successor to that person.

The term "written advice" includes advice that was incorrect at the time it was issued as well as advice that was correct at the time it was issued, but, subsequent to issuance, was invalidated by a change in statutory or constitutional law, by a change in board regulations, or by a final decision of a court of competent jurisdiction. Prior written advice may not be relied upon subsequent to: (1) the effective date of a change in statutory or constitutional law and board regulations or the date of a final decision of a court of competent jurisdiction regardless that the board did not provide notice of such action; or (2) the person receiving a subsequent writing notifying the person that the advice was not valid at the time it was issued or was subsequently rendered invalid. As generally used in this regulation, the term "written advice" includes both written advice provided in a written communication under subdivision (b) below and written advice provided in a prior audit of the person under subdivision (c) below.

REGULATION 4902. RELIEF FROM LIABILITY. (Continued)

(b) ADVICE PROVIDED IN A WRITTEN COMMUNICATION. Advice from the board provided to the person in a written communication must have been in response to a specific written inquiry from the person seeking relief from liability, or from his or her representative. To be considered a specific written inquiry for purposes of this regulation, representatives must identify the specific person for whom the advice is requested. Such inquiry must have set forth and fully described the facts and circumstances of the activity or transactions for which the advice was requested.

(c) WRITTEN ADVICE PROVIDED IN A PRIOR AUDIT. Presentation of the person's books and records for examination by an auditor shall be deemed to be a written request for the audit report. If a prior audit report of the person requesting relief contains written evidence which demonstrates that the issue in question was examined, either in a sample or census (actual) review, such evidence will be considered "written advice from the board" for purposes of this regulation. A census, (actual) review, as opposed to a sample review, involves examination of 100% of the person's transactions pertaining to the issue in question. For written advice contained in a prior audit of the person to apply to the person's activity or transaction in question, the facts and conditions relating to the activity or transaction must not have changed from those which occurred during the period of operation in the prior audit. Audit comments, schedules, and other writings prepared by the board that become part of the audit work papers which reflect that the activity or transaction in question was properly reported and no amount was due are sufficient for a finding for relief from liability, unless it can be shown that the person seeking relief knew such advice was erroneous.

(d) ANNOTATIONS AND LEGAL RULINGS OF COUNSEL. Advice from the board provided to the person in the form of an annotation or legal ruling of counsel shall constitute written advice only if:

(1) The underlying legal ruling of counsel involving the fact pattern at issue is addressed to the person or to his or her representative under the conditions set forth in subdivision (b) above.

(2) The annotation or legal ruling of counsel is provided to the person or his or her representative by the board within the body of a written communication and involves the same fact pattern as that presented in the subject annotation or legal ruling of counsel.

(e) TRADE OR INDUSTRY ASSOCIATIONS. A trade or industry association requesting advice on behalf of its member(s) must identify and include the specific member name(s) for whom the advice is requested for relief from liability under this regulation.

History: Adopted February 5, 2003, effective May 28, 2003. The underscored citation indicates an electronic hyperlink to the cite.

REGULATION 4905. PAYMENT BY ELECTRONIC FUNDS TRANSFER.

Reference: Sections 7659.9, 7659.92, 8760, 8762, 30190, 30192, 32260, 32262, 40067, 40069, 41060, 41062, 43170, 43172, 45160, 45162, 46160, 46162, 50112.7, 50112.9, 55050, 55052, 60250, and 60252, Revenue and Taxation Code.

(a) DEFINITIONS.

(1) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer.

(2) "Automated clearinghouse" means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(3) "Automated clearinghouse debit" means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person's bank account and crediting the state's bank account for the amount of tax or fee. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(4) "Automated clearinghouse credit" means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state's bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

REGULATION 4905. PAYMENT BY ELECTRONIC FUNDS TRANSFER. (Continued)

(5) "Federal Reserve Wire Transfer" means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state's bank account. Electronic funds transfers pursuant to Revenue and Taxation Code sections 7659.9, 8760, 30190, 32260, 40067, 41060, 45160, 43170, 46160, 50112.7, 55050, and 60250 may be made by Federal Reserve Wire Transfer only if payment cannot, for good cause, be made according to subdivision (a)(1) of this regulation, and the use of Federal Reserve Wire Transfer is preapproved pursuant to subdivision (g) of this regulation. Banking costs incurred for the Federal Reserve Wire Transfer transaction charged to the person and to the state shall be paid by the person originating the transaction.

(b) PARTICIPATION.

(1) MANDATORY PARTICIPATION. Persons with an estimated monthly tax or fee liability of twenty thousand dollars ($20,000) or more under the applicable part of the Revenue and Taxation Code, are required to remit amounts due by electronic funds transfer under procedures set forth in this regulation. To identify mandatory participants, the Board shall conduct a periodic review of all persons with licenses, permits, or other authorization under sections 7659.9, 8760, 30190, 32260, 40067, 41060, 43170, 45160, 46160, 50112.7, 55050, and 60250. The review is performed by calculating an average monthly tax or fee liability for a twelve-month period. Persons whose average monthly tax or fee liability equals or exceeds twenty thousand dollars will be required to remit payments by electronic funds transfer. If a person did not engage in a covered activity until after the beginning of the designated twelve-month review period, then the monthly tax or fee liability will be calculated based upon the number of months in which covered activities occurred (for example, in a calendar year review period, if the person obtains a permit or license and begins operations for which a tax or fee may be imposed in May, the total tax or fee liability would be divided by eight to determine the average monthly tax or fee liability since there are eight months remaining in the evaluation period). Persons registering to report and pay a tax or fee for the first time, except certain successors, will not be required to participate in the electronic funds transfer program until a review is conducted.

A successor will be regarded as having an estimated tax or fee liability of twenty thousand dollars ($20,000) or more per month when the monthly tax or fee liability of the predecessor equaled or exceeded twenty thousand dollars per month or the predecessor was a mandatory participant in the electronic funds transfer program. If the successor purchases a portion of a business that is required to participate in the mandatory electronic funds transfer program (e.g. a multiple outlet business that only sells some, but not all of its locations), the average monthly tax or fee liability of the purchased business will be computed to determine if the successor meets the threshold to be identified as a mandatory participant in the electronic funds transfer program.

After review, if a person drops below the threshold for mandatory participation, the Board shall provide notification, in writing, that the status has been changed from mandatory participation to voluntary participation in the electronic funds transfer program. If, at that time, a person wishes to discontinue making electronic funds transfer payments, a written request must be made to the Board. Payments must continue to be remitted by electronic funds transfer until the taxpayer or feepayer is notified by the Board, in writing, of an effective date of withdrawal from the program. Any person who fails to comply with the mandatory participation requirements under this section shall be liable for a penalty as provided under the applicable Revenue and Taxation Code sections 7659.9, 8760, 30190, 32260, 40067, 41060, 43170, 45160, 46160, 50112.7, 55050, and 60250.

(2) VOLUNTARY PARTICIPATION. Any person not meeting the criteria for mandatory participation set forth in subdivision (b)(1) of this regulation may participate in the program on a voluntary basis. A person must register with the Board prior to participation. If a person wishes to discontinue making electronic funds transfer payments, a written request must be made to the Board. Payments must continue to be remitted by electronic funds transfer until notified by the Board, in writing, of an effective date of withdrawal from the program.

(c) DATE OF PAYMENT. Payment is deemed complete on the date the electronic funds transfer is initiated, if the settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If the settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) FILING OF RETURNS. In addition to a tax or fee payment made by electronic funds transfer, a return must be filed on or before the due date. Any person who fails to comply with this provision shall be subject to penalty charges as provided under Revenue and Taxation Code sections 7659.9(d), 8760(d), 30190(d), 32260(d), 40067(d), 41060(d), 43170(d), 45160(d), 46160(d), 50112.7(d), 55050(d), and 60250(d).

REGULATION 4905. PAYMENT BY ELECTRONIC FUNDS TRANSFER. (Continued)

(e) FAILURE TO PAY BY ELECTRONIC FUNDS TRANSFER. Any person required to pay tax or fee by electronic funds transfer must continue to do so until the Board advises them otherwise in writing. Any person required to pay taxes or fees by electronic funds transfer, as set forth in subdivision (b)(1), who does not pay through electronic funds transfer but uses another means (e.g., pay by check), will be assessed a penalty as provided by Revenue and Taxation Code sections 7659.9(e), 8760(e), 30190(e), 32260(e), 40067(e), 41060(e), 43170(e), 45160(e), 46160(e), 50112.7(e), 550506, and 60250(e).

(f) ZERO AMOUNT DUE. When no tax is due for a given period, a zero dollar transaction must be made by electronic funds transfer or the Board must receive written notification stating that no tax is due for that period.

(g) EMERGENCIES. In emergency situations, a Federal Reserve Wire Transfer transaction may be used to transmit a payment. A Federal Reserve Wire transfer is an electronic payment system used by federal reserve banks to transfer funds instantaneously. Generally, this method of payment is not approved for recurring transactions. Authorization must be received from the Board prior to making a payment by Federal Reserve Wire transfer. The person who originates the transfer shall be responsible for any fees incurred in paying by a Federal Reserve Wire Transfer transaction.

History: Adopted March 22, 2005, effective July 7, 2005.
Amended January 31, 2006, effective April 20, 2006, Revised language in section (b)(2) in conformity with Assembly Bill 1765 (Stats. 2005, Ch. 519) to delete the requirement that a person voluntarily participating in the EFT program must do so for a minimum of one year.

PART II

REPORTING EXCISE TAX ON SALES OF DISTILLED SPIRITS

Excise Tax Return Instructions and Record Keeping for:

Distilled Spirits Wholesalers
Distilled Spirits Rectifiers
Distilled Spirits Manufacturer's Agents
Distilled Spirits Manufacturer
Brandy Manufacturer

1. GENERAL INSTRUCTIONS

a. The excise tax levied on sales of distilled spirits in California is based on the quantity sold in gallons. Therefore, certain subsidiary records, in addition to financial records, must be maintained in order to accurately determine the correct tax liability of the taxpayer. (For instructions concerning the conversion of liters to gallons refer to Regulation 2544.) The Board will furnish the forms listed below upon request:

   1. BOE-240-A — Distilled Spirits Received From Own Bottling Department. Record of all receipts of distilled spirits from taxpayer's own bottling department. Record of packaged distilled spirits dumped.

   2. BOE-241-A — Distilled Spirits Purchased or Received From Other Licensees in California. Record of all receipts of bottled or packaged distilled spirits from other California distilled spirits licensees.

   3. BOE-242-A — Distilled Spirits Imported Into California. Record of all bottled or packaged distilled spirits received by direct importation from without California.

   4. BOE-243-B — Distilled Spirits Sold or Delivered To Other Licensees in California. Record of licensee's claim for exemption for all bottled or packaged distilled spirits sold or delivered to other California distilled spirits licensees.

   5. BOE-244-B — Distilled Spirits Exported or Sold To Common Carriers. Record of exemption on all bottled or packaged distilled spirits exported from California, or sold for export from California, or sold to common carriers engaged in interstate or foreign passenger service.

b. Only distilled spirits packaged in containers of one gallon or less are to be recorded on the above forms. Taxpayers dealing only in bulk distilled spirits are not required to keep these forms.

c. All pages shall be stamped with the name and address of the taxpayer/licensee.

d. Only one entry covering each transaction shall be made in the appropriate 240 series reports.

e. Fractions of gallons shall be entered on forms in decimals carried to two places only. Fractions less than five thousandths of a gallon shall be excluded; fractions of gallons five thousandths or over shall be raised to the next one hundredth of a gallon; for example, 2.004 gallons shall be entered as 2.00 gallons, and 2.005 gallons shall be entered as 2.01 gallons.

f. Do not write in columns marked "Board use only."

g. Entries in 240 series reports shall be completed in detail as called for under the various headings on the form.

h. Ditto Marks. Ditto marks should not be used in any 240 series report.

2. BOTTLING OR PACKAGING

Distilled Spirits Received From Own Bottling Department, BOE-240-A

a. The quantity of bottled or packaged distilled spirits received from your own bottling or packaging department must be consistent with what is reported on the federal form which covers the particular bottling.

   Entries on BOE-240-A should not be made until the federal form is completed, unless the federal form has entries for bottling for more than one month; in which case, entry on BOE-240-A should be made of the quantity bottled in each month separately.

b. Entries covering case goods dumped for re-bottling or repackaging should be shown as a credit on BOE-240-A. Credit entries covering redumps should be deducted from monthly totals.

3. PURCHASES

Distilled Spirits Purchased or Received From Other Licensees in California, BOE-241-A

a. Each and every purchase or receipt of distilled spirits from another California licensee shall be recorded on BOE-241-A.

3. Purchases (Continued)

b. Entries on BOE-241-A to Follow Financial Billing. Entries on BOE-241-A shall be made in accordance with the financial billing which passes title directly from one California licensee to another.

c. Entries on BOE-241-A Not to Follow Financial Billing. Entries on BOE-241-A covering distilled spirits received from another California licensee, but invoiced from outside of California, shall be made from a memo invoice furnished by the California licensee making the delivery. (See Instruction 8b.)

d. Entries on BOE-241-A When No Financial Billing is Made. Entries on BOE-241-A covering distilled spirits received from another California licensee, for which no financial billing is made (for example, merchandise received by a rectifier or manufacturer's agent for manipulation, reconditioning, or re-bottling) shall be recorded from the memo invoice furnished by the licensee making the delivery. (See Instructions 4b and 8.)

e. Entries on BOE-241-A — Pool Car Imports — Rail or Truck. Entries on BOE-241-A covering the receipt of distilled spirits, the shipment of which originated outside of the State and consigned to another California licensee shall be recorded from the memo invoice furnished by the California licensee to whom the shipment was consigned. (See Instructions 4b and 8.)

f. Returns From Retailers. Returns from retail licensees must never be entered on BOE-241-A. (See Instruction 12d.)

g. In bond purchases from other California licensees are to be entered on BOE-241-A when the purchase is made.

4. IMPORTS

Distilled Spirits Imported Into California, BOE-242-A

a. Distilled spirits received directly from a point without California or from the Foreign Trade Zone must be entered on BOE-242-A regardless of the origin of the financial billing. The factor in determining if a shipment should be recorded on BOE-242-A as an import depends on whether or not the taxpayer is the consignee of the shipment.

The taxpayer who is shown as the consignee on the bill of lading covering a shipment should enter on BOE-242-A the total shipment consigned to that taxpayer. (See Instructions 4c and 5e for exception.)

b. Pool Car Shipments — Rail or Truck. Where a shipment of distilled spirits is sent from outside of the state to two or more California taxpayers, the taxpayer named as the consignee shall record the receipt of the entire shipment on BOE-242-A and shall send a memo invoice (see Instruction 8) to the participating taxpayer(s). The memo invoice shall be entered on BOE-243-B by the taxpayer (importer) and a corresponding purchase shall be recorded on BOE-241-A by the participating taxpayer(s). (See Instructions 3e and 5e.)

c. Stopover for Partial Unloading. Where a shipment of distilled spirits originating outside of the State is partially unloaded at a place in California other than its final destination, the taxpayer (importer) who receives the partial shipment shall be considered the consignee of that portion he or she receives and must record that quantity received on BOE-242-A.

d. Receipts. Common carriers making deliveries of interstate shipments of alcoholic beverages are required to obtain a receipt from the California importer to whom the shipment is consigned. This receipt must show the following information:

> Name of shipper, point of origin, name of importer to whom delivery is made, place of delivery, name of carrier making delivery, a complete description of the shipment, and the number of the waybill covering the shipment. In the case of rail shipments, the receipt shall also show the car number; in the case of water shipments, the receipt shall show the name of the vessel and the number of the steamship bill of lading; and in the case of highway carriers the receipt shall show the trailer or truck number.

This receipt may be in the form of a freight bill or other shipping document containing all the required information. A copy of this receipt must be furnished to the importer. This receipt must be retained by the importer for the compilation of BOE-242-A and be available for verification by employees of the Board.

e. In Bond Shipments. Importations of distilled spirits into California in bond shall be entered on BOE-242-A at the time of importation and not at the time of withdrawal from bond.

5. SALES

Claim for Distilled Spirits Excise Tax Exemption on Sale or Delivery to Other Licensees in California, BOE-243-B.

a. Every sale or delivery of distilled spirits in California from one distilled spirits licensee to another must be recorded on BOE-243-B.

b. Entries on BOE-243-B to Follow Financial Billing. Entries on BOE-243-B shall be made in accordance with the financial billing which passes title from one distilled spirits licensee to another.

c. Entries on BOE-243-B Not to Follow Financial Billing. Entries on BOE-243-B, covering distilled spirits delivered from one licensee to another but invoiced from outside of the State, shall be made from a memo invoice furnished by the licensee making the delivery. (See Instruction 8b.)

d. Entries on BOE-243-B When No Financial Billing is Made. Entries on BOE-243-B covering distilled spirits delivered from one licensee to another, but no financial billing is made (for example, merchandise delivered to a rectifier or manufacturer's agent for manipulation, reconditioning, re-bottling or repackaging) shall be made from a memo invoice furnished by the licensee making the delivery. (See Instruction 8b.)

e. Entries on BOE-243-B Deliveries From Pool Car Shipments. Where a taxpayer is the consignee of a shipment from outside of the State destined for one or more California taxpayers, the taxpayer consignee (importer) shall furnish a memo invoice to the California taxpayer and enter on the BOE-243-B that portion delivered to each participating taxpayer. (See Instructions 4b and 8b.)

   When the participating taxpayer's portion contains known breakage, the memo invoice should cover the net quantity delivered.

6. EXPORTS AND EXEMPTIONS

Claims for Excise Tax Exemption on Distilled Spirits Exported, Sold to Instrumentalities of the U.S. Armed Forces, or Sold to Common Carriers, BOE-244-B

a. Tax exemption for distilled spirits exported to other states or to foreign countries, or sold for export to other states or foreign countries and actually exported within ninety days from date of sale, shall be claimed by recording the shipment on BOE-244-B. (For required proof of export, see Regulation 2561.)

   Each entry must show the actual consignee of the shipment and its destination. If the shipment was invoiced to a person outside of California other than the person to whom the shipment was actually made, the licensee's copy of BOE-244-B should carry a notation showing to whom the shipment was invoiced.

   Distilled spirits exported for the account of another distilled spirits licensee in California should not be recorded on BOE-244-B, but should be recorded on BOE-243-B as a sale to the California licensee for whom the shipment was made. The California licensee for whom the shipment was exported should record the purchase of the shipment on BOE-241-A and claim an exemption covering the export on BOE-244-B. Bills of lading or other shipping documents must be retained at the premises of the licensee in support of claims for tax exemption covering the shipments recorded on BOE-244-B.

b. Sales of Distilled Spirits to Common Carriers for use outside of California should be recorded on BOE-244-B. Claims to common carriers for loss or breakage in transit should not be recorded on BOE-244-B. (See Instruction 9.)

c. No tax shall be imposed upon the sale of distilled spirits by brandy manufacturers, distilled spirit manufacturers, rectifiers, importers, and distilled spirit wholesalers to the following listed instrumentalities of the armed forces of the United States organized under the Army, Air Force, Navy, Marine Corps, or Coast Guard regulations and located upon territory within the geographical boundaries of the state:

   1. Army, Air Force, Navy, Marine Corps, and Coast Guard exchanges

   2. Officers', noncommissioned officers', and enlisted men's clubs or messes

7. REPORTS

Check each report before mailing to see that it is complete.

Completed reports should be mailed to:

State Board of Equalization
P.O. Box 942879
Sacramento, California 94279-0056

a. Due Dates. The original page or pages of BOE-241-A, BOE-242-A, BOE-243-B and BOE-244-B must be filed immediately following the close of business on the last day of each month.

File a BOE-241-A, BOE-242-A, BOE-243-B, or BOE-244-B report only when entries in these forms, as required by Article 1, have been made. Do not file a 240 series report if you have no transactions to report.

When month-end reports are due to be filed, but such reports are incomplete due to missing information, the filing of such reports may be delayed until the 7th day of the month in order to obtain the missing information.

Affidavits of loss covering claims for loss by unintentional destruction must be filed immediately following the close of business on the last day of the month in which the loss is discovered. (See Instruction 9e.)

b. Amended Reports. Amended BOE-240-A, BOE-241-A, BOE-242-A, BOE-243-B and BOE-244-B forms should not be filed unless requested by the Sacramento office of the Board. When an error in these reports is discovered by the taxpayer, a letter should be written to the Sacramento office setting forth the information as reported and as to be corrected.

8. INVOICES

a. Entries in 240 series reports must be made from the financial invoice covering the transaction if title passes between California taxpayers/licensees.

b. Entries in 240 series reports must be made from memo invoices if the title does not pass direct between California taxpayers/licensees or if there is no monetary consideration involved in the transfer or delivery.

The responsibility for furnishing memo invoices falls upon the taxpayer/licensee making the delivery.

Invoices must clearly show the name and address of the seller.

When a seller's branch office delivers alcoholic beverages, and the financial billing is issued by the main office of the seller, the invoice must conform to all the requirements of Regulation 2525(a).

9. LOSSES

a. Import Shipments. When a taxpayer receives a shipment of distilled spirits from outside of California, and a portion of such shipment is damaged, the total quantity of the shipment shall be entered on BOE-242-A by the consignee of the shipment. The consignee may claim a tax exemption, covering that portion of the shipment found to be damaged, by filing an affidavit of loss with the Sacramento office of the Board in accordance with Regulation 2550. The consignee may claim the exemption on BOE-244-B if a "charge back" is made against the seller, or use BOE-242-A if the seller issues a credit memo.

b. Shipments from Other California Licensees.

1. Merchandise Shipped F.O.B. Shipping Point. When purchases are made F.O.B. shipping point, the purchaser must record on BOE-241-A the total gallonage covered by the invoice and file an affidavit of loss in accordance with Regulation 2550 of the Board's rules and regulations covering any breakage contained in the shipment.

2. Merchandise Shipped F.O.B. Delivery Point. When breakage occurs in such shipments, the purchaser should obtain a corrected invoice for the gallonage actually received or a credit memo for the amount lost. Entries on BOE-241-A should be made, and the seller should file an affidavit of loss in accordance with Regulation 2550.

c. Leakers. When leakers other than empty bottles with closures intact are returned to the premises of the original seller, they should be considered, for tax purposes, as full bottles and should be so invoiced and recorded on the 240 series reports. Invoices covering leakers returned should not include charges for other breakage or shortages.

9. Losses (Continued)

If leakers are not returned to the premises of the original seller, no entry should be made on the 240 series report even though a "charge back" is made against the original seller.

d. Affidavits of Loss. To ensure that all affidavits of loss required by Regulation 2550 in support of claims for tax exemption are accounted for, affidavits should be consecutively numbered by month; and to insure proper credit, must show the name, address and account number of the taxpayer claiming the exemption.

A taxpayer may elect to file a single affidavit immediately following the close of business on the last day of each month covering all losses for the month as claimed on the tax return. Such affidavit must itemize each separate loss in detail, showing the claim number and gallonage involved. Accounted for losses should be shown on Line 9, Statement II, of the Distilled Spirits Tax Return. Gallonage claimed must be equal to the total gallonage on all affidavits of losses filed during the reporting period.

10. BACK ORDERS AND SHORT SHIPMENTS

When a sale of distilled spirits is invoiced and for a portion of the merchandise invoiced is not shipped, the seller should furnish a corrected invoice to the purchaser, or issue a credit memo for the shortage. Entries on BOE-243-B of the seller and on BOE-241-A of the purchaser should be made from the corrected invoice or credit memo.

If a back order or short shipment is subsequently delivered, it should be re-invoiced.

11. CREDIT MEMOS

A credit memo may be used as a basis for entries on BOE-241-A or BOE-243-B when a credit memo was issued instead of a corrected invoice.

12. TAX RETURNS

a. The tax return must be completed in detail as called for under the various headings on the return, providing a summary of the distilled spirits transactions together with a statement of tax liability for the month, or other reporting period authorized by the Board.

The tax return must be signed and the original return, together with a remittance for the tax due, must be mailed to the State Board of Equalization on or before the 15th day of each succeeding calendar month, or on or before the fifteenth day of the month following the close of such other reporting period authorized by the Board.

Taxpayers are requested to use the return envelope furnished for this purpose.

A copy of the return must be retained at the licensed premises for verification by employees of the Board.

b. Penalties and Interest. Tax payments accompanying returns, received by the Board in an envelope postmarked later than the 15th day of the month in which the payment is due, subjects the taxpayer to a penalty regardless of whether any tax is due. The penalty for late payment of tax is 10% (.10) of the amount of tax due together with interest on the tax from the date on which the tax is due and payable until the date of payment. The penalty for the late filing of this return is $50.00. The penalties imposed shall be limited to either $50.00, or 10% (.10) of the amount of tax due, with interest, whichever is greater.

c. Extension of Time. A taxpayer may, for good cause, request an extension of time not to exceed one month for the filing of tax returns and payment of taxes. Such requests must be made within one month of the due date of the tax return. When requesting an extension, a specific form is not required but the request must be in writing and must state the reason for the request. Interest will apply for the extension period. However, penalty will not apply to any amount due if an extension is granted.

d. Returns From Retailers. Wholesalers and rectifiers may accept the return of distilled spirits from retailers, provided such distilled spirits were previously sold to the retailer by the wholesaler or rectifier. Such returns from retailers should not be entered on BOE-241-A, but should be summarized for the reporting period and entered on Statement I and Statement II of the tax return. Such credits should include only merchandise actually returned. Tax-paid samples returned to stock should be recorded in the same manner as returns from retailers.

e. Consolidated Returns. A separate tax return must be filed each reporting period for each licensed premises, except when permission has been granted to taxpayers operating more than one premise to file consolidated tax returns.

12. Tax Returns (Continued)

f. Tax Credits. When tax returns for a reporting period disclose a credit due the taxpayer, such credit may not be deducted from tax returns filed for subsequent reporting periods. A written claim for refund should be filed for this credit.

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To Distilled Spirits Tax Regulations and Instructions

PART III

REPORTING EXCISE TAX ON SALES OF BEER AND WINE

Excise Tax Return Instructions For:

Beer Manufacturers
Wine Growers
Beer and Wine Importers

1. GENERAL INSTRUCTIONS

a. The excise tax levied on sales of beer and wine in California is based on the quantity sold in gallons; consequently, certain subsidiary records must be maintained in addition to general financial records in order to accurately determine the correct tax liability of the taxpayer. (For instructions concerning the conversion of liters to gallons refer to Regulation 2544.) The Board will furnish the form listed below upon request.

1. BOE-269-A Beer and Wine Imported into California. Record of all beer and wine received by direct importation from outside of California.

b. All pages of BOE-269-A should be stamped with the name and address of the taxpayer in order that such reports, when received by the Board, may be identified.

c. Fractions of Gallons. Fractions of gallons shall be entered on BOE-269-A in decimals carried to two places only. Fractions less than five one-thousandths of a gallon shall be excluded; fractions of gallons five one-thousandths or over shall be raised to the next one-hundredth of a gallon; for example, 2.004 gallons shall be entered as 2.00 gallons, and 2.005 gallons shall be entered as 2.01 gallons.

d. Do not write in the column marked “Board Use Only.”

e. All reports filed with the Board should be completed in detail as called for under the various headings of the report.

2. IMPORTS

Beer and Wine Imported into California, BOE-269-A

a. Every person who receives beer or wine in California, the shipment of which originated at a point outside of California, must hold a beer and wine importer’s license.

b. Each importation of beer or wine into California must be recorded on BOE-269-A. (See Instruction 1a.) The original page, or pages, of BOE-269-A must accompany the tax return filed with the Board, providing imports occurred during the reporting period covered by the return. (See Instruction 4a.)

c. Returned Exports. The return of beer or wine to a beer manufacturer or wine grower from a point outside of California, which was previously exported by the beer manufacturer or wine grower, is an import and must be so recorded and reported in State records. Spoiled beer or wine returned from outside of the State must be reported as an import even if it may later be destroyed.

d. In Bond Shipments.

1. Customs Bond. Shipments of wine received in California in customs bond shall be reported at the time they are received in bond in California and not at the time they are withdrawn from bond.

2. Internal Revenue Bond. Imported shipments of wine received by a wine grower in internal revenue bond must be reported on BOE-269-A in the reporting period the shipments are received. However, such imports in internal revenue bond are not taxable at the time of receipt. A deduction should be taken on Line 6 of the “Winegrower Tax Return” for the quantity received in bond.

e. Receipts. Common carriers making deliveries of interstate shipments of alcoholic beverages are required to obtain a receipt from the California importer to whom the shipment is consigned. This receipt must show the following information:

> Name of shipper, point of origin, name of importer to whom delivery is made, place of delivery, name of carrier making delivery, a complete description of the shipment, and the number of the waybill covering the shipment. In the case of rail shipments, the receipt shall show also the car number; in the case of water shipments, the receipt shall show also the name of the vessel and the number of the steamship bill of lading; and in the case of motor carriers, the receipt shall show the trailer or truck number.

This receipt may be in the form of a freight bill or other shipping document containing all the required information. A copy of this receipt must be furnished to the importer. This receipt must be retained by the importer for the compilation of BOE-269-A and be available for verification by employees of the Board.

2. Imports (Continued)

f. Pool Car Shipments — Rail or Truck. For shipments of beer or wine originating from outside of the State, in which two or more California importers participate, the importer to whom the car is consigned should record the receipt of the entire shipment on BOE-269-A, and report and remit the tax on the entire shipment.

g. Stopovers For Partial Unloading. Where a shipment of beer or wine originating outside of the State is partially unloaded at a place in California other than its final destination, the taxpayer (importer) who receives the partial shipment shall be considered the consignee of that portion he or she receives and must record that quantity received on BOE-269-A.

3. EXPORTS

Beer and wine exported to other states or to foreign countries or sold for export and actually exported may be claimed as an exemption on the tax return under the following circumstances:

Beer Manufacturers. All beer exported from California or sold for export and actually exported from California.

Wine Growers. All Federal tax-paid wine exported from California or sold for export and actually exported from California. Do not claim "in bond" shipments.

Beer and Wine Importers. All imported beer or wine exported from California or sold for export and actually exported from California. Do not claim wine purchased in California.

Beer Wholesalers. Tax credit is allowed to a wholesaler for beer purchased State tax paid and subsequently exported from the State. The wholesaler who exports the beer, or sells it for export, should claim a refund from the taxpayer from whom the beer was originally purchased. The wholesaler should supply the taxpayer with proof of the export such as a bill of lading or original BOE-260, Report of Sale of Alcoholic Beverages for Export. The taxpayer may then claim credit on the next tax return.

The exemption covering beer and wine exported from California shall be made in accordance with the physical movement of the shipment, and not the financial billing of the shipment. Entries must show the name and location of the consignee.

The BOE-260, bills of lading or other shipping documents should be retained at the premises of the taxpayer in support of his claim for tax exemption covering the export.

Tax exemption covering sales for export shall not be claimed until shipping documents or other proof of export are in the possession of the taxpayer claiming the exemption.

See Regulation 2561.

4. TAX RETURNS AND REMITTANCES — GENERAL

a. The tax return must be completed in detail as called for under the various headings on the return, providing a summary of the beer and wine transactions together with a statement of tax liability for the reporting period.

The tax return must be signed and the original return, together with a remittance for the tax due, must be mailed to the State Board of Equalization on or before the 15th day of the month following the close of the reporting period.

Taxpayers are requested to use the return envelope furnished for this purpose.

A copy of the return must be retained at the licensed premises for verification by employees of the Board.

b. Penalties and Interest. Tax payments accompanying returns, received by the Board in an envelope postmarked later than the 15th day of the month in which the payment is due, subjects the taxpayer to a penalty regardless of whether any tax is due. The penalty for late payment of tax is 10% (.10) of the amount of tax due together with interest on the tax from the date on which the tax is due and payable until the date of payment. The penalty for the late filing of this return is $50.00. The penalties imposed shall be limited to either $50.00, or 10% (.10) of the amount of tax due, with interest, whichever is greater.

c. Extension of Time. A taxpayer may, for good cause, request an extension of time not to exceed one month for the filing of tax returns and payment of taxes. Such requests must be made within one month of the due date of the tax return. When requesting an extension, a specific form is not required but the request must be in writing

4. Tax Returns and Remittances — General (Continued)

and must state the reason for the request. Interest will apply for the extension period. However, penalty will not apply to any amount due if an extension is granted.

d. Consolidated Returns. A separate tax return must be filed for each licensed premises except when permission has been granted to a taxpayer operating more than one premises to file a consolidated tax return.

e. Tax Credits. When tax returns for a reporting period disclose a credit due the taxpayer, such credit may not be deducted from tax returns filed for subsequent reporting periods. A written claim for refund should be filed for this credit.

5. TAX RETURN OF BEER AND WINE IMPORTER

Every licensed beer and wine importer, except licensed wine growers and beer manufacturers holding beer and wine importers' licenses, must file a "Beer and Wine Importer Tax Return " (BOE-501-BW) for each reporting period regardless of whether any tax is owed.

The tax return must be completed in detail as called for on the return.

Line 1 of the return must show the total quantity of beer and wine imported during the reporting period and must be in agreement with the totals shown on BOE-269-A. (See Instruction 2b.)

The importer who receives a shipment of beer or wine directly from outside of the State is liable for the excise tax thereon. The tax may not be assumed and paid by any licensee other than the actual importer.

a. Exports. The total exports of wine claimed must not include wine purchased in California.

b. Losses. Tax exemption may be claimed for the destruction of beer and wine when the destruction is witnessed by a Board representative or, for smaller quantities, after written approval from the Board is received. (See Regulation 2552.) Application forms for the destruction of small quantities may be ordered from the Board's Excise Taxes Section in Sacramento.

6. TAX RETURN OF BEER MANUFACTURER

Every licensed beer manufacturer must file a "Beer Manufacturer Tax Return " (BOE-501-BM) each reporting period regardless of whether any tax is owed.

The tax return must summarize all of the brewery transactions including imports for the reporting period and each part of the tax return must be completed in detail as called for on the return.

Exports and Sales for Export. Total exports claimed on the tax return must be supported by documentation as required by Regulation 2561.

Effective April 1, 1998, Sections 5364 and 5418 were added to the Internal Revenue Code allowing imported bulk beer and wine to be transferred from customs bond to internal revenue bond. Beer and wine imported into the United States in bulk containers can be withdrawn from customs custody and transferred to the premises of a brewery without payment of excise tax. The proprietor of the brewery becomes liable for the tax on the beer or wine upon removal from internal revenue bond.

7. TAX RETURN OF WINE GROWER

Every licensed wine grower must file a "Winegrower Tax Return" (BOE-501-WG) each reporting period regardless of whether any tax is owed.

The tax return must summarize all of the winery transactions, including imports, for the reporting period.

Inventory, if any, must be shown on each return. If no wine is on hand, the return should so state. Inventories as of the close of business in June and December must be physical inventories for licensees on a monthly or quarterly reporting basis and the quantities reported must be in agreement with federal reports.

Effective April 1, 1988, Sections 5364 and 5418 were added to the Internal Revenue Code allowing imported bulk beer and wine to be transferred from customs bond to internal revenue bond. Beer and wine imported into the United States in bulk containers can be withdrawn from customs custody and transferred to the premises of a bonded wine cellar without payment of excise tax. The proprietor of the bonded wine cellar becomes liable for the tax on the beer or wine upon removal from internal revenue bond.

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To Beer and Wine Tax Regulations and Instructions

CALIFORNIA STATE BOARD OF EQUALIZATION FIELD OFFICES

BOARD MEMBERS (Names updated 2010)

DISTRICT	MEMBER	OFFICE ADDRESS	AREA CODE	TELEPHONE NUMBER
First	Betty T. Yee	455 Golden Gate Avenue, Suite 10500, San Francisco, CA 94102	415	557-3000
Third	Michelle Steel	550 Deep Valley Drive, Suite 355, Rolling Hills Estates, CA 90274	310	377-8016
Fourth	Jerome E. Horton	1100 Corporate Center Drive, Suite 203, Monterey Park, CA 91754	323	980-1221
State Controller	John Chiang	777 South Figueroa Street, Suite 4800, Los Angeles, CA 90017	213	833-6010
Second	Barbara Alby, Acting Member	400 Capitol Mall, Suite 2340, Sacramento, CA 95814	916	445-2181
Executive Director	Ramon J. Hirsig	450 N Street, PO Box 942879, Sacramento, CA 94279-0001	916	445-6464

FOR GENERAL TAX INFORMATION VISIT OUR WEBSITE AT WWW.BOE.CA.GOV

For account-specific information contact your local office.

SACRAMENTO HEADQUARTERS **450 N Street, PO Box 942879, Sacramento 94279-0001** **916** **445-6464**

BUSINESS TAXES FIELD OFFICES

CALIFORNIA CITIES	OFFICE ADDRESS	AREA CODE	TELEPHONE NUMBER
Bakersfield	1800 30th Street, Suite 380, 93301-1922	661	395-2880
Chula Vista	590 3rd Avenue, Suite 202, Chula Vista, CA 91910-5657 ***Note:*** closed 12 noon to 1 p.m. M-F	619	409-7440
Culver City	5901 Green Valley Circle, Suite 200, 90230-6948 (PO Box 3652, 90231-3652)	310	342-1000
El Centro	1550 W. Main Street, 92243-2832 ***Note:*** closed 12 noon to 1 p.m. M-F	760	352-3431
Fresno	5070 N. Sixth Street, Suite 110, 93710-7504	559	248-4219
Kearny Mesa	9225 Clairemont Mesa Boulevard, San Diego, CA 92123 ***Note:*** closed 12 noon to 1 p.m. M-F	858	636-3191
Laguna Hills	23141 Moulton Parkway, Suite 100, 92653-1242	949	461-5711
Long Beach	100 West Broadway, Suite 305, 90802-4431	562	901-2483
Norwalk	12440 E. Imperial Highway, Suite 200, 90650-8397 (PO Box 409, 90651-0409)	562	466-1694
Oakland	1515 Clay Street, Suite 303, 94612-1432	510	622-4100
Rancho Mirage	42-700 Bob Hope Drive, Suite 301, 92270-7167	760	346-8096
Redding	2881 Churn Creek Road, Suite B, 96002-1146 (PO Box 492529, 96049-2529)	530	224-4729
Riverside	3737 Main Street, Suite 1000, 92501-3395	951	680-6400
Sacramento	3321 Power Inn Road, Suite 210, 95826-3889	916	227-6700
Salinas	111 East Navajo Drive, Suite 100, 93906-2452	831	443-3003
San Diego	1350 Front Street, Room 5047, 92101-3698	619	525-4526
San Francisco	121 Spear Street, Suite 460, 94105-1584	415	356-6600
San Jose	250 South Second Street, 95113-2706	408	277-1231
San Marcos	334 Via Vera Cruz, Suite 107, 92078-2637	760	510-5850
Santa Ana	28 Civic Center Plaza, Room 239, 92701-4011	714	558-4059
Santa Rosa	50 D Street, Room 230, 95404-4791 (PO Box 730, 95402-0730)	707	576-2100
Suisun City	333 Sunset Avenue, Suite 330, 94585-2003	707	428-2041
Van Nuys	15350 Sherman Way, Suite 250, 91406-4203 (PO Box 7735, 91409-7735)	818	904-2300
Ventura	4820 McGrath Street, Suite 260, 93003-7778	805	677-2700
West Covina	1521 West Cameron Avenue, Suite 300, 91790-2738 (PO Box 1500, 91793-1500)	626	480-7200

OUT-OF-STATE FIELD OFFICES

Sacramento	3321 Power Inn Road, Suite 130, 95826-3893 (PO Box 188268, 95818-8268)	916	227-6600
Chicago, Illinois	120 N. La Salle, Suite 1600, 60602-2412	312	201-5300
New York, N.Y.	205 East 42nd Street, Suite 1100, 10017-5706	212	697-4680
Houston, Texas	1155 Dairy Ashford, Suite 550, 77079-3007	281	531-3450

FOR MORE INFORMATION

Call 800-400-7115, TDD/TTY 800-735-2929
If you are unable to resolve a disagreement with the Board contact Taxpayers' Rights Advocate at 888-324-2798 or 916-324-2798.

*Addresses and telephone numbers are current as of **4-3-06**, but are subject to change. We recommend you call the office before visiting.*

Unless otherwise noted all offices are open from 8 a.m. to 5 p.m. Monday-Friday, excluding state holidays.

TO ORDER BOARD PUBLICATIONS

To order copies of publications, forms, and regulations, you may:

Use the Internet. Use your computer to download a publications order form or certain publications. Enter: **www.boe.ca.gov**.

Call or visit a Board office. If you plan to visit, please call ahead to make sure they have a copy in stock.

Call our toll-free number: 800-400-7115. Leave a recorded request 24 hours a day for a specific form, publication, or regulation, or, during working hours, talk to a representative.

For TDD assistance (telephone device for the deaf), please call:

From TDD phones: 800-735-2929
From voice phones: 800-735-2922

Use our fax-back service. Available 24 hours a day through the toll-free number. A recorded message will describe which types of documents are available and explain how you can have them sent to you by fax.

WRITTEN TAX ADVICE

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges that are due on a transaction if the Board determines that you reasonably relied on written advice from the Board regarding the transaction. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstance of the transaction.

You may also request written advice regarding a particular activity or transaction. Your request should be in writing and fully describe the facts and circumstances of the activity in question. Please mail your request to the following address: State Board of Equalization, Excise Taxes and Fees Division, Excise Taxes Section, P.O. Box 942879, Sacramento, CA 94279-0056

TAXPAYERS' RIGHTS ADVOCATE OFFICE

If you have been unable to resolve a disagreement with the Board, or if you would like to know more about your rights under the law, contact the Taxpayers' Rights Advocate for help:

Taxpayers' Rights Advocate, MIC:70		
State Board of Equalization	888-324-2798	toll-free phone
PO Box 942879	916-324-2798	phone
Sacramento, CA 94279-0070	916-323-3319	fax

TAX EVASION HOTLINE

Tax evasion hurts businesses that are paying their fair share. If you wish to report a case of suspected tax evasion, call our toll-free hotline at 888-334-3300, Monday through Friday, 8:00 a.m. – 5:00 p.m. (Pacific time), except State holidays.