

# **Regulations 1105, 1120, 1132, and 1161**

## **Section 100**

Complete Rule Making File

*OAL Approval with Approved Text Regulations 1105, 1120, 1132, and 1161*

*Index*

1. *Form 400 and Proposed Regulations 1105, 1120, 1132, and 1161*
2. *Statement of Explanation*
3. *Assembly Bill 3076*

Other Documents Relied upon

- A. *Chief Counsel Memo Dated 05/07/12*
- B. *Draft Minutes, 05/31/12*
- C. *Reporters Transcript, 05/31/12*

RECEIVED

JUL 12 2012

by EXECUTIVE DIRECTOR'S OFFICE  
STATE BOARD OF EQUALIZATION

**State of California  
Office of Administrative Law**

In re:

Board of Equalization

Regulatory Action:

Title 18, California Code of Regulations

Adopt sections:

Amend sections: 1205, 1212, 1271

Repeal sections:

**NOTICE OF APPROVAL OF CHANGES  
WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,  
Section 100**

**OAL File No. 2012-0613-01 N**

This action makes changes without regulatory effect by replacing the two-word phrase "fee payer" with the one-word phrase "feepayer." Use of the one-word phrase "feepayer" makes the regulations consistent with the State Board of Equalization's style manual and are grammatical in nature.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

Date: 7/10/2012



Kevin D. Hull  
Attorney

For: DEBRA M. CORNEZ  
Director

Original: Kristine Cazadd  
Copy: Richard Bennion

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JUL 13 2012

Board Proceedings

**OFFICE OF ADMINISTRATIVE LAW**

300 Capitol Mall, Suite 1250  
Sacramento, CA 95814  
(916) 323-6225 FAX (916) 323-6826



**DEBRA M. CORNEZ**  
Director

**MEMORANDUM**

TO: Richard Bennion  
FROM: OAL Front Desk  
DATE: 7/11/2012  
RE: Return of Approved Rulemaking Materials  
OAL File No. 2012-0613-01N

OAL hereby returns this file your agency submitted for our review (OAL File No. 2012-0613-01N regarding Fee Payer; Rebuttable Presumption/Liability for Fee/Records).

If this is an approved file, it contains a copy of the regulation(s) stamped "ENDORSED APPROVED" by the Office of Administrative Law and "ENDORSED FILED" by the Secretary of State. The effective date of an approved file is specified on the Form 400 (see item B.5). (Please Note: The 30<sup>th</sup> Day after filing with the Secretary of State is calculated from the date the Form 400 was stamped "ENDORSED FILED" by the Secretary of State.)

**DO NOT DISCARD OR DESTROY THIS FILE**

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "...no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq.) regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

**NOTICE PUBLICATION/REGULATION**

**SUBMISSION**

See instructions on reverse

on

For use by Secretary of State only

STD. 400 (REV. 01-09)

<b>OAL FILE NUMBERS</b>	<b>NOTICE FILE NUMBER</b>	<b>REGULATORY ACTION NUMBER</b>	<b>EMERGENCY NUMBER</b>
	Z-	2012-0613-01W	

For use by Office of Administrative Law (OAL) only

<p>2012 JUN 13 A 11:31</p> <p>OFFICE OF ADMINISTRATIVE LAW</p>	
NOTICE	REGULATIONS

ENDORSED FILED  
 OF THE OFFICE OF  
 2012 JUL 10 PM 2:56  
  
 JOANN RICHMOND  
 SECRETARY OF STATE

<b>AGENCY WITH RULEMAKING AUTHORITY</b> State Board of Equalization	<b>AGENCY FILE NUMBER (if any)</b>
--	------------------------------------

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn			NOTICE REGISTER NUMBER	PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Fee Payer; Rebuttable Presumption/Liability for Fee/Records	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
---	--

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
<b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>	ADOPT
	AMEND 1205, 1212, 1271
TITLE(S) 18	REPEAL

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
--

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			

7. CONTACT PERSON Richard E. Bennion	TELEPHONE NUMBER (916) 445-2130	FAX NUMBER (Optional) (916) 324-3984	E-MAIL ADDRESS (Optional) rbennion@boe.ca.gov
---	------------------------------------	---	--

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE June 12, 2012
TYPED NAME AND TITLE OF SIGNATORY Joann Richmond, Chief, Board Proceedings Division	

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ENDORSED APPROVED

JUL 10 2012

Office of Administrative Law

**Text of Proposed Changes to**

**Title 18. Public Revenue**

**Regulation 1205. ~~Fee Payer~~ Fee Payer; Rebuttable Presumption.**

The fee is due from the owner of an underground storage tank for which a permit is required pursuant to Section 25284 of the Health and Safety Code. There is a rebuttable presumption that the owner of the real property is the owner of the underground storage tank located on the property, even if the property is leased to another person. This presumption may be overcome by showing that ownership of the tank rests with someone other than the real property owner. Evidence to rebut the presumption may include, but is not limited to, the following:

- (a) . . . (unchanged).
- (b) . . . (unchanged).
- (c) . . . (unchanged).
- (d) . . . (unchanged).
- (e) . . . (unchanged).

Note: Authority cited: Section 50152, Revenue and Taxation Code; and Section 25299.42, Health and Safety Code. Reference: Section 50107, Revenue and Taxation Code; and Sections 25299.21, 25299.41 and 25299.43, Health and Safety Code.

**Regulation 1212. Liability for Fee.**

- (a) . . . (unchanged).
- (b) . . . (unchanged).
- (c) . . . (unchanged).

(d) An owner is liable for the fee even though the owner claims he or she did not know the fee was due or was unable to obtain information from an operator as to the gallons placed into the underground storage tank(s). As provided by subdivision (c) of Section 50159 of the Revenue and Taxation Code, the board may provide to the ~~fee payer~~ feepayer otherwise confidential information obtained from the operator of an underground storage tank to the extent that this information is necessary for assessment, administration, and verification of the fee.

Note: Authority cited: Section 50142, Revenue and Taxation Code; and Section 25299.42, Health and Safety Code. Reference: Sections 50107, 50109 and 50159, Revenue and Taxation Code; and Sections 25299.41 and 25299.43, Health and Safety Code.

**Regulation 1271. Records.**

(a) General. A ~~feepayer~~fee payer 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.

(b) . . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged).

(3) . . . (unchanged).

(4) . . . (unchanged).

(5) . . . (unchanged).

(6) . . . (unchanged).

Note: Authority cited: Section 50152, Revenue and Taxation Code. Reference: Sections 50109 and 50153, Revenue and Taxation Code.

File# 2012-0613-03  
BOARD OF EQUALIZATION  
Tax Paid Twice on Diesel Fuel/Returned Sales

These changes are without regulatory effect to the reference citations. Specifically, the changes update the reference citations to account for the 2009 repeal of Revenue and Taxation Code section 60508.4, permitting a supplier to take a credit on its tax return in lieu of claiming a refund, and the amendment of Revenue and Taxation Code section 60508 which, as amended, now permits a supplier to take a credit in lieu of claiming a refund (Stats. 2009, c 545 (A.B. 1547)).

Title 18  
California Code of Regulations  
AMEND: 1435, 1436  
Filed 07/10/2012  
Agency Contact:  
Richard E. Bennion (916) 445-2130

File# 2012-0613-01  
BOARD OF EQUALIZATION  
Feepayer; Rebuttable Presumption/Liability for Fee/Records

This action makes changes without regulatory effect by replacing the two-word phrase "fee payer" with the one-word phrase "feepayer." Use of the one-word phrase "feepayer" makes the regulations consistent with the State Board of Equalization's style manual and is grammatical in nature.

Title 18  
California Code of Regulations  
AMEND: 1205, 1212, 1271  
Filed 07/10/2012  
Agency Contact:  
Richard E. Bennion (916) 445-2130

File# 2012-0613-05  
BOARD OF EQUALIZATION  
Tax-Paid Fuel and Ex-Tax Fuel/Returned Sales/Shipments Out-of-State

This action makes changes without regulatory effect in the authority and reference citations and a grammatical correction. Specifically, the changes update the citations to account for a statutory consolidation that occurred in 2006 (AB 3076), effective January 1, 2007, wherein Revenue and Taxation Code sections 6106.5 and 6106.8 were repealed and subsumed by section 6106. The change also amends the regulation text of section 1120 to make a grammatical correction replacing "Returns" with "Return".

Title 18  
California Code of Regulations  
AMEND: 1105, 1120, 1132, 1161  
Filed 07/10/2012  
Agency Contact:  
Richard E. Bennion (916) 445-2130

File# 2012-0628-01  
BOARD OF FORESTRY AND FIRE PROTECTION  
State Responsibility Fee, 2012 Emergency Regulation

This rulemaking action readopts, for an additional 90 days from the date of expiration of the original emergency regulations, the Board of Forestry and Fire Protection's emergency regulations concerning fire prevention fees on habitable structures in State Responsibility Areas.

Title 14  
California Code of Regulations  
ADOPT: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8  
Filed 07/09/2012  
Effective 07/24/2012  
Agency Contact: George Gentry (916) 653-8031

File# 2012-0611-01  
BUREAU OF AUTOMOTIVE REPAIR  
AB 2289 Penalties

The Director of Consumer Affairs is adopting regulations on behalf of the Bureau of Automotive Repair concerning the penalty schedule for specific violations by licensees. The adoption of these regulatory provisions provides for an Administrative Fine Schedule and minimum/maximum fine amounts for each identified violation. The adoption also provides that the director can order an extension of time within which an order of abatement can be completed.

Title 16  
California Code of Regulations  
ADOPT: 3394.25, 3394.26, 3394.27  
Filed 07/10/2012  
Effective 07/10/2012  
Agency Contact: Steven Hall (916) 255-2135

File# 2012-0625-02  
DEPARTMENT OF WATER RESOURCES  
Implementation of Water Code Section 12585.7

The Department of Water Resources (DWR) amended seven title 23 sections that pertain to state cost-share funding of local flood management plans. The amendments make the state cost-share funding regulations consistent with changes in the Water Code as a result of AB 1788 (Stats. 2010, ch. 579). Existing law provides for state cooperation with the federal government in the construction of specified flood control

# **Regulations 1105, 1120, 1132, and 1161**

## **Section 100**

### Index

1. *Form 400 and Proposed Regulations 1105, 1120, 1132, and 1161*
2. *Statement of Explanation*
3. *Assembly Bill 3076*

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

<b>OAL FILE NUMBERS</b>	NOTICE FILE NUMBER <b>Z-</b>	REGULATORY ACTION NUMBER <b>2012-0613-01N</b>	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY State Board of Equalization			AGENCY FILE NUMBER (if any)

2012 JUN 13 A 11:10  
OFFICE OF  
ADMINISTRATIVE LAW

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Fee Payer; Rebuttable Presumption/Liability for Fee/Records		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
<b>SECTION(S) AFFECTED</b> (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT		
	AMEND 1205, 1212, 1271		
TITLE(S) 18	REPEAL		
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify) _____		
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Richard E. Bennion	TELEPHONE NUMBER (916) 445-2130	FAX NUMBER (Optional) (916) 324-3984	E-MAIL ADDRESS (Optional) rbennion@boe.ca.gov

8. **I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

For use by Office of Administrative Law (OAL) only

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Joann Richmond</i>	DATE June 12, 2012
TYPED NAME AND TITLE OF SIGNATORY Joann Richmond, Chief, Board Proceedings Division	

## Text of Proposed Changes to

### Title 18. Public Revenue

#### **Regulation 1205. ~~Fee Payer~~ Fee Payer; Rebuttable Presumption.**

The fee is due from the owner of an underground storage tank for which a permit is required pursuant to Section 25284 of the Health and Safety Code. There is a rebuttable presumption that the owner of the real property is the owner of the underground storage tank located on the property, even if the property is leased to another person. This presumption may be overcome by showing that ownership of the tank rests with someone other than the real property owner. Evidence to rebut the presumption may include, but is not limited to, the following:

(a) . . . (unchanged).

(b) . . . (unchanged).

(c) . . . (unchanged).

(d) . . . (unchanged).

(e) . . . (unchanged).

Note: Authority cited: Section 50152, Revenue and Taxation Code; and Section 25299.42, Health and Safety Code. Reference: Section 50107, Revenue and Taxation Code; and Sections 25299.21, 25299.41 and 25299.43, Health and Safety Code.

#### **Regulation 1212. Liability for Fee.**

(a) . . . (unchanged).

(b) . . . (unchanged).

(c) . . . (unchanged).

(d) An owner is liable for the fee even though the owner claims he or she did not know the fee was due or was unable to obtain information from an operator as to the gallons placed into the underground storage tank(s). As provided by subdivision (c) of Section 50159 of the Revenue and Taxation Code, the board may provide to the ~~feepayer~~ fee payer otherwise confidential information obtained from the operator of an underground storage tank to the extent that this information is necessary for assessment, administration, and verification of the fee.

Note: Authority cited: Section 50142, Revenue and Taxation Code; and Section 25299.42, Health and Safety Code. Reference: Sections 50107, 50109 and 50159, Revenue and Taxation Code; and Sections 25299.41 and 25299.43, Health and Safety Code.

**Regulation 1271. Records.**

(a) General. A ~~feepayer~~~~fee payer~~ 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.

(b) . . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged).

(3) . . . (unchanged).

(4) . . . (unchanged).

(5) . . . (unchanged).

(6) . . . (unchanged).

Note: Authority cited: Section 50152, Revenue and Taxation Code. Reference: Sections 50109 and 50153, Revenue and Taxation Code.

# Introduction

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This house style guide has been developed by the Board of Equalization's (BOE) Editorial Services Section. As style changes over time, publication units, publishers, and newspapers generally decide to use one dictionary and one published style manual (in our case we use *Merriam Webster's Collegiate Dictionary* and *The Gregg Reference Manual*). In addition to the standard references, we have also developed this house style guide.

A team of editors, forms analysts, and Customer Service and Publishing Division managers developed this style guide to promote consistency in BOE forms and publications. This team discussed every item in this guide and agreed on how we should treat each individual entry.

If an example is not listed, please refer to *The Gregg Reference Manual, Eleventh Edition* for usage or *Merriam Webster's Collegiate Dictionary, Eleventh Edition*.

**E**

e.g., etc.	avoid; use for example, among others
enclosed (vs. attached)	to insert in the same envelope (see "attached")
ex tax	don't use; write out "without tax"

**F**

fax	lowercase
faxback	one word
federal	don't capitalize
feepayer	one word
fewer vs. less	use with things that are counted (fewer buckets, less water)
fine-tune	always hyphenated
firsthand	one word
fiscal year	lower case
follow-up (n., adj.)	<i>Example:</i> She was in charge of follow-up.(n) She did the follow-up work.(adj.)
follow up (v.)	<i>Example:</i> Please follow up with her as the deadline approaches.
form	avoid using before form identifier (BOE-770)
full-time	always hyphenated
fundraising	one word, no hyphen
FY (fiscal year)	capitalize when referring to fiscal year

**G**

Governor (the)	capitalize when referring specifically to the Governor of California
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**H**

handicap accessible	avoid; use wheelchair accessible
hard copy (n.)	<i>Example:</i> Please give it to Legal in hard copy.
hard-copy (adj.)	<i>Example:</i> Legal wants it in hard-copy format.
he/she; he or she; him/her; him or her	avoid both; use their or our
headquarters	a singular or plural noun
Headquarters	capitalized when referring to 450 N Street location
homepage	one word
Honorable	capitalized when used before name (the Honorable

Attachment

CHANGES WITHOUT REGULATORY EFFECT UNDER  
CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Title 18. Public Revenues

Regulation 1205, *Fee Payer; Rebuttable Presumption*  
Regulation 1212, *Liability for Fee*  
Regulation 1271, *Records*

**A. Factual Basis**

Chapter 1.5 (commencing with section 1201) of division 2 of title 18 of the California Code of Regulations (chapter 1.5) contains regulations that implement, interpret, or make specific the provisions of the Underground Storage Tank Maintenance Fee Law (Law) (part 26 (commencing with section 50101) of division 2 of the Revenue and Taxation Code), pursuant to which the State Board of Equalization (BOE) administers the petroleum storage fees imposed under sections 25299.41 and 25299.43 of the Health and Safety Code.<sup>1</sup> The BOE hereby proposes to change the provisions of chapter 1.5 listed above under California Code of Regulations, title 1, section (Rule) 100 to update the manner in which the BOE refers to persons that are liable for payment of the fees imposed under sections 25299.41 and 25299.43 of the Health and Safety Code in the regulations.

The Law was enacted in 1989 (Sen. Bill No. 299 (Stats. 1989, ch. 1442)). Section 50107 of the Law defines the two-word term “fee payer” to mean “any person liable for the payment of a fee imposed by Section 25299.41 of the Health and Safety Code” and the two word term “fee payer” was originally used throughout the Law and in chapter 1.5.

However, amendments made to the Law since 2000 have used the one-word term “feepayer,” rather than the two-word term “fee payer.” (See, e.g., Assem. Bill No. 2894 (Stats. 2000, ch. 923) [adding the one-word term “feepayer” to section 50112 and replacing the two-word term “fee payer” with the one-word term “feepayer” in section 50112.4, subd. (b)].) Furthermore, the BOE has stopped using the two-word term “fee payer” to refer to a person that is liable for the payment of a BOE-administered fee in its forms and publications, and the BOE has adopted a uniform policy requiring its staff to use the one-word term “feepayer” in place of the two-word term “fee payer.” (See the direction regarding the word “feepayer” in the BOE Style A-Z section of BOE Publication 384, “A Style Guide for BOE Forms and Publications” (May 2011), Introduction and page 3 from the BOE’s internal website, attached.)

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<sup>1</sup> The BOE jointly administers the fees imposed under Health and Safety Code sections 25299.41 and 25299.43 under the Law in accordance with section 50108 of the Law and Health and Safety Code section 25299.43, subdivision (g), respectively. Chapter 1.5 was adopted to implement, interpret, and make specific the fees imposed by both sections 25299.41 and 25299.43 and the term “fee payer,” as currently used in chapter 1.5, refers to a person that is liable for the payment of the fees imposed by both sections.

The BOE-adopted regulations listed above use the two-word term “fee payer.” Therefore, the BOE now proposes to change the regulations listed above, and described in detail below, to replace the two-word term “fee payer” with the one-word term “feepayer” under Rule 100, in order to update the manner in which the BOE refers to persons that are liable for payment of the fees imposed under sections 25299.41 and 25299.43 of the Health and Safety Code in the regulations.

## **B. Proposed Changes**

### 1. Rule 100 Change to Regulation 1205, *Fee Payer; Rebuttable Presumption*

A Rule 100 change is proposed to replace the two-word term “Fee Payer” with the one-word term “Feepayer” in the title of Regulation 1205.

### 2. Rule 100 Changes to Regulation 1212, *Liability for Fee*

A Rule 100 change is proposed to replace the two-word term “fee payer” with the one-word term “feepayer” in the second sentence of subdivision (d) of Regulation 1212.

### 3. Rule 100 Change to Regulation 1271, *Records*

A Rule 100 change is proposed to replace the two-word term “fee payer” with the one-word term “feepayer” in subdivision (a) of Regulation 1271.

The foregoing changes are appropriate for processing under Rule 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, these changes are necessary in order to update the manner in which the BOE refers to persons that are liable for payment of the fees imposed under sections 25299.41 and 25299.43 of the Health and Safety Code in the regulations.

## PROPOSED CHANGES

1. Change Regulation 1205 (Fee Payer; Rebuttable Presumption) to read as follows:

### **Regulation 1205. Fee Payer; Rebuttable Presumption.**

The fee is due from the owner of an underground storage tank for which a permit is required pursuant to Section 25284 of the Health and Safety Code. There is a rebuttable presumption that the owner of the real property is the owner of the underground storage tank located on the property, even if the property is leased to another person. This presumption may be overcome by showing that ownership of the tank rests with someone other than the real property owner. Evidence to rebut the presumption may include, but is not limited to, the following:

- (a) . . . (unchanged).
- (b) . . . (unchanged).
- (c) . . . (unchanged).
- (d) . . . (unchanged).
- (e) . . . (unchanged).

Note: Authority cited: Section 50152, Revenue and Taxation Code; and Section 25299.42, Health and Safety Code. Reference: Section 50107, Revenue and Taxation Code; and Sections 25299.21, 25299.41 and 25299.43, Health and Safety Code.

2. Change Regulation 1212 (Liability for Fee) to read as follows:

### **Regulation 1212. Liability for Fee.**

- (a) . . . (unchanged).
- (b) . . . (unchanged).
- (c) . . . (unchanged).

(d) An owner is liable for the fee even though the owner claims he or she did not know the fee was due or was unable to obtain information from an operator as to the gallons placed into the underground storage tank(s). As provided by subdivision (c) of Section 50159 of the Revenue and Taxation Code, the board may provide to the ~~feepayer~~fee payer otherwise confidential information obtained from the operator of an underground storage tank to the extent that this information is necessary for assessment, administration, and verification of the fee.

Note: Authority cited: Section 50142, Revenue and Taxation Code; and Section 25299.42, Health and Safety Code. Reference: Sections 50107, 50109 and 50159, Revenue and Taxation Code; and Sections 25299.41 and 25299.43, Health and Safety Code.

3. Change Regulation 1271 (Records) to read as follows:

**Regulation 1271. Records.**

(a) General. A ~~feepayer~~~~fee payer~~ 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.

(b) . . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged).

(3) . . . (unchanged).

(4) . . . (unchanged).

(5) . . . (unchanged).

(6) . . . (unchanged).

Note: Authority cited: Section 50152, Revenue and Taxation Code. Reference: Sections 50109 and 50153, Revenue and Taxation Code.

# Introduction

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This house style guide has been developed by the Board of Equalization's (BOE) Editorial Services Section. As style changes over time, publication units, publishers, and newspapers generally decide to use one dictionary and one published style manual (in our case we use *Merriam Webster's Collegiate Dictionary* and *The Gregg Reference Manual*). In addition to the standard references, we have also developed this house style guide.

A team of editors, forms analysts, and Customer Service and Publishing Division managers developed this style guide to promote consistency in BOE forms and publications. This team discussed every item in this guide and agreed on how we should treat each individual entry.

If an example is not listed, please refer to *The Gregg Reference Manual, Eleventh Edition* for usage or *Merriam Webster's Collegiate Dictionary, Eleventh Edition*.

**E**

e.g., etc.	avoid; use for example, among others
enclosed (vs. attached)	to insert in the same envelope (see "attached")
ex tax	don't use; write out "without tax"

**F**

fax	lowercase
faxback	one word
federal	don't capitalize
feepayer	one word
fewer vs. less	use with things that are counted (fewer buckets, less water)
fine-tune	always hyphenated
firsthand	one word
fiscal year	lower case
follow-up (n., adj.)	<i>Example:</i> She was in charge of follow-up.(n) She did the follow-up work.(adj.)
follow up (v.)	<i>Example:</i> Please follow up with her as the deadline approaches.
form	avoid using before form identifier (BOE-770)
full-time	always hyphenated
fundraising	one word, no hyphen
FY (fiscal year)	capitalize when referring to fiscal year

**G**

Governor (the)	capitalize when referring specifically to the Governor of California
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**H**

handicap accessible	avoid; use wheelchair accessible
hard copy (n.)	<i>Example:</i> Please give it to Legal in hard copy.
hard-copy (adj.)	<i>Example:</i> Legal wants it in hard-copy format.
he/she; he or she; him/her; him or her	avoid both; use their or our
headquarters	a singular or plural noun
Headquarters	capitalized when referring to 450 N Street location
homepage	one word
Honorable	capitalized when used before name (the Honorable

Attachment

**Assembly Bill No. 2894**

CHAPTER 923

An act to amend Sections 6011, 6012, 6066, 6366, 6366.1, 6452, 6479.31, 7093.5, 7655, 7657, 7658, 7659.2, 8876, 8877, 8878, 30281, 30282, 30283, 32252, 32255, 32256, 32311, 40101, 40102, 40103, 41095, 41096, 41097, 43152.12, 43152.15, 43155, 43157, 43158, 45153, 45155, 45156, 45156.5, 46154, 46156, 46157, 50112, 50112.2, 50112.3, 50112.4, 55042, 55044, 55046, 60207, 60209, and 60211 of, to add Sections 6245.5 and 46154.1 to, to add Article 1.2 (commencing with Section 7659.9) to Chapter 5 of Part 2 of Division 2 of, to add Article 1.1 (commencing with Section 8670) to Chapter 4 of Part 3 of Division 2 of, to add Article 1.1 (commencing with Section 30190) to Chapter 4 of Part 13 of Division 2 of, to add Article 1.1 (commencing with Section 32260) to Chapter 6 of Part 14 of Division 2 of, to add Article 2.1 (commencing with Section 40067) to Chapter 4 of Part 19 of Division 2 of, to add Article 1.1 (commencing with Section 41060) to Chapter 4 of Part 20 of Division 2 of, to add Article 1.1 (commencing with Section 43170) to Chapter 3 of Part 22 of Division 2 of, to add Article 1.1 (commencing with Section 45160) to Chapter 3 of Part 23 of Division 2 of, to add Article 1.1 (commencing with Section 46160) to Chapter 3 of Part 24 of Division 2 of, to add Article 1.1 (commencing with Section 50112.7) to Chapter 3 of Part 26 of Division 2 of, to add Article 1.1 (commencing with Section 55050) to Chapter 3 of Part 30 of Division 2 of, and to add Article 1.1 (commencing with Section 60250) to Chapter 6 of Part 31 of Division 2 of, and to repeal Sections 32254, 32292, 43156, 45154, 46155, 50112.1, and 55043 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 29, 2000. Filed  
with Secretary of State September 29, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2894, Committee on Revenue and Taxation. Taxation: State Board of Equalization.

The Sales and Use Tax Law provides an exemption for certain sales or leases of aircraft, and provides certain rebuttable presumptions in that connection.

This bill would clarify the rebuttable presumptions applicable to those sales or leases.

The Sales and Use Tax Law requires any person whose estimated sales and use tax liability averages \$20,000 or more per month to remit amounts due by an electronic funds transfer and permits others to do so.

This bill would clarify the rebuttable presumptions applicable to those sales and leases.

The Sales and Use Tax Law requires any person whose estimated sales and use tax liability averages \$20,000 or more per month to remit amounts due by an electronic funds transfer and permits others to do so.

This bill would extend these procedures to various other taxes administered by the board. This bill would, for purposes of various taxes administered by the board, also eliminate a so-called float period on certain tax payments, reduce the manual processing of checks, eliminate certain prepayment forms, provide an alternative payment method, modify procedures for sales and use taxes where a purchaser issues a specified certificate, and make various clarifying and technical changes.

The bill would incorporate changes to various sections of the Revenue and Taxation Code made by AB 2898 to become operative if both bills are chaptered and this bill is chaptered last.

*The people of the State of California do enact as follows:*

SECTION 1. Section 6011 of the Revenue and Taxation Code is amended to read:

6011. (a) "Sales price" means the total amount for which tangible personal property is sold or leased or rented, as the case may be, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

- (1) The cost of the property sold.
- (2) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses.
- (3) The cost of transportation of the property, except as excluded by other provisions of this section.

(b) The total amount for which the property is sold or leased or rented includes all of the following:

- (1) Any services that are a part of the sale.
- (2) Any amount for which credit is given to the purchaser by the seller.
- (3) The amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed pursuant to Part 2 (commencing with Section 7301) of this division.

(c) "Sales price" does not include any of the following:

- (1) Cash discounts allowed and taken on sales.
- (2) The amount charged for property returned by customers when that entire amount is refunded either in cash or credit, but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

For the purpose of this section, refund or credit of the entire amount shall be deemed to be given when the purchase price less rehandling and restocking costs are refunded or credited to the customer. The amount withheld for rehandling and restocking costs may be a percentage of the sales price determined by the average cost of rehandling and restocking returned merchandise during the previous accounting cycle.

(3) The amount charged for labor or services rendered in installing or applying the property sold.

(4) (A) The amount of any tax (not including, however, any manufacturers' or importers' excise tax, except as provided in subparagraph (B)) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(B) The amount of manufacturers' or importers' excise tax imposed pursuant to Section 4081 or 4091 of the Internal Revenue Code for which the purchaser certifies that he or she is entitled to either a direct refund or credit against his or her income tax for the federal excise tax paid or for which the purchaser issues a certificate pursuant to Section 6245.5.

(5) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California upon or with respect to retail sales of tangible personal property, measured by a stated percentage of sales price or gross receipts, whether imposed upon the retailer or the consumer.

(6) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California with respect to the storage, use or other consumption in that city, county, city and county, or rapid transit district of tangible personal property measured by a stated percentage of sales price or purchase price, whether the tax is imposed upon the retailer or the consumer.

(7) Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the retailer. However, if the transportation is by facilities of the retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the purchase of the property is made.

(8) Charges for transporting landfill from an excavation site to a site specified by the purchaser, either if the charge is separately stated and does not exceed a reasonable charge or if the entire consideration consists of payment for transportation.

(9) The amount of any motor vehicle, mobilehome, or commercial coach fee or tax imposed by and paid the State of California that has been added to or is measured by a stated percentage of the sales or

purchase price of a motor vehicle, mobilehome, or commercial coach.

(10) (A) The amount charged for intangible personal property transferred with tangible personal property in any technology transfer agreement, if the technology transfer agreement separately states a reasonable price for the tangible personal property.

(B) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the price at which the tangible personal property was sold, leased, or offered to third parties shall be used to establish the retail fair market value of the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(C) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has not been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the retail fair market value shall be equal to 200 percent of the cost of materials and labor used to produce the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(D) For purposes of this paragraph, “technology transfer agreement” means any agreement under which a person who holds a patent or copyright interest assigns or licenses to another person the right to make and sell a product or to use a process that is subject to the patent or copyright interest.

(11) The amount of any tax imposed upon diesel fuel pursuant to Part 31 (commencing with Section 60001).

SEC. 1.3. Section 6012 of the Revenue and Taxation Code is amended to read:

6012. (a) “Gross receipts” mean the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold. However, in accordance with any rules and regulations as the board may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his or her vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If that deduction is taken by the retailer, no refund or credit will be allowed to his or her vendor with respect to the sale of the property.

(2) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense.

(3) The cost of transportation of the property, except as excluded by other provisions of this section.

(4) The amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed pursuant to Part 2 (commencing with Section 7301) of this division.

(b) The total amount of the sale or lease or rental price includes all of the following:

(1) Any services that are a part of the sale.

(2) All receipts, cash, credits and property of any kind.

(3) Any amount for which credit is allowed by the seller to the purchaser.

(c) "Gross receipts" do not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) Sale price of property returned by customers when that entire amount is refunded either in cash or credit, but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned. For the purpose of this section, refund or credit of the entire amount shall be deemed to be given when the purchase price less rehandling and restocking costs are refunded or credited to the customer. The amount withheld for rehandling and restocking costs may be a percentage of the sales price determined by the average cost of rehandling and restocking returned merchandise during the previous accounting cycle.

(3) The price received for labor or services used in installing or applying the property sold.

(4) (A) The amount of any tax (not including, however, any manufacturers' or importers' excise tax, except as provided in subparagraph (B)) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(B) The amount of manufacturers' or importers' excise tax imposed pursuant to Section 4081 or 4091 of the Internal Revenue Code for which the purchaser certifies that he or she is entitled to either a direct refund or credit against his or her income tax for the federal excise tax paid or for which the purchaser issues a certificate pursuant to Section 6245.5.

(5) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California upon or with respect to retail sales of tangible personal property measured by a stated percentage of sales price or gross receipts whether imposed upon the retailer or the consumer.

(6) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California with respect to the storage, use or other consumption in that city, county, city and county, or rapid transit district of tangible personal property measured by a stated percentage of sales price or purchase price, whether the tax is imposed upon the retailer or the consumer.

(7) Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the retailer. However, if the transportation is by facilities of the retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the sale of the property is made to the purchaser.

(8) Charges for transporting landfill from an excavation site to a site specified by the purchaser, either if the charge is separately stated and does not exceed a reasonable charge or if the entire consideration consists of payment for transportation.

(9) The amount of any motor vehicle, mobilehome, or commercial coach fee or tax imposed by and paid to the State of California that has been added to or is measured by a stated percentage of the sales or purchase price of a motor vehicle, mobilehome, or commercial coach.

(10) (A) The amount charged for intangible personal property transferred with tangible personal property in any technology transfer agreement, if the technology transfer agreement separately states a reasonable price for the tangible personal property.

(B) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the price at which the tangible personal property was sold, leased, or offered to third parties shall be used to establish the retail fair market value of the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(C) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has not been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the retail fair market value shall be equal to 200 percent of the cost of materials and labor used to produce the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(D) For purposes of this paragraph, “technology transfer agreement” means any agreement under which a person who holds a patent or copyright interest assigns or licenses to another person the right to make and sell a product or to use a process that is subject to the patent or copyright interest.

(11) The amount of any tax imposed upon diesel fuel pursuant to Part 31 (commencing with Section 60001).

For purposes of the sales tax, if the retailers establish to the satisfaction of the board that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed. Section 1656.1 of the Civil Code shall apply in determining whether or not the retailers have absorbed the sales tax.

SEC. 1.4. Section 6066 of the Revenue and Taxation Code is amended to read:

6066. (a) Every person desiring to engage in or conduct business as a seller within this state shall file with the board an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the board and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the board may require. An application for a permit shall be authenticated in a form or pursuant to methods as may be prescribed by the board. The application shall state that the applicant will actively engage in or conduct business as a seller of tangible personal property.

(b) An application filed pursuant to this section may be filed using electronic media as prescribed by the board.

(c) Electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, facsimile machine, or telephone.

SEC. 1.6. Section 6245.5 is added to the Revenue and Taxation Code, to read:

6245.5. (a) A person qualified under subdivision (b) may issue a certificate to a retailer with respect to the amount of manufacturers’ or importers’ excise tax imposed pursuant to Section 4081 or 4091 of the Internal Revenue Code for purposes of subparagraph (B) of paragraph (4) of subdivision (c) of Section 6011 or subparagraph (B) of paragraph (4) of subdivision (c) of Section 6012 when purchasing fuel from the retailer.

(b) A person is qualified for purposes of this section if all of the following conditions are met:

(1) The person was entitled to either a direct refund or credit against his or her income tax for the manufacturers’ or importers’ excise tax imposed pursuant to Section 4081 or 4091 of the Internal

Revenue Code for more than 50 percent of the person's purchases of fuel during the prior calendar year.

(2) The person's business remains substantially the same as during the prior calendar year whereby the person expects to be entitled to either a direct refund or credit against his or her income tax for the manufacturers' or importers' excise tax imposed pursuant to Section 4081 or 4091 of the Internal Revenue Code for more than 50 percent of the person's purchases of fuel.

(3) The person holds a valid California seller's permit.

(c) A person issuing a certificate for purposes of subparagraph (B) of paragraph (4) of subdivision (c) of Section 6011 or subparagraph (B) of paragraph (4) of subdivision (c) of Section 6012 is liable for use tax on the amount of the manufacturers' or importers' excise tax imposed pursuant to Section 4081 or 4091 of the Internal Revenue Code if the person used fuel purchased under the certificate in a manner whereby the person is not entitled to a direct refund or credit against his or her income tax of the federal excise tax.

(d) A person liable for the use tax under subdivision (c) of this section shall report and pay that use tax with the return for the reporting period in which the person uses the fuel in such a manner that the person is not entitled to a direct refund or credit against his or her income tax of the federal excise tax.

SEC. 2. Section 6366 of the Revenue and Taxation Code is amended to read:

6366. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, the following:

(1) Aircraft sold to any person using the aircraft as a common carrier of persons or property under authority of the laws of this state, of the United States, or of any foreign government, or sold to any foreign government for use by that government outside of this state, or sold to any person who is not a resident of this state and who will not use that aircraft in this state otherwise than in the removal of the aircraft from this state.

(2) (A) A ground control station sold to any foreign government for use by that government outside of this state or sold to any person who is not a resident of this state and who will not use that ground control station in this state otherwise than in the removal of the ground control station from this state.

(B) A "ground control station" means a portable facility used to operate aircraft in the air without a pilot on board. The term includes controls, video equipment, computers, generators, and communications equipment, sold as an integral part of the station, and antennas used to control the aircraft. The term does not include trucks, tractor-trailers, or other devices solely used to transport the station.

(3) Tangible personal property that is purchased on or after October 1, 1996, and becomes a component part of any aircraft described in paragraph (1), as a result of the maintenance, repair, overhaul, or improvement of that aircraft in compliance with Federal Aviation Administration requirements, and any charges made for labor and services rendered with respect to that maintenance, repair, overhaul, or improvement.

(b) With respect to aircraft sold on or after January 1, 1997, it shall be presumed that a person is not engaged in business as a common carrier if the person's yearly gross receipts from the use of the aircraft as a common carrier do not exceed 20 percent of the purchase cost of the aircraft to him or her, or fifty thousand dollars (\$50,000), whichever is less. This presumption may be rebutted by contrary evidence satisfactory to the board showing that the person is engaged in business as a common carrier.

In no event shall "gross receipts" include compensation by the person or related parties for use of the aircraft as a common carrier.

SEC. 3. Section 6366.1 of the Revenue and Taxation Code is amended to read:

6366.1. (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of aircraft which are leased, or are sold to persons for the purpose of leasing, to lessees using such aircraft as common carriers of persons or property under authority of the laws of this state, of the United States or any foreign government, or to any foreign government as lessees for use by such government outside the state, or to persons as lessees who are not residents of this state and who will not use such aircraft in this state otherwise than in the removal of such aircraft from this state.

(b) There are exempted from the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of tangible personal property sold to an aircraft manufacturer and incorporated into aircraft to be leased by the manufacturer under conditions set forth in subdivision (a) of this section.

(c) With respect to aircraft leased, or sold for the purpose of leasing, on or after January 1, 1997, it shall be presumed that the aircraft is not regularly used in the business of transporting for hire property or persons if the lessor's yearly gross receipts from the lease of that aircraft to persons using the aircraft as common carriers of property or persons do not exceed 20 percent of the cost of the aircraft to the lessor, or fifty thousand dollars (\$50,000), whichever is less. This presumption may be rebutted by contrary evidence satisfactory to the board showing that the aircraft is regularly used as a common carrier of property or persons.

In no event shall "gross receipts" include compensation by the lessor or related parties for use of the aircraft as a common carrier.

SEC. 4. Section 6452 of the Revenue and Taxation Code is amended to read:

6452. (a) On or before the last day of the month following each quarterly period of three months, a return for the preceding quarterly period shall be filed with the board in the form as prescribed by the board, which may include, but not be limited to, electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

(b) For purposes of the sales tax, a return shall be filed by every seller and also by every person who is liable for the sales tax under this part. For purposes of the use tax, a return shall be filed by every retailer engaged in business in this state and by every person purchasing tangible personal property, the storage, use, or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax.

(c) Any retailer or other person who fails or refuses to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the board, is guilty of a misdemeanor punishable as provided in Section 7153.

SEC. 5. Section 6479.31 of the Revenue and Taxation Code is amended to read:

6479.31. (a) Any return, declaration, statement, or other document required to be made under this part that is filed using electronic media shall be filed and authenticated pursuant to any method or form the board may prescribe.

(b) Notwithstanding any other law, any return, declaration, statement, or other document otherwise required to be signed that is filed by the taxpayer using electronic media in a form as required by the board shall be deemed to be a signed, valid original document, including upon reproduction to paper form by the board.

(c) Electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, facsimile machine, or telephone.

(d) Payment is deemed timely for electronically filed returns if the transmission is completed on or before the due date of the return.

SEC. 6. Section 7093.5 of the Revenue and Taxation Code is amended to read:

7093.5. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.

(b) (1) Except as provided in paragraph (3) and subject to paragraph (2), the executive director or chief counsel, if authorized by the executive director, of the board may recommend to the State

Board of Equalization, itself, a settlement of any civil tax matter in dispute.

(2) No recommendation of settlement shall be submitted to the board, itself, unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise in writing the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, itself, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(3) A settlement of any civil tax matter in dispute involving a reduction of tax or penalties in settlement, the total of which reduction of tax and penalties in settlement does not exceed five thousand dollars (\$5,000), may be approved by the executive director and chief counsel, jointly. The executive director shall notify the board, itself, of any settlement approved pursuant to this paragraph.

(c) Whenever a reduction of tax or penalties or total tax and penalties in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the taxpayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) For any settlement approved by the board, itself, the Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the taxpayer or the national defense.

(d) The members of the State Board of Equalization shall not participate in the settlement of tax matters pursuant to this section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board, itself, within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for

settlement, the matter shall be referred back to the executive director or chief counsel in accordance with the decision of the board.

(2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the board. Where the board disapproves a recommendation for settlement, the matter shall be remanded to board staff for further negotiation, and may be resubmitted to the board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive director or chief counsel.

(f) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.

(g) Any proceedings undertaken by the board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions. Except as provided in subdivision (c), any settlement considered or entered into pursuant to this section shall constitute confidential tax information for purposes of Section 7056.

(h) This section shall apply only to civil tax matters in dispute on or after the effective date of the act adding this subdivision.

(i) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the board in implementing and administering the settlement program authorized by this section.

SEC. 7. Section 7655 of the Revenue and Taxation Code is amended to read:

7655. (a) Any distributor who fails to pay the amount of license tax shown to be due by the distributor's return on or before the 25th day of the month following the monthly period to which it relates must pay a penalty of 10 percent of the license tax, together with interest on that license tax at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the license tax became due and payable to the state until the date of payment.

(b) Any distributor who fails to file a return in accordance with the due dates set forth in Sections 7651 and 7652, shall pay a penalty of 10 percent of the amount of the license tax, exclusive of prepayments, with respect to the period for which the return is required.

(c) The penalties imposed by this section shall be limited to a maximum of 10 percent of the license tax for which the return is required, exclusive of any prepayments, for any one return.

SEC. 8. Section 7657 of the Revenue and Taxation Code is amended to read:

7657. If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances

beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 7655, 7659.5, 7659.6, 7659.9, 7660, and 7713.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 8.5. Section 7657 of the Revenue and Taxation Code is amended to read:

7657. (a) If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 7655, 7659.5, 7659.6, 7659.9, 7660, and 7713.

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

(c) The board shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

SEC. 9. Section 7658 of the Revenue and Taxation Code is amended to read:

7658. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 7655, 7656, 7659.9, and 7661.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 9.5. Section 7659.2 of the Revenue and Taxation Code is amended to read:

7659.2. Except in the case of a person required to remit amounts due in accordance with Article 1.2 (commencing with Section 7659.9), for purposes of Section 7659.1, each prepayment shall be accompanied by a report of the amount of that prepayment in a form prescribed by the board and shall be filed with the board on or before the 15th day following each monthly period together with a remittance payable to the Controller of the amount due.

SEC. 10. Article 1.2 (commencing with Section 7659.9) is added to Chapter 5 of Part 2 of Division 2 of the Revenue and Taxation Code, to read:

## Article 1.2. Payment by Electronic Funds Transfer

7659.9. (a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 7651) and Article 1.1 (commencing with Section 7659). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If 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) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

(e) (1) Except as provided in paragraph (2), any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(2) A person required to remit prepayments pursuant to this article who remits a prepayment by means other than an appropriate electronic funds transfer shall pay a penalty of 6 percent of the prepayment incorrectly remitted.

(f) Except as provided by Sections 7659.5 and 7659.6, any person who fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 7660) or Article 2.5 (commencing with Section 7670), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be paid became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) Except as provided in subdivision (i), the penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due, exclusive of prepayments, for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 7655.

(i) The penalties imposed with respect to paragraph (2) of subdivision (e) and Sections 7659.5 and 7659.6 shall be limited to a maximum of 6 percent of the prepayment amount.

(j) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

7659.91. If the board finds that a person's failure to make payment by an appropriate electronic funds transfer in accordance with board procedures is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that person shall be relieved of the penalty provided in subdivision (e) of Section 7659.9. Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

7659.92. (a) "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 (Fedwire).

(b) "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.

(c) "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. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) "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.

(e) “Fedwire 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 Section 7659.9 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 11. Article 1.1 (commencing with Section 8760) is added to Chapter 4 of Part 3 of Division 2 of the Revenue and Taxation Code, to read:

#### Article 1.1. Payment by Electronic Funds Transfer

8760. (a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 8751). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state’s demand account occurs on or before the banking day following the date the transfer is initiated. If 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) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes with respect to the period for which the return is required.

(e) Any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds

transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(f) Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 8776) or Article 3 (commencing with Section 8801), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 8876.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

8761. If the board finds that a person's failure to make payment by an appropriate electronic funds transfer in accordance with board procedures is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that person shall be relieved of the penalty provided in subdivision (e) of Section 8760. Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

8762. (a) "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 (Fedwire).

(b) "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.

(c) "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. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) "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.

(e) "Fedwire 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 Section 8760 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 12. Section 8876 of the Revenue and Taxation Code is amended to read:

8876. (a) Any user who fails to pay any tax, except taxes determined by the board under Article 2 (commencing with Section 8776) or Article 3 (commencing with Section 8801), within the time required shall pay a penalty of 10 percent of the amount of the tax, together with interest on that tax at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable until the date of payment.

(b) Any user who fails to file a return in accordance with the due date set forth in Section 8751 or the due date established by the board in accordance with Section 8755, shall pay a penalty of 10 percent of the amount of the tax with respect to the period for which the return is required.

(c) The penalties imposed by this section shall be limited to a maximum of 10 percent of the tax for which the return is required for any one return.

SEC. 13. Section 8877 of the Revenue and Taxation Code is amended to read:

8877. If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 8801, 8854, 8760, and 8876.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 13.5. Section 8877 of the Revenue and Taxation Code is amended to read:

8877. (a) If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 8760, 8801, 8854, and 8876.

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

(c) The board shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

SEC. 14. Section 8878 of the Revenue and Taxation Code is amended to read:

8878. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 8760, 8803, and 8876.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 16. Article 1.1 (commencing with Section 30190) is added to Chapter 4 of Part 13 of Division 2 of the Revenue and Taxation Code, to read:

#### Article 1.1. Payment by Electronic Funds Transfer

30190. (a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 30181). Payment is deemed complete on the date the electronic funds

transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If 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) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes with respect to the period for which the return is required.

(e) Any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(f) Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 30173) or Article 2 (commencing with Section 30201) or Article 3 (commencing with Section 30221), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 30281.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

30191. If the board finds that a person's failure to make payment by an appropriate electronic funds transfer in accordance with board procedures is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that person shall be relieved of the penalty provided in subdivision (e) of Section 30190. Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

30192. (a) "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 (Fedwire).

(b) “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.

(c) “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. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “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.

(e) “Fedwire 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 Section 30190 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 17. Section 30281 of the Revenue and Taxation Code is amended to read:

30281. (a) Any person who fails to pay any tax, except a tax determined by the board under Article 2 (commencing with Section 30201) or Article 3 (commencing with Section 30221), within the time required shall pay a penalty of 10 percent of the amount of the tax, in addition to the tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable until the date of payment.

(b) Any person who fails to file a return in accordance with the due date set forth in Section 30181 or Section 30183, shall pay a

penalty of 10 percent of the amount of the tax with respect to the period for which the return is required.

(c) The penalties imposed by this section shall be limited to a maximum of 10 percent of the tax for which the return is required for any one return.

SEC. 18. Section 30282 of the Revenue and Taxation Code is amended to read:

30282. If the board finds that a person's failure to make a timely report or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, the person may be relieved of the penalty provided by Sections 30171, 30190, 30221, 30264, and 30281.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 18.5. Section 30282 of the Revenue and Taxation Code is amended to read:

30282. (a) If the board finds that a person's failure to make a timely report or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, the person may be relieved of the penalty provided by Sections 30171, 30190, 30221, 30264, and 30281.

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

(c) The board shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

SEC. 19. Section 30283 of the Revenue and Taxation Code is amended to read:

30283. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 30185, 30190, 30223, and 30281.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 21. Section 32252 of the Revenue and Taxation Code is amended to read:

32252. (a) Any taxpayer who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 32271) or Article 3 (commencing with Section 32291), within the time required shall pay a penalty of 10

percent of the amount of the tax, together with interest on that tax at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable until the date of payment.

(b) Any person who fails to file a return in accordance with the due dates set forth in Sections 32251, or the due date established by the board in accordance with Section 32251.5 shall pay a penalty of fifty dollars (\$50).

(c) The penalties imposed by this section shall be limited to either the fifty dollars (\$50) provided in subdivision (b), or 10 percent of the tax provided in subdivision (a), whichever is greater.

SEC. 22. Section 32254 of the Revenue and Taxation Code is repealed.

SEC. 23. Section 32255 of the Revenue and Taxation Code is amended to read:

32255. If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 32252, 32260, 32291, 32292, and 32305.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 23.5. Section 32255 of the Revenue and Taxation Code is amended to read:

32255. (a) If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 32252, 32260, 32291, 32292, and 32305.

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

(c) The board shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

SEC. 24. Section 32256 of the Revenue and Taxation Code is amended to read:

32256. If the board finds that a person's failure to make a timely report or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 32252, 32253, 32260, and 32291.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 25. Article 1.1 (commencing with Section 32260) is added to Chapter 6 of Part 14 of Division 2 of the Revenue and Taxation Code, to read:

Article 1.1. Payment by Electronic Funds Transfer

32260. (a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 32251). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If 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) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, with respect to the period for which the return is required.

(e) Any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(f) Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 32271) or Article 3 (commencing with Section 32291), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 32252.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

32261. If the board finds that a person's failure to make payment by an appropriate electronic funds transfer in accordance with board procedures is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that person shall be relieved of the penalty provided in subdivision (e) of Section 32260. Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

32262. (a) "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 (Fedwire).

(b) "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.

(c) "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. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) "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.

(e) “Fedwire 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 Section 32260 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 26. Section 32292 of the Revenue and Taxation Code is repealed.

SEC. 27. Section 32311 of the Revenue and Taxation Code is amended to read:

32311. If the board believes that the collection of any amount of tax will be jeopardized by delay, it shall thereupon make a determination of the amount of tax due, noting that fact upon the determination, and the amount of tax shall be immediately due and payable. If the amount of the tax, interest, and penalty specified in the jeopardy determination is not paid, or a petition for redetermination is not filed, within 10 days after the service upon the taxpayer of notice of the determination, the determination becomes final, and the delinquency penalty and interest provided in Section 32252 shall attach to the amount of tax specified therein.

SEC. 29. Article 2.1 (commencing with Section 40067) is added to Chapter 4 of Part 19 of Division 2 of the Revenue and Taxation Code, to read:

#### Article 2.1. Payment by Electronic Funds Transfer

40067. (a) Any person whose estimated surcharge liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated surcharge liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 40051) and Article 2 (commencing with Section 40061). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state’s demand account occurs on or before the banking day following the date the transfer is initiated. If 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) Any person remitting surcharges by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of the surcharge with respect to the period for which the return is required.

(e) Any person required to remit surcharges pursuant to this article who remits those surcharges by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the surcharges incorrectly remitted.

(f) Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 40071) or Article 4 (commencing with Section 40081), within the time required shall pay a penalty of 10 percent of the surcharge or amount of surcharge, in addition to the surcharge or amount of surcharge, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the surcharge or the amount of surcharge required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated surcharge liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the surcharge due for any one return. Any person remitting surcharges by electronic funds transfer shall be subject to the penalties under this section and not Section 40101.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

40068. If the board finds that a person's failure to make payment by an appropriate electronic funds transfer in accordance with board procedures is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that person shall be relieved of the penalty provided in subdivision (e) of Section 40067. Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

40069. (a) "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 (Fedwire).

(b) "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.

(c) "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 surcharge. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) "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.

(e) "Fedwire 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 Section 40067 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 30. Section 40101 of the Revenue and Taxation Code is amended to read:

40101. (a) Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 40071) or Article 4 (commencing with Section 40081), within the time required shall pay a penalty of 10 percent of the surcharge or amount of the surcharge, in addition to the surcharge or amount of surcharge, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the surcharge or the amount of surcharge required to be collected became due and payable to the state until the date of payment.

(b) Any person who fails to file a return in accordance with the due date set forth in Section 40061 shall pay a penalty of 10 percent of the amount of the surcharge with respect to the period for which the return is required.

(c) The penalties imposed by this section shall be limited to a maximum of 10 percent of the surcharge for which the return is required for any one return.

SEC. 31. Section 40102 of the Revenue and Taxation Code is amended to read:

40102. If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 40067, 40081, 40096, and 40101.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 31.5. Section 40102 of the Revenue and Taxation Code is amended to read:

40102. (a) If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 40067, 40081, 40096, and 40101.

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

(c) The board shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

SEC. 32. Section 40103 of the Revenue and Taxation Code is amended to read:

40103. If the board finds that a person's failure to make a timely report or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 40065, 40067, 40083, and 40101.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 34. Article 1.1 (commencing with Section 41060) is added to Chapter 4 of Part 20 of Division 2 of the Revenue and Taxation Code, to read:

## Article 1.1. Payment by Electronic Funds Transfer

41060. (a) Any person whose estimated surcharge liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated surcharge liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 41050). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If 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) Any person remitting surcharges by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of the surcharges with respect to the period for which the return is required.

(e) Any person required to remit surcharges pursuant to this article who remits those surcharges by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the surcharges incorrectly remitted.

(f) Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 41070) or Article 4 (commencing with Section 41080), within the time required shall pay a penalty of 10 percent of the surcharge or amount of surcharge, in addition to the surcharge or amount of surcharge, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the surcharge or the amount of surcharge required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated surcharge liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the surcharges due for any one return. Any person remitting surcharges by electronic funds transfer shall be subject to the penalties under this section and not Section 41095.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

41061. If the board finds that a person's failure to make payment by an appropriate electronic funds transfer in accordance with board procedures is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that person shall be relieved of the penalty provided in subdivision (e) of Section 41060. Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

41062. (a) "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 (Fedwire).

(b) "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.

(c) "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 the surcharge. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) "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.

(e) "Fedwire 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 Section 41060 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 35. Section 41095 of the Revenue and Taxation Code is amended to read:

41095. (a) Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 41070) or Article 4 (commencing with Section 41080), within the time required shall pay a penalty of 10 percent of the surcharge or amount of the surcharge or ten dollars (\$10), whichever is greater, in addition to the surcharge or amount of surcharge, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the surcharge or the amount of surcharge required to be collected became due and payable to the state until the date of payment.

(b) Any person who fails to file a return in accordance with the due date set forth in Section 41052 or the due date established by the board in accordance with Section 41052.1, shall pay a penalty of 10 percent of the amount of the surcharge with respect to the period for which the return is required, or ten dollars (\$10), whichever is greater.

(c) The penalties imposed by this section shall be limited to either 10 percent of the surcharge for which the return is required for any one return, or ten dollars (\$10), whichever is greater.

SEC. 36. Section 41096 of the Revenue and Taxation Code is amended to read:

41096. If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 41060, 41080, 41090, and 41095.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 36.5. Section 41096 of the Revenue and Taxation Code is amended to read:

41096. (a) If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of

willful neglect, the person may be relieved of the penalty provided by Sections 41060, 41080, 41090, and 41095.

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

(c) The board shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

SEC. 37. Section 41097 of the Revenue and Taxation Code is amended to read:

41097. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 41054, 41060, 41082, and 41095.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 39. Section 43152.12 of the Revenue and Taxation Code is amended to read:

43152.12. (a) In addition to the requirements imposed pursuant to Section 43152.6, every operator of a facility subject to the fee specified in Section 25205.2 of the Health and Safety Code shall make two prepayments of the fee to the board, which are due and payable on or before the last day of February and the last day of August of each calendar year. Each prepayment shall be accompanied by a prepayment return in a form prescribed by the board.

(b) For purposes of subdivision (a), the amount of each prepayment shall be not less than 50 percent of the applicable fee imposed on the facility, based on the facility's type and size, as stated on the hazardous waste facilities permit, interim status document, or Part A application, or as specified in Sections 25205.1 and 25205.4 of the Health and Safety Code.

(c) The board shall credit the amount of the prepayments against the amount of the fee due and payable for the reporting period in which the prepayments are due.

(d) Any person required to make a prepayment pursuant to this section who fails to make a prepayment by the due dates specified in subdivision (a) shall also pay the penalties and interest in accordance with Section 43155.

SEC. 40. Section 43152.15 of the Revenue and Taxation Code is amended to read:

43152.15. (a) In addition to the requirements imposed pursuant to Sections 43152.7 and 43152.11, every generator subject to the fees specified in Sections 25205.5 and 25205.9 of the Health and Safety Code shall make a prepayment of the fee by site to the board which is due and payable on or before the last day of August of each calendar

year. The prepayment shall be accompanied by a prepayment return in a form prescribed by the board.

(b) For purposes of subdivision (a), the amount of the prepayment shall be not less than either of the following:

(1) One hundred percent of the applicable fee imposed on the generator, based on the generator's fee category as specified in Section 25205.5 of the Health and Safety Code for the total volume of hazardous waste generated by site during the period January 1 to June 30, inclusive, of the current calendar year in which the prepayment is due. The prepayment may be offset by fees paid by the generator for a local hazardous waste management program conducted by a local agency pursuant to a memorandum of understanding with the department which includes the following:

(A) The local fees are paid for the current calendar year for which the prepayment is due or the local fees are paid for the preceding calendar year, if fees have not been paid for the current year.

(B) The offset is subject to the limitations and requirements specified in subdivision (c) of Section 43152.7.

(2) Fifty percent of the generator fee liability paid to the board by site for the preceding calendar year provided the generator paid a generator fee liability to the board for the preceding calendar year for that site.

(c) The board shall credit the amount of the prepayment against the amount of the fee due and payable for the calendar year in which the prepayment is due.

(d) Notwithstanding any other provision in this section, the prepayment of a generator fee shall not be required for any amount due that is less than five hundred dollars (\$500), or for any other amount due if the board determines that prepayment is not in the best economic interest of the program.

(e) Any person required to make a prepayment pursuant to this section who fails to make a prepayment by the due date specified in subdivision (a) shall also pay penalties and interest in accordance with Section 43155.

SEC. 41. Section 43155 of the Revenue and Taxation Code is amended to read:

43155. (a) Any person who fails to pay any tax or prepayment, except amounts of determinations made by the board under Article 2 (commencing with Section 43201), within the time required shall pay a penalty of 10 percent of the tax or prepayment, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

(b) Any person who fails to file a return or prepayment with the board in accordance with this part within the time prescribed for the filing of a return or prepayment, a penalty of 10 percent of the

amount of tax or prepayment shall be added thereto on account of the delinquency.

(c) The penalties imposed by this section shall be limited to a maximum of 10 percent of the taxes for which the return or prepayment is required for any one return or prepayment.

SEC. 42. Section 43156 of the Revenue and Taxation Code is repealed.

SEC. 43. Section 43157 of the Revenue and Taxation Code is amended to read:

43157. If the board finds that a person's failure to make a timely return, prepayment, or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 43155, 43170, and 43306.

Any person seeking to be relieved of the penalty shall file with the board a statement, under penalty of perjury, setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 43.5. Section 43157 of the Revenue and Taxation Code is amended to read:

43157. (a) If the board finds that a person's failure to make a timely return, prepayment, or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 43155, 43170, and 43306.

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the board a statement, under penalty of perjury, setting forth the facts upon which he or she bases his or her claim for relief.

(c) The board shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

SEC. 44. Section 43158 of the Revenue and Taxation Code is amended to read:

43158. If the board finds that a person's failure to make a timely return or payment was due to disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of interest provided for by Sections 43154, 43155, 43170, and 43201. Any person seeking to be relieved of interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 45. Article 1.1 (commencing with Section 43170) is added to Chapter 3 of Part 22 of Division 2 of the Revenue and Taxation Code, to read:

## Article 1.1. Payment by Electronic Funds Transfer

43170. (a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 43151). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If 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) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

(e) Any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(f) Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 43201), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or amount of tax required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due for any one

return or prepayment. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 43155.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

43171. If the board finds that a person's failure to make payment by an appropriate electronic funds transfer in accordance with board procedures is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that person shall be relieved of the penalty provided in subdivision (e) of Section 43170. Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

43172. (a) "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 (Fedwire).

(b) "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.

(c) "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. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) "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.

(e) "Fedwire 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 Section 43170 may be made by Fedwire only if payment cannot, for good cause, be made

according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 47. Section 45153 of the Revenue and Taxation Code is amended to read:

45153. (a) Any person who fails to pay any fee to the state or any amount of fee required to be paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 45201), within the time required shall pay a penalty of 10 percent of the fee or amount of the fee in addition to the fee or amount of fee, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the fee or the amount of fee required to be paid became due and payable to the state until the date of payment.

(b) Any person who fails to file a return in accordance with the due date set forth in Section 45151, shall pay a penalty of 10 percent of the amount of the surcharge with respect to the period for which the return is required.

(c) The penalties imposed by this section shall be limited to a maximum of 10 percent of the surcharge for which the return is required for any one return.

SEC. 48. Section 45154 of the Revenue and Taxation Code is repealed.

SEC. 49. Section 45155 of the Revenue and Taxation Code is amended to read:

45155. (a) If the board finds that a person's failure to make a timely report or return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 45153, 45160, and 45306.

(b) Any person seeking to be relieved of the penalty shall file with the board a statement, under penalty of perjury, setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 49.5. Section 45155 of the Revenue and Taxation Code is amended to read:

45155. (a) If the board finds that a person's failure to make a timely report or return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 45153, 45160, and 45306.

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the board a statement, under penalty of perjury, setting forth the facts upon which he or she bases his or her claim for relief.

(c) The board shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

SEC. 50. Section 45156 of the Revenue and Taxation Code is amended to read:

45156. If the board finds that a person's failure to make a timely return or payment was due to disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of interest provided for by Sections 45152, 45153, 45160, and 45201. Any person seeking to be relieved of interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 51. Section 45156.5 of the Revenue and Taxation Code is amended to read:

45156.5. (a) The board, in its discretion, may relieve all or any part of the interest imposed on a person by Section 45154 and may relieve all or any part of the interest imposed on a person by Section 45201 where the deficiency determination is made because no return was filed or payment of the fee was not made timely, where the failure to pay fees is due in whole or in part to an unreasonable error or delay by an employee of the board acting in his or her official capacity.

(b) For purposes of this section, an error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act by, the feepayer.

(c) Any person seeking relief under this section shall file with the board a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information which the board may require.

(d) The board may grant relief only for interest imposed on fee liabilities that arise during taxable periods commencing on or after January 1, 2000.

SEC. 52. Article 1.1 (commencing with Section 45160) is added to Chapter 3 of Part 23 of Division 2 of the Revenue and Taxation Code, to read:

#### Article 1.1. Payment by Electronic Funds Transfer

45160. (a) Any person whose estimated fee liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated fee liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 45151). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If 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) Any person remitting fees by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of fees with respect to the period for which the return is required.

(e) Any person required to remit fees pursuant to this article who remits those fees by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the fees incorrectly remitted.

(f) Any person who fails to pay any fee to the state or any amount of fee required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 45201), within the time required shall pay a penalty of 10 percent of the fee or amount of fee, in addition to the fee or amount of fee, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the fee became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated fee liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the fees due for any one return. Any person remitting fees by electronic funds transfer shall be subject to the penalties under this section and not Section 45153.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

45161. If the board finds that a person's failure to make payment by an appropriate electronic funds transfer in accordance with board procedures is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that person shall be relieved of the penalty provided in subdivision (e) of Section 45160. Any person seeking to be relieved of the penalty shall file with

the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

45162. (a) “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 (Fedwire).

(b) “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.

(c) “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 the fee. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “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.

(e) “Fedwire 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 Section 45160 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 54. Section 46154 of the Revenue and Taxation Code is amended to read:

46154. (a) Any person who fails to pay any fee to the state or any amount of fee required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 46201) or Article 3 (commencing with Section 46251), within the time required shall pay a penalty of 10 percent of the fee or amount of fee, in addition to the fee or amount of fee, plus interest at the modified adjusted rate per month, or

fraction thereof, established pursuant to Section 6591.5, from the date on which the fee or the amount of fee required to be collected became due and payable to the state until the date of payment.

(b) Any feepayer who fails to file a return in accordance with the due date set forth in subdivision (a) of Section 46151 or the due date established by the board in accordance with Section 46152, shall pay a penalty of 10 percent of the amount of the fee with respect to the period for which the return is required.

(c) The penalties imposed by this section shall be limited to a maximum of 10 percent of the fee for which the return is required for any one return.

SEC. 54.5. Section 46154.1 is added to the Revenue and Taxation Code, to read:

46154.1. If the information return pursuant to subdivision (c) of Section 46151 is not filed within the time prescribed, a penalty of five hundred dollars (\$500) shall be assessed.

SEC. 55. Section 46155 of the Revenue and Taxation Code is repealed.

SEC. 56. Section 46156 of the Revenue and Taxation Code is amended to read:

46156. (a) If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 46154, 46160, 46251, and 46356.

(b) Any person seeking to be relieved of the penalty shall file with the board a statement, under penalty of perjury, setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 56.5. Section 46156 of the Revenue and Taxation Code is amended to read:

46156. (a) If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 46154, 46160, 46251, and 46356.

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the board a statement, under penalty of perjury, setting forth the facts upon which he or she bases his or her claim for relief.

(c) The board shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

SEC. 57. Section 46157 of the Revenue and Taxation Code is amended to read:

46157. (a) If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred

notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 46153, 46154, 46160, and 46253.

(b) Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 58. Article 1.1 (commencing with Section 46160) is added to Chapter 3 of Part 24 of Division 2 of the Revenue and Taxation Code, to read:

Article 1.1. Payment by Electronic Funds Transfer

46160. (a) Any person whose estimated fee liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated fee liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 46151). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If 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) Any person remitting fees by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of fees with respect to the period for which the return is required.

(e) Any person required to remit fees pursuant to this article who remits those fees by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the fees incorrectly remitted.

(f) Any person who fails to pay any fee to the state or any amount of fee required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 46201) or Article 3, (commencing with Section 46251), within the time required shall pay a penalty of 10 percent of the fee or amount of fee, in addition to the fee or amount of fee, plus interest

at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the fee or the amount of fee required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated fee liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the fees due for any one return. Any person remitting fees by electronic funds transfer shall be subject to the penalties under this section and not Section 46154.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

46161. If the board finds that a person's failure to make payment by an appropriate electronic funds transfer in accordance with board procedures is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that person shall be relieved of the penalty provided in subdivision (e) of Section 46160. Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

46162. (a) "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 (Fedwire).

(b) "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.

(c) "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 the fee. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) "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.

(e) "Fedwire 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 Section 46160 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 60. Section 50112 of the Revenue and Taxation Code is amended to read:

50112. (a) Any feepayer who fails to pay any fee to the state or any amount of fee required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 50113) within the time required shall pay a penalty of 10 percent of the amount of the fee, together with interest on that fee at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the fee became due and payable until the date of payment.

(b) Any feepayer who fails to file a return in accordance with the due date set forth in Section 50109 or the due date established by the board in accordance with Section 50110, shall pay a penalty of 10 percent of the amount of the fee with respect to the period for which the return is required.

(c) The penalties imposed by this section shall be limited to a maximum of 10 percent of the fee for which the return is required for any one return.

SEC. 61. Section 50112.1 of the Revenue and Taxation Code is repealed.

SEC. 62. Section 50112.2 of the Revenue and Taxation Code is amended to read:

50112.2. (a) If the board finds that a person's failure to make a timely report or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalties provided by Sections 50112, 50112.7, and 50119.

(b) Any person seeking to be relieved of the penalty shall file with the board a statement, under penalty of perjury, setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 62.5. Section 50112.2 of the Revenue and Taxation Code is amended to read:

50112.2. (a) If the board finds that a person's failure to make a timely report or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalties provided by Sections 50112, 50112.7, and 50119.

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the board a statement, under penalty of perjury, setting forth the facts upon which he or she bases his or her claim for relief.

(c) The board shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

SEC. 63. Section 50112.3 of the Revenue and Taxation Code is amended to read:

50112.3. (a) If the board finds that a person's failure to make a timely report or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 50111, 50112, and 50112.7.

(b) Any person seeking to be relieved of the interest provided by Sections 50111, 50112, and 50112.7 shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 64. Section 50112.4 of the Revenue and Taxation Code is amended to read:

50112.4. (a) The board, in its discretion, may relieve all or any part of the interest imposed on a person by Section 50112.1 and may relieve all or any part of the interest imposed on a person by Section 50113 when the deficiency determination is made because no return was filed or payment of the fee was not made timely, where the failure to pay fees is due in whole or in part to an unreasonable error or delay by an employee of the board acting in his or her official capacity.

(b) For purposes of this section, an error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act by, the feepayer.

(c) Any person seeking relief under this section shall file with the board a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information which the board may require.

(d) The board may grant relief only for interest imposed on fee liabilities that arise during taxable periods commencing on or after January 1, 2000.

SEC. 65. Article 1.1 (commencing with Section 50112.7) is added to Chapter 3 of Part 26 of Division 2 of the Revenue and Taxation Code, to read:

Article 1.1. Payment by Electronic Funds Transfer

50112.7. (a) Any person whose estimated fee liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated fee liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 50109). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If 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) Any person remitting fees by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of fees, with respect to the period for which the return is required.

(e) Any person required to remit fees pursuant to this article who remits those fees by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the fees incorrectly remitted.

(f) Any person who fails to pay any fee to the state or any amount of fee required to be paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 50113) within the time required shall pay a penalty of 10 percent of the fee or amount of fee, in addition to the fee or amount of fee, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the fee or the amount of fee required to be paid became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated fee liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the fees due for any one

return. Any person remitting fees by electronic funds transfer shall be subject to the penalties under this section and not Section 50112.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

50112.8. If the board finds that a person's failure to make payment by an appropriate electronic funds transfer in accordance with board procedures is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that person shall be relieved of the penalty provided in subdivision (e) of Section 50112.7. Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

50112.9. (a) "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 (Fedwire).

(b) "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.

(c) "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 the fee. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) "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.

(e) "Fedwire 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 Section 50112.7 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved

by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 67. Section 55042 of the Revenue and Taxation Code is amended to read:

55042. (a) Any person who fails to pay any fee, except fees determined by the board under Article 2 (commencing with Section 55061), within the time required shall pay a penalty of 10 percent of the amount of the fee, together with interest on that fee at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the fee became due and payable until the date of payment.

(b) Any person who fails to file a return within the time prescribed for filing the return shall pay a penalty of 10 percent of the amount of the fee with respect to the period for which the return is required.

(c) The penalties imposed by this section shall be limited to a maximum of 10 percent of the fee for which the return is required for any one return.

SEC. 68. Section 55043 of the Revenue and Taxation Code is repealed.

SEC. 69. Section 55044 of the Revenue and Taxation Code is amended to read:

55044. If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 55042, 55050, and 55086.

Any person seeking to be relieved of the penalty shall file with the board a statement, under penalty of perjury, setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 69.5. Section 55044 of the Revenue and Taxation Code is amended to read:

55044. (a) If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 55042, 55050, and 55086.

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the board a statement, under penalty of perjury, setting forth the facts upon which he or she bases his or her claim for relief.

(c) The board shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

SEC. 70. Section 55046 of the Revenue and Taxation Code is amended to read:

55046. (a) The board, in its discretion, may relieve all or any part of the interest imposed on a person by Section 55043 and may relieve all or any part of the interest imposed on a person by Section 55061 when the deficiency determination is made because no return was filed or payment of the fee was not made timely, where the failure to pay fees is due in whole or in part to an unreasonable error or delay by an employee of the board acting in his or her official capacity.

(b) For purposes of this section, an error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act by, the feepayer.

(c) Any person seeking relief under this section shall file with the board a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information which the board may require.

(d) The board may grant relief only for interest imposed on fee liabilities that arise during taxable periods commencing on or after January 1, 2000.

SEC. 71. Article 1.1 (commencing with Section 55050) is added to Chapter 3 of Part 30 of Division 2 of the Revenue and Taxation Code, to read:

#### Article 1.1. Payment by Electronic Funds Transfer

55050. (a) Any person whose estimated fee liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated fee liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates prescribed for the payment of the fee. Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If 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) Any person remitting fees by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of fees, exclusive of

prepayments, with respect to the period for which the return is required.

(e) Any person required to remit fees pursuant to this article who remits those fees by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the fees incorrectly remitted.

(f) Any person who fails to pay any fee to the state or any amount of fee required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 55061) within the time required shall pay a penalty of 10 percent of the fee or amount of fee, in addition to the fee or amount of fee, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the fee or the amount of fee required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated fee liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the fees due, exclusive of prepayments, for any one return. Any person remitting fees by electronic funds transfer shall be subject to the penalties under this section and not Section 55042.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

55051. If the board finds that a person's failure to make payment by an appropriate electronic funds transfer in accordance with board procedures is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that person shall be relieved of the penalty provided in subdivision (e) of Section 55050. Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

55052. (a) "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 (Fedwire).

(b) "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.

(c) “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 the fee. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “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.

(e) “Fedwire 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 Section 55050 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 73. Section 60207 of the Revenue and Taxation Code is amended to read:

60207. (a) Any person who fails to pay the amount of tax shown to be due by that person’s return on or before the last day of the month following the reporting period to which it relates, shall pay a penalty of 10 percent of the tax, together with interest on that tax at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable to the state until the date of payment.

(b) Any person who fails to file a return in accordance with the due dates set forth in Article 1 (commencing with Section 60201) shall pay a penalty of 10 percent of the amount of taxes with respect to the period for which the return is required.

(c) The penalties imposed by this section shall be limited to a maximum of 10 percent of the taxes for which the return is required for any one return.

SEC. 74. Section 60209 of the Revenue and Taxation Code is amended to read:

60209. If the board finds that a person’s failure to make a timely report, return, or payment is due to reasonable cause and circumstances beyond the person’s control, and occurred notwithstanding the exercise of ordinary care and the absence of

willful neglect, the person may be relieved of the penalty provided by Sections 60207, 60250, 60301, 60338, and 60355.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases the claim for relief.

SEC. 74.5. Section 60209 of the Revenue and Taxation Code is amended to read:

60209. (a) If the board finds that a person's failure to make a timely report, return, or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 60207, 60250, 60301, 60338, and 60355.

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases the claim for relief.

(c) The board shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

SEC. 75. Section 60211 of the Revenue and Taxation Code is amended to read:

60211. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 60207, 60208, 60250, and 60302.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases the claim for relief.

SEC. 76. Article 1.1 (commencing with Section 60250) is added to Chapter 6 of Part 31 of Division 2 of the Revenue and Taxation Code, to read:

#### Article 1.1. Payment by Electronic Funds Transfer

60250. (a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the

due dates set forth in Article 1 (commencing with Section 60201). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If 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) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes with respect to the period for which the return is required.

(e) Any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(f) Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 60301) or Article 3 (commencing with Section 60310), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 60207.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

60251. If the board finds that a person's failure to make payment by an appropriate electronic funds transfer in accordance with board procedures is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that person shall be relieved of the penalty provided in subdivision (e) of Section 60250. Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

60252. (a) “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 (Fedwire).

(b) “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.

(c) “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. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “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.

(e) “Fedwire 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 Section 60250 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 77. Sections 8.5, 13.5, 18.5, 23.5, 31.5, 36.5, 43.5, 49.5, 56.5, 62.5, 69.5, and 74.5 of this bill incorporate amendments to Sections 7657, 8877, 30282, 32255, 40102, 41096, 43157, 45155, 46156, 50112.2, 55044, and 60209 of the Revenue and Taxation Code proposed by both this bill and AB 2898. These sections shall only become operative if (1) both bills are enacted and become effective January 1, 2001, (2) each bill amends Sections 7657, 8877, 30282, 32255, 40102, 41096, 43157, 45155, 46156, 50112.2, 55044, and 60209 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 2898, in which case Sections

8, 13, 18, 23, 31, 36, 43, 49, 56, 62, 69, and 74 of this bill shall not become operative.

## Memorandum

**To:** Honorable Jerome E. Horton, Chairman  
Honorable Michelle Steel, Vice Chair  
Honorable Betty T. Yee, First District  
Senator George Runner, Second District  
Honorable John Chiang, State Controller

**Date:** May 7, 2012

**From:** Randy Ferris, Chief Counsel   
David Gau, Deputy Director   
Property and Special Taxes Department

**Subject: Board Meeting, May 30-31, 2012**  
**Chief Counsel Matters - Item J - Rulemaking**  
**Proposed Rule 100 Changes to Specified Special Tax and Fee Regulations**

We request your authorization to complete the Rule 100 changes to ten Special Tax and Fee regulations. These changes are proposed to be made to regulations pertaining to: the Diesel Fuel Tax Law; the Integrated Waste Management Fee Law; the Motor Vehicle Fuel Tax Law; and the Underground Storage Tank Maintenance Fee Law.

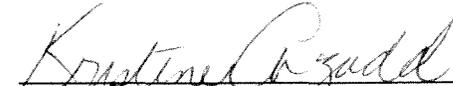
Each of the attached Statements of Explanation includes a detailed description of the proposed changes to each regulation and strikeout and underlined versions of each regulation illustrating the proposed changes. The changes replace repealed statutory references with more current statutory references, replace the two-word terms "fee payer" and "fee payers" with the one-word terms "feepayer" and "feepayers," respectively, and make grammatical changes. The changes are appropriate for processing under Rule 100 without the normal notice and public hearing process because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

If you have any questions regarding this request, please let me know or contact Ms. Carolee Johnstone, at (916) 323-3142.

Recommendation by:

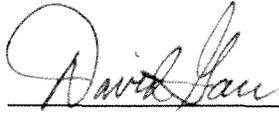
Approved:

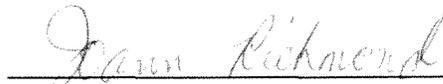
  
Randy Ferris, Chief Counsel

  
Kristine Cazadd, Executive Director

Approved:

BOARD APPROVED  
At the 5/31/12 Board Meeting

  
David Gau, Deputy Director  
Property and Special Taxes Department

  
Joann Richmond, Chief  
Board Proceedings Division

Attachments

Statements of Explanation for Changes to Diesel Fuel Tax Regulations 1435, *Tax Paid Twice on Diesel Fuel*, and 1436, *Returned Sales*.

Statement of Explanation for Changes to Integrated Waste Management Fee Regulation 3301, *Records*.

Statements of Explanation for Changes to Motor Vehicle Fuel Tax Regulations 1105, *Tax-Paid Fuel and Ex-Tax Fuel*, 1120, *Returned Sales*, 1132, *Shipments out of the State*, and 1161, *Tax Paid Twice on Motor Vehicle Fuel*.

Statements of Explanation for Changes to Underground Storage Tank Maintenance Fee Regulations 1205, *Fee Payer; Rebuttable Presumption*, 1212, *Liability for Fee*, and 1271, *Records*.

cc (with attachments):

- Ms. Joann Richmond MIC:80
- Ms. Christine Bisauta MIC:82
- Mr. Steve Smith MIC:82
- Mr. Bradley Heller MIC:82
- Ms. Carolee Johnstone MIC:82
- Ms. Lynn Bartolo MIC:57
- Mr. Lou Feletto MIC:31
- Mr. Robert Zivkovich MIC:57

# CHANGES WITHOUT REGULATORY EFFECT UNDER CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

## Statement of Explanation

### Title 18. Public Revenues

Regulation 1435, *Tax Paid Twice on Diesel Fuel*  
Regulation 1436, *Returned Sales*

#### **A. Factual Basis**

Chapter 3 (commencing with section 1411) of division 2 of title 18 of the California Code of Regulations (chapter 3) contains regulations that implement, interpret, or make specific the provisions of the Diesel Fuel Tax Law (Law) (part 31 (commencing with section 60001) of division 2 of the Revenue and Taxation Code), which generally imposes an excise tax on diesel fuel sold in this state. Section 60601 of the Diesel Fuel Tax Law requires the State Board of Equalization (BOE) to enforce the excise tax and authorizes the BOE to prescribe, adopt, and enforce regulations relating to its administration and enforcement. The BOE hereby proposes to change the Diesel Fuel Tax regulations listed above under California Code of Regulations, title 1, section (Rule) 100 to correct outdated citations in their reference notes.

Section 60501 of the Law allows a supplier, as defined, to claim a refund of the tax paid on diesel fuel under specific circumstances. For example, and as relevant here, section 60501, subdivision (a)(4)(J), permits a supplier to claim a refund for tax paid on diesel fuel if the fuel was “[r]emoved from an approved terminal at the terminal rack, but only to the extent that the supplier can show that the tax on the same amount of diesel fuel has been paid more than one time by the same supplier.”

Section 60508 of the Law was amended, effective January 1, 2010 (Stats. 2009, ch. 545 (Assem. Bill No. (AB) 1547)), to permit a supplier to take a credit in lieu of a refund of tax paid on diesel fuel that is exported, removed, sold, or used by the supplier in a manner that would entitle the supplier to a refund under article 1 (commencing with section 60501) of chapter 8 of the Law, including, but not limited to, section 60501, subdivision (a)(4)(J). At the same time, section 60508.4 of the Law, which permitted a supplier to take a credit in lieu of a refund under the circumstances set forth in section 60501, subdivision (a)(4)(J), was repealed by AB 1547, effective January 1, 2010.

Regulation 1435, *Tax Paid Twice on Diesel Fuel*, and Regulation 1436, *Returned Sales*, of chapter 3 were both adopted on March 27, 2002, to, among other things, implement, interpret, and make specific the provisions of section 60508.4 of the Law, which permitted a supplier to take a credit in lieu of claiming a refund under section 60501, subdivision (a)(4)(J). Accordingly, the BOE included citations to section 60508.4 in Regulation 1435’s and Regulation 1436’s reference notes. Therefore, the BOE has concluded that, as a result of the amendments made to section 60508 and the repeal of section 60508.4 by AB 1547, it is necessary to replace the citations to section 60508.4 with citations to section 60508 in the reference notes for these two regulations and the BOE proposes to make the changes under Rule 100.

**B. Proposed Changes**

1. Rule 100 Changes to Regulation 1435, *Tax Paid Twice on Diesel Fuel*

A Rule 100 change is proposed to replace “60508.4” with “60508” in the reference note for Regulation 1435 to replace a repealed statutory reference with a more current statutory reference.

2. Rule 100 Changes to Regulation 1436, *Returned Sales*

A Rule 100 change is proposed to replace “60508.4” with “60508” in the reference note for Regulation 1436 to replace a repealed statutory reference with a more current statutory reference.

The foregoing changes are appropriate for processing under Rule 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, these changes are necessary to replace a repealed statutory reference with a more current statutory reference and account for amendments to the Law made by AB 1547.

## PROPOSED CHANGES

1. Change Regulation 1435 (Tax Paid Twice on Diesel Fuel) to read as follows:

### **Regulation 1435. Tax Paid Twice on Diesel Fuel.**

(a) A supplier who removes diesel fuel from a terminal rack on which a prior tax was paid to the state may either file a claim for refund with the Board or in lieu of a refund take a credit on its tax return.

(b) Conditions to Allow a Credit on a Tax Return.

The credit will be allowed only if:

(1) A tax imposed on the diesel fuel by Revenue and Taxation Code Sections 60051 and 60052 was paid to the state by reporting the gallons on a tax return and was not credited or refunded (the “first tax” or “first taxpayer”);

(2) After imposition of the first tax, another tax was imposed on the diesel fuel by Revenue and Taxation Code Sections 60051 and 60052 and was paid to the state by reporting the gallons on a tax return (the “second tax” or “second taxpayer”);

(3) The person that paid the second tax to the state claims a credit on a tax return filed within three months after the close of the calendar month in which the second tax was reported to the state;

(4) The person that paid the first tax to the State has met the reporting requirements of paragraph (c) of this section; and

(5) A copy of the first taxpayer's report and any copies of statements of subsequent seller must be retained for inspection by the Board with the tax return on which the credit is claimed.

(c) Reporting Requirements.

(1) Reporting by persons paying the first tax.

Except as provided in paragraph (c)(2) of this section, the person that paid the first tax under Revenue and Taxation Code Section 60051 and 60052 (the first taxpayer) must file a report that is in substantially the same form as the model report provided in Exhibit A and contains all information necessary to complete such model report (the first taxpayer's report). A first taxpayer's report must be retained for inspection by the Board with the tax return on which the first tax was paid or reported.

(2) Optional reporting for certain taxable events.

Paragraph (c)(1) does not apply with respect to a tax imposed under Revenue and Taxation Code Section 60051 (removal at a terminal rack), Revenue and Taxation Code Section 60052(b)(2) (nonbulk entries into the state), or Revenue and Taxation Code Section 60052(d) (removals or sales by blenders). However, if the person liable for the tax expects that another tax will be

imposed under Revenue and Taxation Code Sections 60051 and 60052 with respect to the fuel, that person should file a first taxpayer's report.

(3) Information provided to subsequent owners, etc.

(A) By Person Required to File First Taxpayer's Report.

A first taxpayer required to file a first taxpayer's report under paragraph (c)(1) of this section must give a copy of the report to:

1. The person to whom the first taxpayer sells the diesel fuel within the bulk transfer/terminal system; or
2. The owner of the diesel fuel immediately before the imposition of the first tax, if the first taxpayer is not the owner at that time.

(B) By Person Filing Optional First Taxpayer's Report.

A first taxpayer filing a first taxpayer's report under paragraph (c)(2) of this section should give a copy of the report to:

1. The person to whom the first taxpayer sells the diesel fuel; or
2. The owner of the diesel fuel immediately before the imposition of the first tax, if the first taxpayer is not the owner at that time.

(C) By Person Receiving First Taxpayer's Report.

1. Bulk Transfer/Terminal System Transaction

A person that receives a copy of the first taxpayer's report and subsequently sells the diesel fuel within the bulk transfer/terminal system must give the copy and a statement that satisfies the requirements of paragraph (c)(3)(D) of this section to the buyer.

2. Rack and Below Rack Transaction

A person that receives a copy of the first taxpayer's report and subsequently sells the diesel fuel outside the bulk transfer/terminal system should give the copy and a statement that satisfies the requirements of paragraph (c)(3)(D) of this section to the buyer, if that person expects that another tax will be imposed under Revenue and Taxation Code Sections 60051 and 60052 with respect to the diesel fuel.

(D) Form of Statement.

A statement satisfies the requirements of this paragraph (c)(3)(D) if it is provided at the bottom or on the back of the copy of the first taxpayer's report (or in an attached document). This statement must contain all information necessary to complete the model statement provided in Exhibit B but need not be in the same format.

(E) Sale to Multiple Buyers.

If the first taxpayer's report relates to diesel fuel divided among more than one buyer, multiple copies of the first taxpayer's report must be made at the stage that the diesel fuel is divided and each buyer must be given a copy of the report.

(d) Claim for Refund.

If the supplier fails to take a credit on a tax return filed within three months after the close of the calendar month in which the second tax was imposed, the supplier may only file a claim for refund with the Board to recover the tax.

Each claim for a refund must contain the following information with respect to the fuel covered by the claim:

- (1) The information required in Revenue and Taxation Code Section 60501.
- (2) Volume and type of diesel fuel.
- (3) Date on which the claimant incurred the tax liability to which this claim relates (the second tax).
- (4) Amount of second tax that claimant paid or reported to the state and the tax return on which it was paid or reported.
- (5) A statement that claimant has not separately stated on the sales invoice reimbursement for both the first tax and the second tax or has not included in the sales price of the diesel fuel reimbursement for both the first tax and the second tax. The second taxpayer can only receive reimbursement for one tax from the customer.
- (6) A copy of the first taxpayer's report that relates to the diesel fuel covered by the claim.
- (7) If the diesel fuel covered by the claim was bought other than from the first taxpayer, a copy of the statement of subsequent seller that the claimant received with respect to that diesel fuel.

EXHIBIT A . . . [No Change]

EXHIBIT B . . . [No Change]

Note: Authority cited: Section 60601, Revenue and Taxation Code. Reference: Sections 60051, 60052, 60501, 60507, ~~60508~~60508.4 and 60521.5, Revenue and Taxation Code.

2. Change Regulation 1436 (Returned Sales) to read as follows:

**Regulation 1436. Returned Sales.**

(a) When diesel fuel included in a supplier's taxable removals, entries or sales is returned to the supplier by the customer to whom it was sold and is delivered into a refinery or an approved terminal's storage tank, the supplier may either file a claim for refund with the Board or in lieu of

the refund take a credit on its tax return. The credit memorandum covering the return of the diesel fuel shall identify the gallonage returned as either volumetric gallons or temperature corrected gallons based upon how the tax was originally invoiced to the customer and shall separately state the diesel fuel tax.

(b) It shall be presumed that the supplier purchased the diesel fuel that was returned as tax-paid diesel fuel if the credit memorandum includes diesel fuel tax. For the purpose of a refund or credit, it also shall be presumed that the subsequent removal of the diesel fuel from a terminal rack by the supplier that received the returned diesel fuel is made in the month that the diesel fuel was returned.

(c) Conditions to Allow a Credit on a Tax Return.

The credit will be allowed only if:

- (1) The returned diesel fuel was delivered into a refinery or an approved terminal storage tank.
- (2) The credit is taken on a tax return filed within three months after the close of the calendar month in which the diesel fuel is returned.
- (3) The supplier prepares a first taxpayer's report (as identified in Regulation 1435) when the diesel fuel is returned.
- (4) A copy of the first taxpayer's report and the credit memorandum must be retained for inspection by the Board with the tax return on which the credit is claimed.

(d) If the supplier fails to take a credit on a tax return filed within three months after the close of the calendar month in which the diesel fuel was returned, the supplier may only file a claim for refund with the Board to recover the tax. Each claim for a refund must contain the following information with respect to the diesel fuel covered by the claim:

- (1) The information required in Revenue and Taxation Code Section 60501.
- (2) Volume and type of diesel fuel.
- (3) Date on which the claimant received the returned diesel fuel.
- (4) A copy of the first taxpayer's report that relates to the diesel fuel covered by the claim.
- (5) A copy of the credit memorandum that returned the diesel fuel.

Note: Authority cited: Section 60601, Revenue and Taxation Code. Reference: Sections 60025, 60501 and ~~60508~~60508.4, Revenue and Taxation Code.

# CHANGES WITHOUT REGULATORY EFFECT UNDER CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

## Statement of Explanation

Title 18. Public Revenues  
Regulation 3301, *Records*

### **A. Factual Basis**

Chapter 8.3 (commencing with section 3301) of division 2 of title 18 of the California Code of Regulations (chapter 8.3) contains regulations that implement, interpret, or make specific the provisions of the Integrated Waste Management Fee Law (Law) (part 23 (commencing with section 45001) of division 2 of the Revenue and Taxation Code), pursuant to which the State Board of Equalization (BOE) administers the solid waste disposal fee imposed under section 48000 of the Public Resources Code. The BOE hereby proposes to change Regulation 3301, *Records*, of chapter 8.3 under California Code of Regulations, title 1, section (Rule) 100 to update the manner in which the BOE refers to persons that are liable for payment of the solid waste disposal fee in the regulation.

The Law was enacted in 1987 (Assem. Bill No. 2448, (Stats. 1987, ch. 1319)). Section 45009 of the Law defines the two-word term “fee payer” to mean “any person who is liable for the fee imposed pursuant to Section 48000 of the Public Resources Code and the two-word term “fee payer” is used throughout the Law. As a result, when the BOE adopted Regulation 3301 on February 5, 2003, the same two-word form of the term, “fee payer,” was used. However, since the adoption of Regulation 3301, the BOE has stopped using the two-word term “fee payer” to refer to a person that is liable for the payment of a BOE-administered fee in its forms and publications, and the BOE has adopted a uniform policy requiring its staff to use the single word “feepayer” in place of the two-word term “fee payer.” (See the direction regarding the word “feepayer” in the BOE Style A-Z section of BOE Publication 384, “A Style Guide for BOE Forms and Publications” (May 2011), Introduction and page 3 from the BOE’s internal website, attached.) Therefore, the BOE now proposes to change Regulation 3301 in order to replace the two-word terms “fee payer” and “fee payers” with the single-word terms “feepayer” and “feepayers,” respectively, under Rule 100, in order to make the use of the terms in the BOE’s regulation consistent with the use of the terms in all of the BOE’s forms and publications.

### **B. Proposed Changes**

#### Rule 100 Changes to Regulation 3301, *Records*

Rule 100 changes are proposed to replace the term “fee payer” with “feepayer” in the first and second sentences of subdivision (a) and the second sentence of subdivision (b) of Regulation 3301, and to replace the term “fee payers” with “feepayers” in the first sentence of subdivision (b) of Regulation 3301, to update the form of the terms.

The foregoing changes are appropriate for processing under Rule 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, these changes are necessary to make the use of the relevant terms in the BOE's regulation consistent with the use of the same terms in all of the BOE's forms and publications.

## PROPOSED CHANGES

Change Regulation 3301 (Records) to read as follows:

### **Regulation 3301. Records.**

(a) General. A ~~feepayer~~~~fee payer~~ 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. Notwithstanding the record keeping requirements of the Department of Resources Recycling and Recovery set forth at California Code of Regulations, Title 14, Section 17414, for fee collection purpose the ~~feepayer~~~~fee payer~~ shall retain and preserve records for a period of not less than four years except as provided in Section 4901.

(b) Specific Applications. In addition to the record keeping requirements set forth in subdivision (a), ~~feepayers~~~~fee payers~~ shall comply with the following requirements. A ~~feepayer~~~~fee payer~~ shall keep complete records, including but not limited to:

(1) Weight tickets or other source documents recording amounts of waste entering the landfill.

(2) Documentation supporting the validity of volumetric conversion factors used as an alternative to actual weight to report waste tonnage.

(3) Reports to other local and state agencies of waste tonnage disposed.

Note: Authority cited: Section 45851, Revenue and Taxation Code. Reference: Section 45852, Revenue and Taxation Code.

## Introduction

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This house style guide has been developed by the Board of Equalization's (BOE) Editorial Services Section. As style changes over time, publication units, publishers, and newspapers generally decide to use one dictionary and one published style manual (in our case we use *Merriam Webster's Collegiate Dictionary* and *The Gregg Reference Manual*). In addition to the standard references, we have also developed this house style guide.

A team of editors, forms analysts, and Customer Service and Publishing Division managers developed this style guide to promote consistency in BOE forms and publications. This team discussed every item in this guide and agreed on how we should treat each individual entry.

If an example is not listed, please refer to *The Gregg Reference Manual, Eleventh Edition* for usage or *Merriam Webster's Collegiate Dictionary, Eleventh Edition*.

**E**

e.g., etc.	avoid; use for example, among others
enclosed (vs. attached)	to insert in the same envelope (see "attached")
ex tax	don't use; write out "without tax"

**F**

fax	lowercase
faxback	one word
federal	don't capitalize
feepayer	one word
fewer vs. less	use with things that are counted (fewer buckets, less water)
fine-tune	always hyphenated
firsthand	one word
fiscal year	lower case
follow-up (n., adj.)	<i>Example:</i> She was in charge of follow-up.(n) She did the follow-up work.(adj.)
follow up (v.)	<i>Example:</i> Please follow up with her as the deadline approaches.
form	avoid using before form identifier (BOE-770)
full-time	always hyphenated
fundraising	one word, no hyphen
FY (fiscal year)	capitalize when referring to fiscal year

**G**

Governor (the)	capitalize when referring specifically to the Governor of California
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**H**

handicap accessible	avoid; use wheelchair accessible
hard copy (n.)	<i>Example:</i> Please give it to Legal in hard copy.
hard-copy (adj.)	<i>Example:</i> Legal wants it in hard-copy format.
he/she; he or she; him/her; him or her	avoid both; use their or our
headquarters	a singular or plural noun
Headquarters	capitalized when referring to 450 N Street location
homepage	one word
Honorable	capitalized when used before name (the Honorable

Attachment

# CHANGES WITHOUT REGULATORY EFFECT UNDER CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

## Statement of Explanation

### Title 18. Public Revenues

Regulation 1105, *Tax-Paid Fuel and Ex-Tax Fuel*

Regulation 1120, *Returned Sales*

Regulation 1132, *Shipments out of the State*

Regulation 1161, *Tax Paid Twice on Motor Vehicle Fuel*

#### **A. Factual Basis**

Chapter 1 (commencing with section 1101) of division 2 of title 18 of the California Code of Regulations (chapter 1) contains regulations that implement, interpret, or make specific the provisions of the Motor Vehicle Fuel Tax Law (Law) (part 2 (commencing with section 7301) of division 2 of the Revenue and Taxation Code), which imposes excise taxes on “motor vehicle fuel,” including gasoline and aviation gasoline, and “aircraft jet fuel.” The State Board of Equalization (BOE) hereby proposes to change the provisions of chapter 1 listed above under California Code of Regulations, title 1, section (Rule) 100 to correct outdated citations in the regulations’ reference notes and to make a minor grammatical change to the text of one regulation, as described in detail below.

Section 8101 of the Law allows a supplier, as defined, to claim a refund of the tax paid on motor vehicle fuel under specific circumstances, including, but not limited to, where the supplier buys and uses the fuel for purposes other than operating motor vehicles upon the public highways of the state, exports the fuel for use outside the state, or delivers the fuel to a terminal and removes the fuel from the terminal, as provided. In addition, prior to January 1, 2007, suppliers were permitted to choose to take a credit, in lieu of a refund, under most of these same circumstances, and there were individual statutes that separately pertained to each situation in which a credit could be claimed in lieu of a refund under section 8101, including sections 8106.5 and 8106.8 of the Law.

Effective January 1, 2007, sections 2, 4, and 5 of Assembly Bill No. 3076 (Stats. 2006, ch. 364) repealed section 8106.5 permitting a supplier to claim a credit in lieu of a refund with respect to exported tax-paid fuel, and section 8106.8 permitting a supplier to claim a credit in lieu of a refund with respect to tax-paid fuel delivered to or removed from a terminal at the rack, and amended section 8106 to consolidate into one statute all of the statutory provisions under which a supplier may claim a credit in lieu of a refund and provide that a supplier may claim a credit in lieu of a refund under all of the circumstances under which a supplier would be entitled to claim a refund under section 8101. As a result, section 8106 now permits the credits in lieu of refunds previously permitted by sections 8106.5 and 8106.8, and section 8106 should replace sections 8106.6 and 8106.8 in the reference notes for the regulations listed above. Therefore, the BOE now proposes to change the Motor Vehicle Fuel Tax regulations listed above, and described in detail below, to replace the citations to sections 8106.5 and 8106.8 with citations to section 8106 in the regulations’ reference notes and to change the word “Returns” to the word “Return” in Regulation 1120 in order to make one nonsubstantive, grammatical correction, under Rule 100.

## **B. Proposed Changes**

### 1. Rule 100 Change to Regulation 1105, *Tax-Paid Fuel and Ex-Tax Fuel*

A Rule 100 change is proposed to replace “8106.8” with “8106” in the reference note for Regulation 1105 to update the reference note by removing the reference to the repealed statute and replacing it with a reference to the statute that is currently applicable.

### 2. Rule 100 Changes to Regulation 1120, *Returned Sales*

A Rule 100 change is proposed to replace “8106.8” with “8106” in the reference note for Regulation 1120 to update the reference note by removing the reference to the repealed statute and replacing it with a reference to the statute that is currently applicable.

A Rule 100 change is also proposed to replace “Returns” with “Return” in the heading to subdivision (c) of Regulation 1120, to correct a grammatical error by making the term singular.

### 3. Rule 100 Change to Regulation 1132, *Shipments out of the State*

A Rule 100 change is proposed to replace “8106.5” with “8106” in the reference note for Regulation 1132 to update the reference note by removing the reference to the repealed statute and replacing it with a reference to the statute that is currently applicable.

### 4. Rule 100 Change to Regulation 1161, *Tax Paid Twice on Motor Vehicle Fuel*

A Rule 100 change is proposed to replace “8106.8” with “8106” in the reference note for Regulation 1161 to update the reference note by removing the reference to the repealed statute and replacing it with a reference to the statute that is currently applicable.

The foregoing changes are appropriate for processing under Rule 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, these changes are necessary to update the statutory references and to correct a grammatical error.

## PROPOSED CHANGES

1. Change Regulation 1105 (Tax-Paid Fuel and Ex-Tax Fuel) to read as follows:

### **Regulation 1105. Tax-Paid Fuel and Ex-Tax Fuel.**

(a) "Tax-paid fuel" is the gallonage of motor vehicle fuel acquired with the California motor vehicle fuel tax paid. An acquisition of motor vehicle fuel will be considered tax-paid only if it can be supported by one of the following:

(1) A sales invoice or a contract which clearly states that the motor vehicle fuel tax is included in the invoice or contract and proof that the amount representing motor vehicle fuel tax has been paid, or

(2) A motor vehicle fuel purchase receipt showing that the amount paid for the fuel included the motor vehicle fuel tax, or

(3) Other documentation showing that the motor vehicle fuel tax has been paid to the state.

(b) "Ex-tax fuel" is the gallonage of motor vehicle fuel acquired without the California motor vehicle fuel tax paid.

Note: Authority cited: Section 8251, Revenue and Taxation Code. Reference: Sections 7345, 7401, 7653, 8101 and ~~8106.8~~8106.8, Revenue and Taxation Code.

2. Change Regulation 1120 (Returned Sales) to read as follows:

### **Regulation 1120. Returned Sales.**

(a) When motor vehicle fuel included in a supplier's taxable removals, entries or sales is returned to the supplier by the customer to whom it was sold and is delivered into a refinery or an approved terminal's storage tank, the supplier may either file a claim for refund with the State Controller or in lieu of the refund take a credit on its tax return. The credit memorandum covering the return of the motor vehicle fuel shall identify the gallonage returned as either volumetric gallons or temperature corrected gallons based upon how the tax was originally invoiced to the customer and shall separately state the motor vehicle fuel tax.

(b) It shall be presumed that the supplier purchased the motor vehicle fuel that was returned as tax-paid motor vehicle fuel if the credit memorandum includes motor vehicle fuel tax. For purposes of a refund or credit, it also shall be presumed that the subsequent removal of the motor vehicle fuel from a terminal rack by the supplier that received the returned motor vehicle fuel is made in the month that the motor vehicle fuel was returned.

(c) Conditions to Allow a Credit on a Tax ~~Return~~Returns.

The credit will be allowed only if:

(1) The returned motor vehicle fuel was delivered into a refinery or an approved terminal storage tank.

(2) The credit is taken on a tax return filed within three months after the close of the calendar month in which the motor vehicle fuel is returned.

(3) The supplier prepares a first taxpayer's report (as identified in Regulation 1161) when the motor vehicle fuel is returned.

(4) A copy of the first taxpayer's report and the credit memorandum must be retained for inspection by the Board with the tax return on which the credit is claimed.

(d) If the supplier fails to take credit on a tax return filed within three months after the close of the calendar month in which the motor vehicle fuel was returned, the supplier may only file a claim for refund with the State Controller to recover the tax. The claim for refund must be filed with the State Controller within three years from the date of return of the fuel.

Each claim for a refund must contain the following information with respect to the motor vehicle fuel covered by the claim:

(1) The information required in Revenue and Taxation Code Section 8102.

(2) Volume and type of motor vehicle fuel.

(3) Date on which the claimant received the returned motor vehicle fuel.

(4) A copy of the first taxpayer's report that relates to the motor vehicle fuel covered by the claim.

(5) A copy of the credit memorandum that returned the motor vehicle fuel.

Note: Authority cited: Section 8251, Revenue and Taxation Code. Reference: Sections 7315, 8101, 8102, 8105 and ~~8106~~8106-8, Revenue and Taxation Code.

3. Change Regulation 1132 (Shipments out of the State) to read as follows:

**Regulation 1132. Shipments out of the State.**

(a) Definitions.

(1) Export. An export of motor vehicle fuel is the delivery or shipment of fuel by the supplier from a point in this state to a point outside of this state. The fuel is not exported if it is diverted in transit or for any reason is not actually delivered out of this state, regardless of documentary evidence held by the supplier respecting delivery of the fuel to a carrier for out-of-state shipment or to a vessel clearing for an out-of-state port.

(2) Carrier. A carrier means a person or firm who is regularly engaged in the business of transporting for compensation property owned by other persons and includes both common and contract carriers. The carrier may be hired by either the purchaser or the supplier.

(b) Requirements. A supplier may not claim an export exemption from motor vehicle fuel tax under Revenue and Taxation Code Section 7401(a)(3) unless the motor vehicle fuel is in fact exported and the export is accomplished in the manner specified in either (1) or (2) below:

(1) The supplier claiming the exemption from tax shows that it delivered the motor vehicle fuel to any vessel clearing from a port of this state for a port outside of this state and the fuel was actually exported from this state in the vessel; or

(2) The supplier claiming the exemption from tax shows that it exported the motor vehicle fuel from this state pursuant to a written contract requiring delivery by the supplier of the fuel to:

(A) the out-of-state point by facilities operated by the supplier,

(B) a carrier for shipment to a consignee at the out-of-state point, or

(C) a customs broker or forwarding agent for shipment to a location outside of this state.

(c) Exports of Ex-tax Fuel. The tax does not apply to the export of ex-tax motor vehicle fuel actually exported.

A supplier must claim the exemption for the export of ex-tax fuel on the return filed for the period in which the export was made. If a supplier fails to claim the exemption on the return and tax is erroneously paid on ex-tax export of fuel, a timely claim for refund must be filed with the Board pursuant to Section 8128 of the Motor Vehicle Fuel Tax Law in order to obtain a refund of the amount of taxes so overpaid.

(d) Exports of Tax-paid Fuel. In lieu of claiming a refund of tax for exports of tax-paid fuel with the State Controller as provided by section 8101(b) of the Revenue and Taxation Code, a supplier may take a credit on its return for tax-paid fuel when the fuel is exported to a point outside the state. The credit must be claimed on a return filed within three months after the close of the calendar month in which the tax-paid fuel is exported. If the credit exceeds the taxable gallons of motor vehicle fuel for the period in which the credit may be taken, refund of the tax on the excess gallonage can only be obtained by filing a claim for refund with the State Controller.

Failure to take credit on a return filed within three months after the close of the calendar month in which the tax-paid fuel is exported does not give rise to a right to file a claim for refund with the Board pursuant to section 8126 of the Revenue and Taxation Code. Instead, claims for refund for tax-paid fuel exported must be filed with the State Controller within three years from the date of purchase of the fuel.

(e) Documentation required for support. All shipments of motor vehicle fuel to points outside of the state for which tax exemption is claimed on a tax return shall be reported on a schedule accompanying the return for the period for which the exemption or credit is claimed.

The supplier must retain documentation to support the delivery of the fuel by the supplier at an out-of-state location for all exemptions or credits. Documentation may include, but is not limited to, contracts, bills of lading, delivery tickets, or meter readings. The supplier has the burden of providing the proper substantiation and documentation to support the exemption or credit.

Note: Authority cited: Section 8251, Revenue and Taxation Code. Reference: Sections 7338, 7401, 7651, 8101, 8102, 8105, ~~8106-5~~, 8126, 8128, 8129, 8301 and 8303, Revenue and Taxation Code.

4. Change Regulation 1161 (Tax Paid Twice on Motor Vehicle Fuel) to read as follows:

**Regulation 1161. Tax Paid Twice on Motor Vehicle Fuel.**

(a) A supplier who removes motor vehicle fuel from a terminal rack on which a prior tax was paid to the state may either file a claim for refund with the State Controller or in lieu of a refund take a credit on its tax return.

(b) Conditions to Allow a Credit on a Tax Return.

The credit will be allowed only if:

(1) A tax imposed on the motor vehicle fuel by Revenue and Taxation Code Sections 7362 and 7363 was paid to the state by reporting the gallons on a tax return and was not credited or refunded (the “first tax” or “first taxpayer”);

(2) After imposition of the first tax, another tax was imposed on the motor vehicle fuel by Revenue and Taxation Code Sections 7362 and 7363 and was paid to the state by reporting the gallons on a tax return (the “second tax” or “second taxpayer”);

(3) The person that paid the second tax to the state claims a credit on a tax return filed within three months after the close of the calendar month in which the second tax was reported to the state;

(4) The person that paid the first tax to the State has met the reporting requirements of paragraph (c) of this section; and

(5) A copy of the first taxpayer's report and any copies of statements of subsequent seller must be retained for inspection by the Board with the tax return on which the credit is claimed.

(c) Reporting Requirements.

(1) Reporting by persons paying the first tax.

Except as provided in paragraph (c)(2) of this section, the person that paid the first tax under Revenue and Taxation Code Section 7362 and 7363 (the first taxpayer) must file a report that is in substantially the same form as the model report provided in Exhibit A and contains all information necessary to complete such model report (the first taxpayer's report). A first taxpayer's report must be retained for inspection by the Board with the tax return on which the first tax was paid or reported.

(2) Optional reporting for certain taxable events.

Paragraph (c)(1) does not apply with respect to a tax imposed under Revenue and Taxation Code Section 7362 (removal at a terminal rack), Revenue and Taxation Code Section 7363(b)(2)

(nonbulk entries into the state), or Revenue and Taxation Code Section 7363(d) (removals or sales by blenders). However, if the person liable for the tax expects that another tax will be imposed under Sections 7362 and 7363 with respect to the fuel, that person should file a first taxpayer's report.

(3) Information provided to subsequent owners, etc.

(A) By Person Required to File First Taxpayer's Report.

A first taxpayer required to file a first taxpayer's report under paragraph (c)(1) of this section must give a copy of the report to:

1. The person to whom the first taxpayer sells the motor vehicle fuel within the bulk transfer/terminal system; or
2. The owner of the motor vehicle fuel immediately before the imposition of the first tax, if the first taxpayer is not the owner at that time.

(B) By Person Filing Optional First Taxpayer's Report.

A first taxpayer filing a first taxpayer's report under paragraph (c)(2) of this section should give a copy of the report to:

1. The person to whom the first taxpayer sells the motor vehicle fuel; or
2. The owner of the motor vehicle fuel immediately before the imposition of the first tax, if the first taxpayer is not the owner at that time.

(C) By Person Receiving First Taxpayer's Report.

1. Bulk Transfer/Terminal System Transaction

A person that receives a copy of the first taxpayer's report and subsequently sells the motor vehicle fuel within the bulk transfer/terminal system must give the copy and a statement that satisfies the requirements of paragraph (c)(3)(D) of this section to the buyer.

2. Rack and Below Rack Transaction

A person that receives a copy of the first taxpayer's report and subsequently sells the motor vehicle fuel outside the bulk transfer/terminal system should give the copy and a statement that satisfies the requirements of paragraph (c)(3)(D) of this section to the buyer, if that person expects that another tax will be imposed under Revenue and Taxation Code Sections 7362 and 7363 with respect to the motor vehicle fuel.

(D) Form of Statement.

A statement satisfies the requirements of this paragraph (c)(3)(D) if it is provided at the bottom or on the back of the copy of the first taxpayer's report (or in an attached document). This

statement must contain all information necessary to complete the model statement provided in Exhibit B but need not be in the same format.

(E) Sale to Multiple Buyers.

If the first taxpayer's report relates to motor vehicle fuel divided among more than one buyer, multiple copies of the first taxpayer's report must be made at the stage that the motor vehicle fuel is divided and each buyer must be given a copy of the report.

(d) Claim For Refund.

If the supplier fails to take a credit on a tax return filed within three months after the close of the calendar month in which the second tax was imposed, the supplier may only file a claim for refund with the State Controller to recover the tax. The claim for refund must be filed with the State Controller within three years from the date of purchase of the motor vehicle fuel.

Each claim for a refund must contain the following information with respect to the fuel covered by the claim:

- (1) The information required in Revenue and Taxation Code Section 8102.
- (2) Volume and type of motor vehicle fuel.
- (3) Date on which the claimant incurred the tax liability to which this claim relates (the second tax).
- (4) Amount of second tax that claimant paid or reported to the state and the tax return on which it was paid or reported.
- (5) A statement that claimant has not separately stated on the sales invoice reimbursement for both the first tax and the second tax or has not included in the sales price of the motor vehicle fuel reimbursement for both the first tax and the second tax. The second taxpayer can only receive reimbursement for one tax from the customer.
- (6) A copy of the first taxpayer's report that relates to the motor vehicle fuel covered by the claim.
- (7) If the motor vehicle fuel covered by the claim was bought other than from the first taxpayer, a copy of the statement of subsequent seller that the claimant received with respect to that motor vehicle fuel.

EXHIBIT A . . . [No Change]

EXHIBIT B . . . [No Change]

Note: Authority cited: Section 8251, Revenue and Taxation Code. Reference: Sections 7362, 7363, 8101, 8102, 8105, ~~8106-8~~ and 8127.5, Revenue and Taxation Code.

# CHANGES WITHOUT REGULATORY EFFECT UNDER CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

## Statement of Explanation

### Title 18. Public Revenues

Regulation 1205, *Fee Payer; Rebuttable Presumption*

Regulation 1212, *Liability for Fee*

Regulation 1271, *Records*

#### **A. Factual Basis**

Chapter 1.5 (commencing with section 1201) of division 2 of title 18 of the California Code of Regulations (chapter 1.5) contains regulations that implement, interpret, or make specific the provisions of the Underground Storage Tank Maintenance Fee Law (Law) (part 26 (commencing with section 50101) of division 2 of the Revenue and Taxation Code), pursuant to which the State Board of Equalization (BOE) administers the petroleum storage fees imposed under sections 25299.41 and 25299.43 of the Health and Safety Code.<sup>1</sup> The BOE hereby proposes to change the provisions of chapter 1.5 listed above under California Code of Regulations, title 1, section (Rule) 100 to update the manner in which the BOE refers to persons that are liable for payment of the fees imposed under sections 25299.41 and 25299.43 of the Health and Safety Code in the regulations.

The Law was enacted in 1989 (Sen. Bill No. 299 (Stats. 1989, ch. 1442)). Section 50107 of the Law defines the two-word term “fee payer” to mean “any person liable for the payment of a fee imposed by Section 25299.41 of the Health and Safety Code” and the two word term “fee payer” was originally used throughout the Law and in chapter 1.5.

However, amendments made to the Law since 2000 have used the one-word term “feepayer,” rather than the two-word term “fee payer.” (See, e.g., Assem. Bill No. 2894 (Stats. 2000, ch. 923) [adding the one-word term “feepayer” to section 50112 and replacing the two-word term “fee payer” with the one-word term “feepayer” in section 50112.4, subd. (b)].) Furthermore, the BOE has stopped using the two-word term “fee payer” to refer to a person that is liable for the payment of a BOE-administered fee in its forms and publications, and the BOE has adopted a uniform policy requiring its staff to use the one-word term “feepayer” in place of the two-word term “fee payer.” (See the direction regarding the word “feepayer” in the BOE Style A-Z section of BOE Publication 384, “A Style Guide for BOE Forms and Publications” (May 2011), Introduction and page 3 from the BOE’s internal website, attached.)

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<sup>1</sup> The BOE jointly administers the fees imposed under Health and Safety Code sections 25299.41 and 25299.43 under the Law in accordance with section 50108 of the Law and Health and Safety Code section 25299.43, subdivision (g), respectively. Chapter 1.5 was adopted to implement, interpret, and make specific the fees imposed by both sections 25299.41 and 25299.43 and the term “fee payer,” as currently used in chapter 1.5, refers to a person that is liable for the payment of the fees imposed by both sections.

The BOE-adopted regulations listed above use the two-word term “fee payer”. Therefore, the BOE now proposes to change the regulations listed above, and described in detail below, to replace the two-word term “fee payer” with the one-word term “feepayer” under Rule 100, in order to update the manner in which the BOE refers to persons that are liable for payment of the fees imposed under sections 25299.41 and 25299.43 of the Health and Safety Code in the regulations.

## **B. Proposed Changes**

### 1. Rule 100 Change to Regulation 1205, *Fee Payer; Rebuttable Presumption*

A Rule 100 change is proposed to replace the two-word term “Fee Payer” with the one-word term “Feepayer” in the title of Regulation 1205.

### 2. Rule 100 Changes to Regulation 1212, *Liability for Fee*

A Rule 100 change is proposed to replace the two-word term “fee payer” with the one-word term “feepayer” in the second sentence of subdivision (d) of Regulation 1212.

### 3. Rule 100 Change to Regulation 1271, *Records*

A Rule 100 change is proposed to replace the two-word term “fee payer” with the one-word term “feepayer” in subdivision (a) of Regulation 1271.

The foregoing changes are appropriate for processing under Rule 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, these changes are necessary in order to update the manner in which the BOE refers to persons that are liable for payment of the fees imposed under sections 25299.41 and 25299.43 of the Health and Safety Code in the regulations.

## PROPOSED CHANGES

1. Change Regulation 1205 (Fee Payer; Rebuttable Presumption) to read as follows:

### **Regulation 1205. ~~Feepayer~~Fee-Payer; Rebuttable Presumption.**

The fee is due from the owner of an underground storage tank for which a permit is required pursuant to Section 25284 of the Health and Safety Code. There is a rebuttable presumption that the owner of the real property is the owner of the underground storage tank located on the property, even if the property is leased to another person. This presumption may be overcome by showing that ownership of the tank rests with someone other than the real property owner. Evidence to rebut the presumption may include, but is not limited to, the following:

(a) The lessee installed the underground storage tank at the location, and the lease agreement gives the lessee the right to remove the tank at the termination of the lease, regardless of whether the lessor's approval of the removal is required.

(b) The lessee installed the underground storage tank at the location, and the lease agreement states that any improvements installed by the lessee are the property of the lessee during the term of the lease.

(c) Documentation, such as a bill of sale, shows the transfer of ownership of the tank to a person other than the real property owner.

(d) The underground storage tank is depreciated on the state or federal income tax returns of a person other than the real property owner.

(e) The underground storage tank existed at the premises at the time the lease agreement was signed, and the lease agreement specifies that the underground storage tank is owned by and title thereto is vested in the lessee during the term of the lease.

Note: Authority cited: Section 50152, Revenue and Taxation Code; and Section 25299.42, Health and Safety Code. Reference: Section 50107, Revenue and Taxation Code; and Sections 25299.21, 25299.41 and 25299.43, Health and Safety Code.

2. Change Regulation 1212 (Liability for Fee) to read as follows:

### **Regulation 1212. Liability for Fee.**

(a) The fee is imposed upon the owner of an underground storage tank for each gallon of petroleum placed into the tank. The owner of the tank is liable for payment of the fee regardless of whether the owner is the operator of the underground storage tank and is liable for the fee even if the owner and operator have entered into an agreement that requires the operator to pay the fee to the board.

(b) The fee is due regardless of whether the fee has previously been paid for gallons of petroleum that were removed from an underground storage tank and placed into another underground storage tank or redeposited into the same tank in which they were previously stored.

(c) An owner is liable for the fee on all gallons placed in the underground storage tank(s) he or she owns. Where the owner requires a certain brand of fuel to be placed in a tank and the operator also places a different brand of fuel in the tank, the owner is liable for the fee on the gallons of both brands of fuel, even if placing fuel of a different brand in the tank violates the lease between the operator and owner.

(d) An owner is liable for the fee even though the owner claims he or she did not know the fee was due or was unable to obtain information from an operator as to the gallons placed into the underground storage tank(s). As provided by subdivision (c) of Section 50159 of the Revenue and Taxation Code, the board may provide to the ~~feepayer~~~~fee payer~~ otherwise confidential information obtained from the operator of an underground storage tank to the extent that this information is necessary for assessment, administration, and verification of the fee.

Note: Authority cited: Section 50142, Revenue and Taxation Code; and Section 25299.42, Health and Safety Code. Reference: Sections 50107, 50109 and 50159, Revenue and Taxation Code; and Sections 25299.41 and 25299.43, Health and Safety Code.

3. Change Regulation 1271 (Records) to read as follows:

**Regulation 1271. Records.**

(a) General. A ~~feepayer~~~~fee payer~~ 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.

(b) Specific Applications. In addition to the record keeping requirements set forth in subdivision (a), owners of underground storage tanks shall comply with the following requirements.

An owner of underground storage tanks shall maintain complete records of all tanks owned and all purchases of petroleum products placed into underground storage tanks. Such records include but are not limited to:

- (1) Federal Income Tax Return Depreciation Schedules or fixed asset and improvement listing.
- (2) Property Tax Statements.
- (3) Underground storage tank installation records.
- (4) Lease agreements.
- (5) Petroleum products purchase invoices.
- (6) Copy of local agency permit and application for permit filed with the local agency.

Note: Authority cited: Section 50152, Revenue and Taxation Code. Reference: Sections 50109 and 50153, Revenue and Taxation Code.

## Introduction

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This house style guide has been developed by the Board of Equalization's (BOE) Editorial Services Section. As style changes over time, publication units, publishers, and newspapers generally decide to use one dictionary and one published style manual (in our case we use *Merriam Webster's Collegiate Dictionary* and *The Gregg Reference Manual*). In addition to the standard references, we have also developed this house style guide.

A team of editors, forms analysts, and Customer Service and Publishing Division managers developed this style guide to promote consistency in BOE forms and publications. This team discussed every item in this guide and agreed on how we should treat each individual entry.

If an example is not listed, please refer to *The Gregg Reference Manual, Eleventh Edition* for usage or *Merriam Webster's Collegiate Dictionary, Eleventh Edition*.

**E**

e.g., etc.	avoid; use for example, among others
enclosed (vs. attached)	to insert in the same envelope (see "attached")
ex tax	don't use; write out "without tax"

**F**

fax	lowercase
faxback	one word
federal	don't capitalize
feepayer	one word
fewer vs. less	use with things that are counted (fewer buckets, less water)
fine-tune	always hyphenated
firsthand	one word
fiscal year	lower case
follow-up (n., adj.)	<i>Example:</i> She was in charge of follow-up.(n) She did the follow-up work.(adj.)
follow up (v.)	<i>Example:</i> Please follow up with her as the deadline approaches.
form	avoid using before form identifier (BOE-770)
full-time	always hyphenated
fundraising	one word, no hyphen
FY (fiscal year)	capitalize when referring to fiscal year

**G**

Governor (the)	capitalize when referring specifically to the Governor of California
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**H**

handicap accessible	avoid; use wheelchair accessible
hard copy (n.)	<i>Example:</i> Please give it to Legal in hard copy.
hard-copy (adj.)	<i>Example:</i> Legal wants it in hard-copy format.
he/she; he or she; him/her; him or her	avoid both; use their or our
headquarters	a singular or plural noun
Headquarters	capitalized when referring to 450 N Street location
homepage	one word
Honorable	capitalized when used before name (the Honorable

Attachment

**2012 MINUTES OF THE STATE BOARD OF EQUALIZATION**

Thursday, May 31 2012

**CHIEF COUNSEL MATTERS****RULEMAKING****J1 Section 100 Changes to Specified Special Taxes and Fees Regulations**

Bradley Heller, Tax Counsel IV, Tax and Fee Programs Division, Legal Department, requested authorization to complete Rule 100 changes to amend specified Diesel Fuel Tax Law, Integrated Waste Management Fee Law, Motor Vehicle Fuel Tax Law, and Underground Storage Tank Maintenance Fee Law regulations (Exhibit 5.4).

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted the section 100 changes as recommended by staff.

**J2 Section 100 Changes to Property Tax Rule 263, Roll Corrections**

Bradley Heller, Tax Counsel IV, Tax and Fee Programs Division, Legal Department, requested authorization to complete Rule 100 changes to incorporate amendments made to Revenue and Taxation Code section 4831 by Senate Bill No. 947 (2011) (Exhibit 5.5).

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted the section 100 changes as recommended by staff.

BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION

450 N STREET

SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT

MAY 31, 2012

CHIEF COUNSEL MATTERS

ITEM J1

SPECIFIED SPECIAL TAXES AND FEES REGULATIONS

Reported by: Juli Price Jackson

No. CSR 5214

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For the Board  
of Equalization:

Jerome E. Horton  
Chairman

Michelle Steel  
Vice-Chairwoman

Betty T. Yee  
Member

George Runner  
Member

Marcy Jo Mandel  
Appearing for John  
Chiang, State  
Controller (per  
Government Code  
Section 7.9)

Joann Richmond  
Chief, Board  
Proceedings Division

For Staff:

Bradley Heller  
Tax Counsel IV  
Tax and Fee Division  
Legal Department

---oOo---

450 N STREET  
SACRAMENTO, CALIFORNIA  
MAY 31, 2012

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MR. HORTON: Ms. Richmond, what is our next case?

MS. RICHMOND: Our next item is Chief Counsel Matters, J, Rulemaking, J1, Specified Special Taxes and Fees Regulations.

MR. HORTON: Members, Mr. Heller will introduce the issues -- as he comes.

MR. HELLER: Good afternoon, Chairman Horton, Members of the Board. I'm Bradley Heller from the Board's Legal Department.

I'm just here to request the Board's authorization to complete Rule 100 changes to ten special tax and fee regulations. The changes update citations and make a few solely grammatical changes.

MR. HORTON: May I have a motion?

MS. STEEL: So moved.

MR. HORTON: Moved by Member Steel, second by Member Yee. Without objection, such will be the order.

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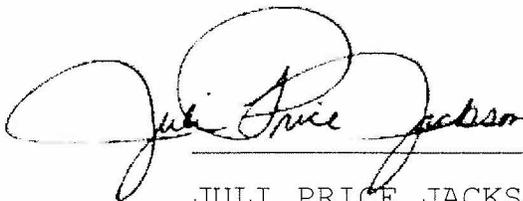
REPORTER'S CERTIFICATE

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I, JULI PRICE JACKSON, Hearing Reporter for the California State Board of Equalization certify that on MAY 31, 2012 I recorded verbatim, in shorthand, to the best of my ability, the proceedings in the above-entitled hearing; that I transcribed the shorthand writing into typewriting; and that the preceding pages 1 through 3 constitute a complete and accurate transcription of the shorthand writing.

Dated: June 7, 2012





JULI PRICE JACKSON  
Hearing Reporter