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

Statement of Explanation

Changes to Title 18. Public Revenue

Section 1597. *Property Transferred or Sold by Certain Nonprofit Organizations.*

A. Factual Basis

Senate Bill No. (SB) 598 (Stats. 2015, ch. 248) enacted Revenue and Taxation Code (RTC) section 6018.10. RTC section 6018.10, subdivision (a), provides that "[a]n all volunteer fire department [(as defined in subdivision (b))] is a consumer of, and shall not be considered a retailer within the provisions of this part [(Sales and Use Tax Law (RTC, § 6001 et seq.))] of all tangible personal property sold by it, including, but not limited to, hot prepared food products and clothing, if the profits are used solely and exclusively in furtherance of the purposes of the all volunteer fire department." Subdivision (c) of RTC section 6018.10 provides that RTC section 6018.10 "shall not apply if an all volunteer fire department, in each of the two preceding calendar years, has gross receipts from the sale of tangible personal property of one hundred thousand dollars ($100,000) or more." Also, RTC section 6018.10 became operative January 1, 2016 (SB 598, § 3), and RTC section 6018.10, subdivision (d), provides that RTC section 6018.10 "is only in effect until January 1, 2021, and as of that date is repealed," so section 6018.10 only applies from January 1, 2016, through December 31, 2020.

Subdivision (f) of California Code of Regulations, title 18, section (Regulation) 1597, *Property Transferred or Sold by Certain Nonprofit Organizations*, currently lists organizations that are consumers and not retailers of any tangible personal property sold by them if the profits from such sales are used exclusively in the furtherance of the purposes of the organization. Therefore, the State Board of Equalization (Board) proposes to incorporate and make the regulation consistent with the provisions of RTC section 6018.10 by adding subdivision (f)(4) to the regulation to explain that the list of organizations in subdivision (f) includes, "[f]rom January 1, 2016, through December 31, 2020, an 'all volunteer fire department' as defined in Revenue and Taxation Code section 6018.10" and explain that new subdivision (f)(4) "does not apply if an all volunteer fire department, in each of the two preceding calendar years, has gross receipts from the sale of tangible personal property of $100,000 or more." The Board also proposes to add a reference to RTC section 6018.10 to the regulation's reference note.

The Board has determined that these changes are appropriate for processing under Rule 100 because they make the regulation consistent with the enactment of RTC section 6018.10 by SB 598, and do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

B. Proposed Changes to Regulation 1597

Proposed changes to Regulation 1597:

Regulation 1597. Property Transferred or Sold by Certain Nonprofit Organizations.

(a) In General. . . . (unchanged).

(b) Flags Sold by Nonprofit Veterans' Organizations. . . . (unchanged).

(c) Prisoners of War Bracelets Transferred by Charitable Organizations. . . . (unchanged).

(d) Handcrafted or Artistic Tangible Personal Property Sold by Certain Qualified Organizations. . . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged).

(3) . . . (unchanged).

(4) . . . (unchanged).

(e) Food Products, Nonalcoholic Beverages and Other Tangible Personal Property Sold by Nonprofit Youth Organizations.

(1) . . . (unchanged)..

(A) "Qualified youth organization" means and includes:

1. . . . (unchanged), or

2. . . . (unchanged).

(B) "Qualified educational institution" means and includes:

1. . . . (unchanged), or

2. . . . (unchanged).

(C) . . . (unchanged).

(2) . . . (unchanged).

(f) Tangible Personal Property Sold by Certain Nonprofit Organizations. The following organizations are consumers and not retailers of any tangible personal property sold by them if the profits from such sales are used exclusively in the furtherance of the purposes of the organization:

(1) . . . (unchanged).

(2) . . . (unchanged).

(3) . . . (unchanged).

(4) From January 1, 2016, through December 31, 2020, an "all volunteer fire department" as defined in Revenue and Taxation Code section 6018.10. This subdivision does not apply if an all volunteer fire department, in each of the two preceding calendar years, has gross receipts from the sale of tangible personal property of $100,000 or more.

(g) Resale Certificates: Obligations of Persons Who Sell to Consumers. . . . (unchanged).

(h) Taxable Sales of Tangible Personal Property by or Through Nonprofit Organizations. . . . (unchanged).

(i) Transfer of Tangible Personal Property to Members. . . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged).

(3) . . . (unchanged).

(4) . . . (unchanged).

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Sections 6018.9, 6018.10, 6359.3, 6360, 6361, 6361.1 and 6370, Revenue and Taxation Code; and *Scholastic Book Clubs, Inc. v. State Board of Equalization* (1989) 207 Cal. App. 3d 734.