

**Final Statement of Reasons for the Adoption of
California Code of Regulations, Title 18, Sections
2460, Administration,
2461, Exemptions, Deductions, Credits, and Specific Applications of Tax, and
Section 2462, Refunds of Excess Charges Collected**

UPDATE OF INFORMATION IN THE INITIAL STATEMENT OF REASONS

The State Board of Equalization (Board) held a public hearing regarding the proposed adoption of California Code of Regulations, title 18, sections (Regulations) 2460, *Administration*, 2461, *Exemptions, Deductions, Credits, and Specific Applications of Tax*, and 2462, *Refunds of Excess Charges Collected*, on January 26, 2016. During the public hearing, the Board unanimously voted to adopt proposed Regulations 2460, 2461, and 2462 without making any changes.

The factual basis, specific purposes, and necessity for, the problems to be addressed by, and the anticipated benefits from the adoption of proposed Regulations 2460, 2461, and 2462 are the same as provided in the initial statement of reasons.

The Board anticipates that proposed Regulations 2460, 2461, and 2462 will benefit the Board, Board staff, sellers and consumers of prepaid mobile telephony services (MTS), and local jurisdictions and local agencies by:

- Clarifying the application of the prepaid MTS surcharge and local charges for sellers and consumers of prepaid MTS.
- Providing regulatory guidance to sellers, including direct sellers, of prepaid MTS regarding their registration, collection, reporting, and payment requirements under the Prepaid MTS Surcharge Collection Act (Prepaid MTS Act) and the Local Prepaid MTS Collection Act (Local Act).
- Clarifying the Board's and local agencies' and local jurisdictions' duties with respect to the collection and administration of local charges, including clarifying that it is the responsibility of a local agency or local jurisdiction to contract with the Board to collect and administer its local charges, and provide adequate written notice to the Board when adding, increasing, or decreasing local charges, when local charges are expiring, or there is an error in the rate of local charges posted on the Board's website.
- Adding an alternative contract due date and effective date for the collection and administration of existing local charges when a local agency or jurisdiction first contracts with the Board to collect existing local charges after September 1, 2015.

- Prescribing the form of a resale certificate that may be used to document that a sale of prepaid MTS was for purposes of resale in the regular course of business.

The adoption of proposed Regulations 2460, 2461, and 2462 is not mandated by federal law or regulations. There is no previously adopted or amended federal regulation that is identical to proposed Regulation 2460, 2461, or 2462.

The Board did not rely on any data or any technical, theoretical, or empirical study, report, or similar document in proposing or adopting Regulations 2460, 2461, and 2462 that was not identified in the initial statement of reasons, or which was otherwise not identified or made available for public review prior to the close of the public comment period.

In addition, the factual basis has not changed for the Board's initial determination that the proposed regulatory action will not have a significant adverse economic impact on business, the Board's determination that the proposed regulatory action is not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000, and the Board's economic impact assessment, which determined that the Board's proposed regulatory action:

- Will neither create nor eliminate jobs in the State of California;
- Nor result in the elimination of existing businesses;
- Nor create or expand business in the State of California; and
- Will not affect the benefits of Regulations 2460, 2461, and 2462 to the health and welfare of California residents, worker safety, or the state's environment.

The adoption of proposed Regulations 2460, 2461, and 2462 may affect small businesses.

Necessity for Duplication

Proposed Regulations 2460, 2461, and 2462 duplicate some provisions from the Revenue and Taxation (RTC) sections that they implement, interpret, and make specific, which are cited in their respective "reference" notes. The Board has determined that the duplications are necessary to ensure that all three regulations clearly implement, interpret, and make specific the provisions of the Prepaid MTS Act and Local Act, and satisfy the clarity requirement of Government Code section 11349.1, subdivision (a)(3). Also Regulation 2461 duplicates some provisions from Regulations 1642 and 1668 regarding bad debts and sales for resale. The Board has determined that the duplication is necessary to ensure that Regulation 2461 is generally consistent with Regulations 1642 and 1668, and satisfies the clarity and consistency requirements of Government Code section 11349.1, subdivision (a)(3) and (4).

No Mandate on Local Agencies or School Districts

The Board has determined that the adoption of proposed Regulations 2460, 2461, and 2462 does not impose a mandate on local agencies or school districts.

Public Comments

The Board did not receive any written public comments regarding the proposed regulatory action. Ms. Brenda Narayan, Director of Government Relations for MuniServices, appeared at the January 26, 2016, public hearing and stated that MuniServices appreciates all of the work done by Board staff on this matter and is pleased to support the adoption of proposed Regulations 2460, 2461, and 2462. The Board considered Ms. Narayan's comments prior to the adoption of proposed Regulations 2460, 2461, and 2462. Ms. Narayan was the only interested party that appeared at the public hearing on January 26, 2016, to comment on the proposed regulatory action.

Determination Regarding Alternatives

By its motion on January 26, 2016, the Board determined that no alternative to the adoption of proposed Regulations 2460, 2461, and 2462 would be more effective in carrying out the purposes for which the regulations are proposed, would be as effective and less burdensome to affected private persons than the adopted regulations, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The Board did not reject any reasonable alternative to proposed Regulations 2460, 2461, and 2462 that would lessen any adverse impact the proposed regulatory action may have on small business.

No reasonable alternative has been identified and brought to the Board's attention that would lessen any adverse impact the proposed action may have on small business, be more effective in carrying out the purposes for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.