

Regulations 2504 et seq.

Section 100

Complete Rule Making File

OAL Approval with Approved Text Regulations 2504, 2505, 2506, 2507, 2508, 2509, 2512, 2513, 2514, 2525, 2530, 2535, 2536, 2537, 2538, 2540, 2541, 2542, 2543, 2544, 2557, 2560, and 2561

Index

1. *Form 400 and Proposed Regulations 2504, 2505, 2506, 2507, 2508, 2509, 2512, 2513, 2514, 2525, 2530, 2535, 2536, 2537, 2538, 2540, 2541, 2542, 2543, 2544, 2557, 2560, and 2561*
2. *Statement of Explanation*
3. *Memo to OAL Dated 01/20/10*
4. *Memo to OAL Dated 01/25/10*
5. *Forms from Regulations BOE 240A, BOE 241A, BOE 242A, BOE 243B, BOE 244B, BOE 269A, TTBF 5120.17, and TTBF 5130.9*
6. *Analysis of Forms and Documents Referred to*

Other Documents Relied upon

- A. *Chief Counsel Memo Dated 10/27/09*
- B. *Approved Minutes, 11/19/09*
- C. *BOE "Section 100 Change" Recommendation*
- D. *Reporters Transcript, 11/19/09*
- E. *Forms OE 240A, BOE 241A, BOE 242A, BOE 243B, BOE 244B, BOE 269A, TTBF 5120.17, and TTBF 5130.9*

State of California
Office of Administrative Law

RECEIVED
JAN 26 2010
Board Proceedings

In re:

Board of Equalization

Regulatory Action:

Title 18, California Code of Regulations

Amend sections: 2504, 2505, 2506, 2507,
2508, 2509, 2512, 2513,
2514, 2525, 2530, 2535,
2536, 2537, 2538, 2540,
2541, 2542, 2543, 2544,
2557, 2560, 2561

NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT

California Code of Regulations, Title 1,
Section 100

OAL File No. 2009-1209-01 N

This action is to amend the header form identifier for several forms, amend the title for other forms, amend authority and reference citations, revise the reference to the federal agency responsible for oversight and make some grammatical corrections.

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

Date: 1/25/2010



George C. Shaw
Staff Counsel

For: SUSAN LAPSLEY
Director

Original: Ramon Hirsig
Copy: Richard Bennion

OFFICE OF ADMINISTRATIVE LAW

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Sacramento, CA 95814
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SUSAN LAPSLEY
Director

MEMORANDUM

TO: Richard Bennion
FROM: OAL Front Desk 
DATE: 1/26/2010
RE: Return of Approved Rulemaking Materials
OAL File No. 2009-1209-01N

OAL hereby returns this file your agency submitted for our review (OAL File No. 2009-1209-01N regarding Alcoholic Beverage Tax Law).

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 30th 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

NON-SUBSTANTIVE

STD. 400 (REV. 01-09)

NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2009-1209-DIN	EMERGENCY NUMBER	ENDORSED FILED IN THE OFFICE OF 2010 JAN 25 PM 3:21 <i>Debra Bowen</i> DEBRA BOWEN SECRETARY OF STATE
For use by Office of Administrative Law (OAL) only			
NOTICE AGENCY WITH RULEMAKING AUTHORITY State Board of Equalization		REGULATIONS 2009 DEC -9 AM 8:54 OFFICE OF ADMINISTRATIVE LAW	
AGENCY FILE NUMBER (if any)			

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)
OAL USE ONLY	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) Alcoholic Beverage Tax Law	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)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT		
	AMEND See Attached		
TITLE(S) 18	REPEAL		
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))			
<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"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			
<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____			
<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
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 <i>Diane G. Olson</i>	DATE 12/03/09
TYPED NAME AND TITLE OF SIGNATORY Diane G. Olson, Chief, Board Proceedings Division	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JAN 25 2010

Office of Administrative Law

AMEND 2504, 2505, 2506, 2507, 2508, 2509, 2512, 2513, 2514, 2525, 2530, 2535,
2536, 2537, 2538, 2540, 2541, 2542, 2543, 2544, 2557, 2560, and 2561

PROPOSED AMENDMENTS

1. Amend Regulation 2504 (Distilled Spirits Produced, Packaged, or Bottled) to read as follows:

Regulation 2504. Distilled Spirits Produced, Packaged, or Bottled.

Every distilled spirits manufacturer, manufacturer's agent, brandy manufacturer, and rectifier shall keep and preserve a record of all distilled spirits produced, manufactured, cut, blended, rectified, bottled, packaged, or otherwise acquired in this State. A daily record of such acquisitions shall be made in book forms prescribed by the board. All distilled spirits received from licensee's own bottling or packaging department shall be recorded in ~~SBE Form 240A~~form BOE-240-A. Receipts from the bottling or packaging department shall include all distilled spirits bottled or packaged, whether or not the distilled spirits are owned by the licensee.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~32211 and 32452, Revenue and Taxation Code.

2. Amend Regulation 2505 (Bottled or Packaged Distilled Spirits Acquired in California) to read as follows:

Regulation 2505. Bottled or Packaged Distilled Spirits Acquired in California.

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~32211 and 32452, Revenue and Taxation Code.

3. Amend Regulation 2506 (Bottled or Packaged Distilled Spirits Imported) to read as follows:

Regulation 2506. Bottled or Packaged Distilled Spirits Imported.

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~32211 and 32452, Revenue and Taxation Code.

4. Amend Regulation 2507 (Distilled Spirits Sold or Exported) to read as follows:

Regulation 2507. Distilled Spirits Sold or Exported.

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

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32211 and 32452, Revenue and Taxation Code.

5. Amend Regulation 2508 (Distilled Spirits Invoices and Bottling or Packaging Records) to read as follows:

Regulation 2508. Distilled Spirits Invoices and Bottling or Packaging Records.

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~32211 and 32452, Revenue and Taxation Code.

6. Amend Regulation 2509 (Prepayment of Distilled Spirits Tax; Consolidated Returns) to read as follows:

Regulation 2509. Prepayment of Distilled Spirits Tax; Consolidated Returns.

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32211 and 32452, Revenue and Taxation Code.

7. Amend Regulation 2512 (Beer and Wine Production; Beer Bottling; Wholesalers' Beer and Wine Purchases) to read as follows:

Regulation 2512. Beer and Wine Production; Beer Bottling; Wholesalers' Beer and Wine Purchases.

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

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

Every beer and wine wholesaler shall keep and preserve a record of all beer and wine purchased in this State. This record must show the kind and quantity of beer or wine purchased, the name and address of the person from whom purchased, and the date received. Purchase invoices containing all of the above information, if filed so as to be readily accessible for verification by employees of the board, shall suffice to comply with this regulation.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32171, 32173, and 32452, Revenue and Taxation Code.

8. Amend Regulation 2513 (Beer and Wine Imported) to read as follows:

Regulation 2513. Beer and Wine Imported.

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32175 and 32452, Revenue and Taxation Code.

9. Amend Regulation 2514 (Beer and Wine Sold) to read as follows:

Regulation 2514. Beer and Wine Sold.

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32171, 32173, and 32452, Revenue and Taxation Code.

10. Amend Regulation 2525 (Contents) to read as follows:

Regulation 2525. Contents.

(a) Every sale or delivery of alcoholic beverages, except beer, from one licensee to another licensee must be recorded on a sales invoice, whether or not consideration is involved.

Invoices covering the sale or purchase of alcoholic beverages must be filed in such manner as to be readily accessible for examination by employees of the board and shall not be commingled with invoices covering commodities other than alcoholic beverages.

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

- (1) Name and address of the purchaser.
 - (2) Date of sale and invoice number.
 - (3) Kind, quantity, size, and capacity of packages of alcoholic beverages sold.
 - (4) The cost to the purchaser, together with any discount which at any time is to be given on or from the price as shown on the invoice.
 - (5) The place from which delivery of the alcoholic beverages was made unless delivery was made from the premises of the licensee or from a public warehouse located in the same county.
 - (6) Invoices covering sales of distilled spirits by distilled spirits taxpayers to other distilled spirits taxpayers shall show, in addition to the above, the total number of wine gallons covered by the invoice.
- (b) Invoices covering sales of wine in internal revenue bond by a wine grower to another wine grower must also show that delivery was made "in bond."
- (c) Invoices covering sales of alcoholic beverages for use in trades, professions, or industries, and not for beverage use, must be marked or stamped: "No state tax-not for beverage use."
- (d) Invoices covering the sale of alcoholic beverages for export must be marked or stamped: "Sold for export."

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32173, 32211, and 32452, Revenue and Taxation Code.

11. Amend Regulation 2530 (Inventories) to read as follows:

Regulation 2530. Inventories.

(a)... first paragraph unchanged

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

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

(b) Beer. Every licensed beer manufacturer shall take a physical inventory monthly of bulk and bottled beer in the brewery bottling house in such manner as provided in Title 27, Code of Federal Regulations, Section 25.294 as it reads on April 1, 1989.

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

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

Note: Authority cited: Sections 32152 and 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, 32201, 32211, 32220, and 32452, Revenue and Taxation Code.

12. Amend Regulation 2535 (Distilled Spirits) to read as follows:

Regulation 2535. Distilled Spirits.

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32201, 32211, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

13. Amend Regulation 2536 (Beer Manufacturers) to read as follows:

Regulation 2536. Beer Manufacturers.

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

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

Number of Bottles or Cans Per Case	Fluid Contents (Ounces) of Each Bottle or Can	Barrel Equivalent
4.....	64	0.06452
6.....	64	.09677
12.....	6	.01815
12.....	7	.02117
12.....	8	.02419
12.....	12	.03629
12.....	14	.04234
12.....	30	.09073
12.....	32	.09677
24.....	6	.03629
24.....	7	.04234
24.....	8	.04839
24.....	9	.05444
24.....	10	.06048
24.....	11	.06653
24.....	12	.07258
24.....	13	.07863
24.....	14	.08468
24.....	15	.09073
24.....	16	.09677
36.....	6	.05444
36.....	7	.06351
36.....	8	.07258
48.....	12	.14516
50.....	12	.15120

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

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, 32175, 32176, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

14. Amend Regulation 2537 (Wine Growers) to read as follows:

Regulation 2537. Wine Growers.

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, 32173, 32174, 32175, 32176, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

15. Amend Regulation 2538 (Beer and Wine Importers) to read as follows:

Regulation 2538. Beer and Wine Importers.

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

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

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32171, 32173, 32174, 32175, 32176, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

16. Amend Regulation 2540 (Common Carrier Receipts and Delivery Reports) to read as follows:

Regulation 2540. Common Carrier Receipts and Delivery Reports.

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

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

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

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

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32171, 32173, 32211, and 32452, Revenue and Taxation Code.

17. Amend Regulation 2541 (Common Carrier Tax Reports) to read as follows:

Regulation 2541. Common Carrier Tax Reports.

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

For the purpose of making these reports, such common carrier or other licensed person may compute its sales of distilled spirits in California by allocating a portion of the total distilled

spirits sales for the entire system served by the reporting taxpayer to California based on the ratio that passenger miles in California bears to total passenger miles for the entire system served by the reporting taxpayer. The ratio of passenger miles in California to total passenger miles may be determined by tests. New tests should be made when there is any significant change in routes, schedules, or other operating conditions. The tests will be made by the reporting taxpayer and will be subject to review by the Board. All detail and test data should be retained for inspection by the Board.

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Section 32202, Revenue and Taxation Code.

18. Amend Regulation 2542 (Public Warehouses) to read as follows:

Regulation 2542. Public Warehouses.

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

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32211 and 32452, Revenue and Taxation Code.

19. Amend Regulation 2543 (Customs Brokers) to read as follows:

Regulation 2543. Customs Brokers.

Every person holding a Federal customhouse broker's license and making customs entries in connection with original importations of alcoholic beverages into California in customs bond for California licensed importers shall, on or before the fifteenth day of each month, report to the board in Sacramento on forms prescribed by the board, every such importation of alcoholic beverages handled by him as a customhouse broker during the preceding calendar month.

Every person holding a customs broker's license under the Alcoholic Beverage Control Act and making customs entries in connection with the importation of alcoholic beverages in customs bond into California for a person who does not hold the appropriate importer's license under the Alcoholic Beverage Control Act shall, on or before the fifteenth day of each month, report to the

board in Sacramento on forms prescribed by the board, every such transaction in alcoholic beverages handled by him as a customs broker during the preceding calendar month.

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32171, 32173, 32211, and 32452, Revenue and Taxation Code.

20. Amend Regulation 2544 (Conversion of Liters to Gallons) to read as follows:

Regulation 2544. Conversion of Liters to Gallons.

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

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, ~~and 32201,~~ and 32220, Revenue and Taxation Code.

21. Amend Regulation 2557 (Powdered Distilled Spirits) to read as follows:

Regulation 2557. Powdered Distilled Spirits.

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

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

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

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

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

(c) Conversion of Weight to Volume. The weight of powdered distilled spirits, and powdered distilled spirits products, shall be converted to volume as follows:

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~32201, 32211, and 32452, Revenue and Taxation Code.

22. Amend Regulation 2560 (Treated as Sales) to read as follows:

Regulation 2560. Treated As Sales.

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

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

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

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

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32003, 32151, 32201, and 32220, Revenue and Taxation Code.

23. Amend Regulation 2561 (Exports and Sales for Export) to read as follows:

Regulation 2561. Exports and Sales for Export.

(a) Proof of Claim for Exemption for Exports and Sales for Export. The claim for exemption from tax for exports of alcoholic beverages or sales of alcoholic beverages for export shall be allowed only when the alcoholic beverages are actually exported to a point outside this state

(and, in the case of distilled spirits sold for export, actually exported to a point outside this state within 90 days from the date of the sale) and one or more of the following conditions is met:

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

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

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

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32171, 32173, 32175, 32176, 32179, 32211 and 32212, Revenue and Taxation Code.

/s/
SUSAN LAPSLEY
 Director

/s/
 Kathleen Eddy
 Senior Counsel

Copy: Matthew Cate
 Timothy Lockwood
 John McClure

<p>SUMMARY OF REGULATORY ACTIONS</p>
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**REGULATIONS FILED WITH
 SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2009-1209-01
BOARD OF EQUALIZATION
 Alcoholic Beverage Tax Law

This action is to amend the header form identifier for several forms, amend the title for other forms, amend authority and reference citations, revise the reference to the federal agency responsible for oversight and make some grammatical corrections.

Title 18
 California Code of Regulations
 AMEND: 2504, 2505, 2506, 2507, 2508, 2509,
 2512, 2513, 2514, 2525, 2530, 2535, 2536, 2537,
 2538, 2540, 2541, 2542, 2543, 2544, 2557, 2560,
 2561
 Filed 01/25/2010
 Agency Contact:
 Richard Bennion (916) 445-2130

File# 2009-1204-01
BOARD OF EQUALIZATION
 Board Approval Required for Refunds Over \$50,000

This rulemaking amends two sections within Title 18 to clarify that staff, as a result of a vote by the California Board of Equalization delegating the authority, have the authority, without further approval from Board Members, to grant or deny specified refunds. This amends these sections to increase the delegation from \$50,000

to cover amounts up to \$100,000. This amendment further specifies that if a refund should be granted in excess of \$50,000 (or \$15,000 in one instance) that this determination must be available as a public record for 10 days prior to its effective date.

Title 18
 California Code of Regulations
 AMEND: 5237, 5266
 Filed 01/20/2010
 Effective 02/19/2010
 Agency Contact:
 Richard Bennion (916) 445-2130

File# 2010-0120-01
**CALIFORNIA ALTERNATIVE ENERGY AND
 ADVANCED TRANSPORTATION FINANCING
 AUTHORITY**
 Extension of Previously Adopted CAEATFA Emergency Regulations

The Public Resources Code creates the California Alternative Energy and Advanced Financing Authority (Authority) and authorizes it to fix fees and charges for projects to fund expenses incurred by the Authority in carrying out its duties. Existing section 10020 of title 4 of the California Code of Regulations sets fees for projects generally, but there are no specific fees established for renewable energy projects. This filing is the readoption of an emergency regulatory action which added a separate fee structure to section 10020 to establish a renewable energy program and lower the cost of financing these technologies while allowing the Authority to be self sustaining. The initial filing of this regulatory action was mandated to be in the form of emergency regulations and deemed necessary for the immediate preservation of the public peace, health and safety, and general welfare by the Legislature pursuant to section 26011.6(b) of the Public Resources Code.

Title 4
 California Code of Regulations
 AMEND: 10020
 Filed 01/27/2010
 Effective 01/27/2010
 Agency Contact:
 Samantha Russell (916) 654-6061

File# 2009-1216-05
CALIFORNIA HORSE RACING BOARD
 Possession of Contraband

This regulatory action provides that no person other than a veterinarian licensed by the Board shall have in his or her possession at a facility under the jurisdiction of the Board any substance or medication that has been prepared or packaged for injection by a hypodermic syringe or hypodermic needle, nor possess any medicine.

Regulations 2504 et seq.
Section 100

Index

1. *Form 400 and Proposed Regulations 2504, 2505, 2506, 2507, 2508, 2509, 2512, 2513, 2514, 2525, 2530, 2535, 2536, 2537, 2538, 2540, 2541, 2542, 2543, 2544, 2557, 2560, and 2561*
2. *Statement of Explanation*
3. *Memo to OAL Dated 01/20/10*
4. *Memo to OAL Dated 01/25/10*
5. *Forms from Regulations*
6. *Analysis of Forms and Documents Referred to*

NONSUBSTANTIVE

STD. 400 (REV. 01-09)

NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 209-1209-01N	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2009 DEC -9 AM 8:52 OFFICE OF ADMINISTRATIVE LAW	
NOTICE	REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
State Board of Equalization

AGENCY FILE NUMBER (if any)

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)
OAL USE ONLY	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) Alcoholic Beverage Tax Law	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)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND See Attached
TITLE(S) 18	REPEAL

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<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"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

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
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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 	DATE 12/03/09
TYPED NAME AND TITLE OF SIGNATORY Diane G. Olson, Chief, Board Proceedings Division	

AMEND 2504, 2505, 2506, 2507, 2508, 2509, 2512, 2513, 2514, 2525, 2530, 2535,
2536, 2537, 2538, 2540, 2541, 2542, 2543, 2544, 2557, 2560, and 2561

PROPOSED AMENDMENTS

1. Amend Regulation 2504 (Distilled Spirits Produced, Packaged, or Bottled) to read as follows:

Regulation 2504. Distilled Spirits Produced, Packaged, or Bottled.

Every distilled spirits manufacturer, manufacturer's agent, brandy manufacturer, and rectifier shall keep and preserve a record of all distilled spirits produced, manufactured, cut, blended, rectified, bottled, packaged, or otherwise acquired in this State. A daily record of such acquisitions shall be made in book forms prescribed by the board. All distilled spirits received from licensee's own bottling or packaging department shall be recorded in ~~SBE Form 240A~~form BOE-240-A. Receipts from the bottling or packaging department shall include all distilled spirits bottled or packaged, whether or not the distilled spirits are owned by the licensee.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-3255632211~~ and 32452, Revenue and Taxation Code.

2. Amend Regulation 2505 (Bottled or Packaged Distilled Spirits Acquired in California) to read as follows:

Regulation 2505. Bottled or Packaged Distilled Spirits Acquired in California.

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-3255632211~~ and 32452, Revenue and Taxation Code.

3. Amend Regulation 2506 (Bottled or Packaged Distilled Spirits Imported) to read as follows:

Regulation 2506. Bottled or Packaged Distilled Spirits Imported.

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-3255632211~~ and 32452, Revenue and Taxation Code.

4. Amend Regulation 2507 (Distilled Spirits Sold or Exported) to read as follows:

Regulation 2507. Distilled Spirits Sold or Exported.

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

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32211 and 32452, Revenue and Taxation Code.

5. Amend Regulation 2508 (Distilled Spirits Invoices and Bottling or Packaging Records) to read as follows:

Regulation 2508. Distilled Spirits Invoices and Bottling or Packaging Records.

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~ 32211 and 32452, Revenue and Taxation Code.

6. Amend Regulation 2509 (Prepayment of Distilled Spirits Tax; Consolidated Returns) to read as follows:

Regulation 2509. Prepayment of Distilled Spirits Tax; Consolidated Returns.

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32211 and 32452, Revenue and Taxation Code.

7. Amend Regulation 2512 (Beer and Wine Production; Beer Bottling; Wholesalers' Beer and Wine Purchases) to read as follows:

Regulation 2512. Beer and Wine Production; Beer Bottling; Wholesalers' Beer and Wine Purchases.

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

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

Every beer and wine wholesaler shall keep and preserve a record of all beer and wine purchased in this State. This record must show the kind and quantity of beer or wine purchased, the name and address of the person from whom purchased, and the date received. Purchase invoices containing all of the above information, if filed so as to be readily accessible for verification by employees of the board, shall suffice to comply with this regulation.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32171, 32173, and 32452, Revenue and Taxation Code.

8. Amend Regulation 2513 (Beer and Wine Imported) to read as follows:

Regulation 2513. Beer and Wine Imported.

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32175 and 32452, Revenue and Taxation Code.

9. Amend Regulation 2514 (Beer and Wine Sold) to read as follows:

Regulation 2514. Beer and Wine Sold.

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32171, 32173, and 32452, Revenue and Taxation Code.

10. Amend Regulation 2525 (Contents) to read as follows:

Regulation 2525. Contents.

(a) Every sale or delivery of alcoholic beverages, except beer, from one licensee to another licensee must be recorded on a sales invoice, whether or not consideration is involved.

Invoices covering the sale or purchase of alcoholic beverages must be filed in such manner as to be readily accessible for examination by employees of the board and shall not be commingled with invoices covering commodities other than alcoholic beverages.

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

- (1) Name and address of the purchaser.
 - (2) Date of sale and invoice number.
 - (3) Kind, quantity, size, and capacity of packages of alcoholic beverages sold.
 - (4) The cost to the purchaser, together with any discount which at any time is to be given on or from the price as shown on the invoice.
 - (5) The place from which delivery of the alcoholic beverages was made unless delivery was made from the premises of the licensee or from a public warehouse located in the same county.
 - (6) Invoices covering sales of distilled spirits by distilled spirits taxpayers to other distilled spirits taxpayers shall show, in addition to the above, the total number of wine gallons covered by the invoice.
- (b) Invoices covering sales of wine in internal revenue bond by a wine grower to another wine grower must also show that delivery was made "in bond."
- (c) Invoices covering sales of alcoholic beverages for use in trades, professions, or industries, and not for beverage use, must be marked or stamped: "No state tax-not for beverage use."
- (d) Invoices covering the sale of alcoholic beverages for export must be marked or stamped: "Sold for export."

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32173, 32211, and 32452, Revenue and Taxation Code.

11. Amend Regulation 2530 (Inventories) to read as follows:

Regulation 2530. Inventories.

(a)... first paragraph unchanged

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

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

(b) Beer. Every licensed beer manufacturer shall take a physical inventory monthly of bulk and bottled beer in the brewery bottling house in such manner as provided in Title 27, Code of Federal Regulations, Section 25.294 as it reads on April 1, 1989.

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

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

Note: Authority cited: Sections 32152 and 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, 32201, 32211, 32220, and 32452, Revenue and Taxation Code.

12. Amend Regulation 2535 (Distilled Spirits) to read as follows:

Regulation 2535. Distilled Spirits.

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32201, 32211, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

13. Amend Regulation 2536 (Beer Manufacturers) to read as follows:

Regulation 2536. Beer Manufacturers.

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

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

Number of Bottles or Cans Per Case	Fluid Contents (Ounces) of Each Bottle or Can	Barrel Equivalent
4.....	64	0.06452
6.....	64	.09677
12.....	6	.01815
12.....	7	.02117
12.....	8	.02419
12.....	12	.03629
12.....	14	.04234
12.....	30	.09073
12.....	32	.09677
24.....	6	.03629
24.....	7	.04234
24.....	8	.04839
24.....	9	.05444
24.....	10	.06048
24.....	11	.06653
24.....	12	.07258
24.....	13	.07863
24.....	14	.08468
24.....	15	.09073
24.....	16	.09677
36.....	6	.05444
36.....	7	.06351
36.....	8	.07258
48.....	12	.14516
50.....	12	.15120

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

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, 32175, 32176, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

14. Amend Regulation 2537 (Wine Growers) to read as follows:

Regulation 2537. Wine Growers.

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, 32173, 32174, 32175, 32176, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

15. Amend Regulation 2538 (Beer and Wine Importers) to read as follows:

Regulation 2538. Beer and Wine Importers.

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

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

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32171, 32173, 32174, 32175, 32176, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

16. Amend Regulation 2540 (Common Carrier Receipts and Delivery Reports) to read as follows:

Regulation 2540. Common Carrier Receipts and Delivery Reports.

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

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

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

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

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32171, 32173, 32211, and 32452, Revenue and Taxation Code.

17. Amend Regulation 2541 (Common Carrier Tax Reports) to read as follows:

Regulation 2541. Common Carrier Tax Reports.

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

For the purpose of making these reports, such common carrier or other licensed person may compute its sales of distilled spirits in California by allocating a portion of the total distilled

spirits sales for the entire system served by the reporting taxpayer to California based on the ratio that passenger miles in California bears to total passenger miles for the entire system served by the reporting taxpayer. The ratio of passenger miles in California to total passenger miles may be determined by tests. New tests should be made when there is any significant change in routes, schedules, or other operating conditions. The tests will be made by the reporting taxpayer and will be subject to review by the Board. All detail and test data should be retained for inspection by the Board.

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Section 32202, Revenue and Taxation Code.

18. Amend Regulation 2542 (Public Warehouses) to read as follows:

Regulation 2542. Public Warehouses.

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

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32211 and 32452, Revenue and Taxation Code.

19. Amend Regulation 2543 (Customs Brokers) to read as follows:

Regulation 2543. Customs Brokers.

Every person holding a Federal customhouse broker's license and making customs entries in connection with original importations of alcoholic beverages into California in customs bond for California licensed importers shall, on or before the fifteenth day of each month, report to the board in Sacramento on forms prescribed by the board, every such importation of alcoholic beverages handled by him as a customhouse broker during the preceding calendar month.

Every person holding a customs broker's license under the Alcoholic Beverage Control Act and making customs entries in connection with the importation of alcoholic beverages in customs bond into California for a person who does not hold the appropriate importer's license under the Alcoholic Beverage Control Act shall, on or before the fifteenth day of each month, report to the

board in Sacramento on forms prescribed by the board, every such transaction in alcoholic beverages handled by him as a customs broker during the preceding calendar month.

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32171, 32173, 32211, and 32452, Revenue and Taxation Code.

20. Amend Regulation 2544 (Conversion of Liters to Gallons) to read as follows:

Regulation 2544. Conversion of Liters to Gallons.

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

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, ~~and 32201,~~ and 32220, Revenue and Taxation Code.

21. Amend Regulation 2557 (Powdered Distilled Spirits) to read as follows:

Regulation 2557. Powdered Distilled Spirits.

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

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

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

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

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

(c) Conversion of Weight to Volume. The weight of powdered distilled spirits, and powdered distilled spirits products, shall be converted to volume as follows:

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~32201, 32211, and 32452, Revenue and Taxation Code.

22. Amend Regulation 2560 (Treated as Sales) to read as follows:

Regulation 2560. Treated As Sales.

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

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

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

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

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32003, 32151, 32201, and 32220, Revenue and Taxation Code.

23. Amend Regulation 2561 (Exports and Sales for Export) to read as follows:

Regulation 2561. Exports and Sales for Export.

(a) Proof of Claim for Exemption for Exports and Sales for Export. The claim for exemption from tax for exports of alcoholic beverages or sales of alcoholic beverages for export shall be allowed only when the alcoholic beverages are actually exported to a point outside this state

(and, in the case of distilled spirits sold for export, actually exported to a point outside this state within 90 days from the date of the sale) and one or more of the following conditions is met:

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

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

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

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32171, 32173, 32175, 32176, 32179, 32211 and 32212, Revenue and Taxation Code.

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

Statement of Explanation

Changes to Title 18. Public Revenue

Regulation 2504, *Distilled Spirits Produced, Packaged, or Bottled*
Regulation 2505, *Bottled or Packaged Distilled Spirits Acquired in California*
Regulation 2506, *Bottled or Packaged Distilled Spirits Imported*
Regulation 2507, *Distilled Spirits Sold or Exported*
Regulation 2508, *Distilled Spirits Invoices and Bottling or Packaging Records*
Regulation 2509, *Prepayment of Distilled Spirits Tax; Consolidated Returns*
Regulation 2512, *Beer and Wine Production; Beer Bottling; Wholesalers' Beer and Wine Purchases*
Regulation 2513, *Beer and Wine Imported*
Regulation 2514, *Beer and Wine Sold*
Regulation 2525, *Contents*
Regulation 2530, *Inventories*
Regulation 2535, *Distilled Spirits*
Regulation 2536, *Beer Manufacturers*
Regulation 2537, *Wine Growers*
Regulation 2538, *Beer and Wine Importers*
Regulation 2540, *Common Carrier Receipts and Delivery Reports*
Regulation 2541, *Common Carrier Tax Reports*
Regulation 2542, *Public Warehouses*
Regulation 2543, *Customs Brokers*
Regulation 2544, *Conversion of Liters to Gallons*
Regulation 2557, *Powdered Distilled Spirits*
Regulation 2560, *Treated as Sales*
Regulation 2561, *Exports and Sales for Export*

A. Factual Basis

Chapter 6 of division 2 of title 18 of the California Code of Regulations (Chapter 6) generally prescribes the application of the Alcoholic Beverage Tax Law (part 14 (commencing with section 32001) of division 2 of the Revenue and Taxation Code) to the sale of beer, wine, and distilled spirits in this state. The State Board of Equalization (Board) hereby proposes to amend certain provisions, as set forth above and described in detail below, of Chapter 6 under California Code of Regulations, title 1, section (Rule) 100 to correct outdated references to state and federal forms and outdated references to federal authority, to make other minor corrections to the text of certain regulations, and to provide accurate authority and reference citations, where necessary, throughout the chapter.

The regulations in Chapter 6 were, for the most part, originally promulgated in 1955, and none of the regulations proposed to be amended here, with the exception of Regulation 2538, have been amended since at least 1989. Since then, the Board has changed how it designates its forms, and,

in 2003, the federal government moved responsibility for regulation and taxation of alcoholic beverages from the Federal Bureau of Alcohol, Tobacco, and Firearms to the Federal Alcohol and Tobacco Tax and Trade Bureau (TTB) and has also changed how it designates its forms.

The Board now proposes to amend these regulations to update the federal and state form and federal agency references. In addition, the Board proposes to take this opportunity to correct grammatical errors and update citations to statutes, including updating and correcting citations to the “authorities” and “references,” as appropriate, for the regulations that were adopted in 1955 and have not been recently amended.

B. Proposed Amendments

1. Rule 100 Changes to Regulation 2504, *Distilled Spirits Produced, Packaged, or Bottled*

A Rule 100 change is proposed to replace the reference to SBE Form 240A with the current designation, form BOE-240-A, in Regulation 2504.

A Rule 100 change is also proposed to replace the general Revenue and Taxation Code sections cited as references for Regulation 2504, sections 32001-32556, with more specific citations to sections 32211 and 32452.

2. Rule 100 Changes to Regulation 2505, *Bottled or Packaged Distilled Spirits Acquired in California*

A Rule 100 change is proposed to replace the reference to SBE Form 241A with the current designation, form BOE-241-A, in Regulation 2505.

A Rule 100 change is also proposed to replace the general Revenue and Taxation Code sections cited as references for Regulation 2505, sections 32001-32556, with more specific citations to sections 32211 and 32452.

3. Rule 100 Changes to Regulation 2506, *Bottled or Packaged Distilled Spirits Imported*

A Rule 100 change is proposed to replace the reference to SBE Form 242A with the current designation, form BOE-242-A, in Regulation 2506.

A Rule 100 change is also proposed to replace the general Revenue and Taxation Code sections cited as references for Regulation 2506, sections 32001-32556, with more specific citations to sections 32211 and 32452.

4. Rule 100 Changes to Regulation 2507, *Distilled Spirits Sold or Exported*

Rule 100 changes are proposed to replace the references to SBE Form 243B and SBE Form 244B with their current designations, form BOE-243-B and form BOE-244-B, respectively, in Regulation 2507.

Rule 100 changes are also proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2507, and citations to sections 32211 and 32452, the references for Regulation 2507.

5. Rule 100 Change to Regulation 2508, *Distilled Spirits Invoices and Bottling or Packaging Records*

A Rule 100 change is proposed to replace the general Revenue and Taxation Code sections cited as references for Regulation 2508, Sections 32001-32556, with more specific citations to sections 32211 and 32452.

6. Rule 100 Changes to Regulation 2509, *Prepayment of Distilled Spirits Tax; Consolidated Returns*

Rule 100 changes are proposed to replace the references to SBE Form 241A and SBE Form 243B with their current designations, form BOE-241-A and form BOE-243-B, respectively, in Regulation 2509.

Rule 100 changes are also proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2509, and citations to sections 32211 and 32452, the references for Regulation 2509.

7. Rule 100 Changes to Regulation 2512, *Beer and Wine Production; Beer Bottling; Wholesalers' Beer and Wine Purchases*

Rule 100 changes are proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2512, and citations to sections 32171, 32173, and 32452, the references for Regulation 2512.

8. Rule 100 Changes to Regulation 2513, *Beer and Wine Imported*

Rule 100 changes are proposed to replace the reference to SBE Form 269A with the current designation, form BOE-269-A, in Regulation 2513.

Rule 100 changes are also proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2513, and citations to sections 32175 and 32452, the references for Regulation 2513.

9. Rule 100 Changes to Regulation 2514, *Beer and Wine Sold*

Rule 100 changes are proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2514, and citations to sections 32171, 32173, and 32452, the references for Regulation 2514.

10. Rule 100 Changes to Regulation 2525, *Contents*

Rule 100 changes are proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2525, and citations to sections 32173, 32211, and 32452, the references for Regulation 2525.

11. Rule 100 Changes to Regulation 2530, *Inventories*

Rule 100 changes are proposed to Regulation 2530 to: revise “Distilled Spirits Taxpayer’s Return” to read “Distilled Spirits Tax Return”; change “tax” to “taxpayer”;¹ replace the references to “regional director (compliance) of the Federal Bureau of Alcohol, Tobacco and Firearms” with references to the “Federal Alcohol and Tobacco Tax and Trade Bureau (TTB)” or “TTB”; and change “reads” to “read.”

Rule 100 changes are also proposed to add citations to Revenue and Taxation Code sections 32201 and 32220 and commas after “32201”, “32211”, and “32220”, to the references for Regulation 2530.

12. Rule 100 Changes to Regulation 2535, *Distilled Spirits*

Rule 100 changes are proposed to Regulation 2535 to: replace the references to SBE Forms 241A, 242A, 243B, and 244B with their current designations, “forms BOE-241-A, BOE-242-A, BOE-243-B, and BOE-244-B”, respectively; and delete “as required by Article 1” due to the lack of clarity in the reference.

A Rule 100 change is also proposed to add a citation to Revenue and Taxation Code section 32220 and a comma after “32220” to the references for Regulation 2535.

13. Rule 100 Changes to Regulation 2536, *Beer Manufacturers*

A Rule 100 change is proposed to Regulation 2536 to replace the reference to “Federal Form 5130.9” with its current designation, “Federal Form TTB F 5130.9.”

A Rule 100 change is also proposed to add a citation to Revenue and Taxation Code section 32220 and a comma after “32220” to the references for Regulation 2536.

14. Rule 100 Change to Regulation 2537, *Wine Growers*

Rule 100 changes are proposed to Regulation 2537 to: delete the comma following “Sacramento”; and replace the reference to Federal Form 5120.17 (702) with its current designation, TTB F 5120.17.

A Rule 100 change is also proposed to add a citation to Revenue and Taxation Code section 32220 and a comma after “32220” to the references for Regulation 2537.

15. Rule 100 Changes to Regulation 2538, *Beer and Wine Importers*

Rule 100 changes are proposed to Regulation 2538 to: delete the comma following “Sacramento”; replace the phrase “Winegrower’s Tax Return”. with the phrase “Winegrower Tax Return.”; replace the phrase “Tax Return of Beer Manufacturer”. with the phrase “Beer Manufacturer Tax Return.”; replace “Tax Return of Beer and Wine Importer” with “Beer and Wine Importer Tax Return”; and replace the reference to “BOE 269-A” with a reference to “form BOE-269-A.”

¹ This term reads correctly as “taxpayer” in the First Quarter, 2009 edition of volume 3 of the Business Taxes Law Guide (BTLG), but it is incorrect in the official version of the regulation published in Barclays Official California Code of Regulations, so a Rule 100 correction of the term is included here.

A Rule 100 change is also proposed to add a citation to Revenue and Taxation Code section 32220 and a comma after “32220” to the references for Regulation 2538.

16. Rule 100 Changes to Regulation 2540, *Common Carrier Receipts and Delivery Reports*

Rule 100 changes are proposed to add citations to Revenue and Taxation Code sections 32171, 32173, 32211, and 32452, the references for Regulation 2540.

17. Rule 100 Change to Regulation 2541, *Common Carrier Tax Reports*

A Rule 100 change is proposed to Regulations 2541 to delete the comma following “Sacramento”.

18. Rule 100 Changes to Regulation 2542, *Public Warehouses*

Rule 100 changes are proposed to add citations to Revenue and Taxation Code sections 32451 and 32452, the authorities for Regulation 2542, and citations to sections 32211 and 32452, the references for Regulation 2542.

19. Rule 100 Changes to Regulation 2543, *Customs Brokers*

Rule 100 changes are proposed to add citations to Revenue and Taxation Code sections 32171, 32173, 32211, and 32452, the references for Regulation 2543.

20. Rule 100 Change to Regulation 2544, *Conversion of Liters to Gallons*

A Rule 100 change is proposed to replace the reference to the “Bureau of Alcohol, Tobacco and Firearms” with a reference to the “Alcohol and Tobacco Tax and Trade Bureau (TTB)” and “Bureau” with “TTB” in Regulation 2544.

A Rule 100 change is also proposed to add a comma and delete “and” after “32152”, add “and” and a citation to Revenue and Taxation Code section 32220, and add a comma after “32220” to the references for Regulation 2544.

21. Rule 100 Change to Regulation 2557, *Powdered Distilled Spirits*

A Rule 100 change is proposed to replace the general Revenue and Taxation Code sections cited as references for Regulation 2557, sections 32001-32556, with more specific citations to sections 32201, 32211, and 32452.

22. Rule 100 Changes to Regulation 2560, *Treated as Sales*

Rule 100 changes are proposed to Regulation 2560 to replace the references to SBE Form 241A and SBE Form 242A with their current designations, form BOE-241-A and form BOE-242-A, respectively.

A Rule 100 change is also proposed to add a citation to Revenue and Taxation Code section 32220 and add “and” before and a comma after “32220” to the references for Regulation 2560.

23. Rule 100 Change to Regulation 2561, *Exports and Sales for Export*

A Rule 100 change is proposed to Regulation 2561 to replace the reference to Form BT-260, which has been discontinued, with the word “documentation.”

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, the changes are necessary to bring the regulations into conformity with current forms designations and federal references, to correct minor grammatical errors in the text, and to provide current citations to the authorities and references for each regulation.

Memorandum

To: George Shaw
Attorney
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Date: January 20, 2010

From: Richard Bennion
Regulations Coordinator
Board Proceedings Division, MIC: 80

Subject: *OAL File No. 2009-1209-01N*
Regulation 2504 et seq., Alcoholic Beverage Tax Law

The Board of Equalization authorizes OAL to do the following:

Please include the follow forms sent to you into the rule making file:

1. BOE 240A
2. BOE 241A
3. BOE 242A
4. BOE 243B
5. BOE 244B
6. BOE 269A
7. TTBF 5120.17
8. TTBF 5130.9

If you have any questions or comments, please notify me at (916) 445-2130 or email at Richard.Bennion@boe.ca.gov.

REB

Memorandum

To : George Shaw
Attorney
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Date: January 25, 2010

From : Richard Bennion
Regulations Coordinator
Board Proceedings Division, MIC: 80

Subject : *OAL File No. 2009-1209-01N*
Regulation 2504 et seq., ALCOHOLIC BEVERAGE REGULATIONS

This memo is to provide you authorization to:

- 1) Insert the analyst by Bradley Heller provided to you into the rule making file.
- 2) Replace the proposed text with the attached proposed text.

I will walk these documents over to OAL this morning.

If you have any questions or comments, please notify me at (916) 445-2130 or email at Richard.Bennion@boe.ca.gov.

REB

DISTILLED SPIRITS RECEIVED FROM OWN BOTTLING DEPARTMENT

Please read the instructions on the reverse before preparing this report.

ACCOUNT NUMBER	FOR MONTH OF	19	Page	of	Pages
NAME			BUSINESS ADDRESS (street, city, state and ZIP code)		

DATE	FOR WHOM BOTTLED NAME OF OWNER OF BULK DISTILLED SPIRITS BEFORE BOTTLING IF OTHER THAN LICENSEE SHOWN ABOVE	ADDRESS	BOTTLED PER FEDERAL REPORTS WINE GALLONS (after bottling)	
			100 PROOF AND UNDER	OVER 100 PROOF
A	B	C	D	E
Totals from previous page				
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
2				
13				
14				
15				
16				
17				
18				
19				
20				
TOTALS				

The original of this report must be mailed to the Excise Taxes Division, State Board of Equalization, 450 N Street, MIC:56, PO Box 942879, Sacramento, CA 94279-0056.

**INSTRUCTIONS FOR COMPLETING
THE DISTILLED SPIRITS RECEIVED FROM OWN BOTTLING DEPARTMENT REPORT**

FILING REQUIREMENTS

Every distilled spirits manufacturer, manufacturer's agent, brandy manufacturer, and rectifier shall keep and preserve a record of all distilled spirits produced, manufactured, cut, blended, rectified, bottled, packaged or otherwise acquired in this state. All distilled spirits received from licensee's own bottling or packaging department shall be recorded on this form and be **retained by** the licensee to be readily available for verification by employees of the Board. Receipts from the bottling or packaging department shall include all distilled spirits bottled or packaged, whether or not the distilled spirits are owned by the licensee.

PREPARATION OF THE REPORT

Prepare report in duplicate, retain a copy for your files, and mail the original to the Excise Taxes Division, State Board of Equalization, 450 N Street, MIC:56, PO Box 942879, Sacramento, CA 94279-0056.

- Enter entire account number.
- Enter reporting month and year.
- Enter page number and number of pages in reporting month.
- Enter owner or company name.
- Enter business address, including zip code.

COLUMN

- A.** Enter date distilled spirits were bottled.
- B.** Enter name of person for whom distilled spirits were bottled.
- C.** Enter address of person for whom distilled spirits were bottled.
- D.** Enter total gallons of distilled spirits 100 proof or under (bottled per federal reports).
- E.** Enter total gallons of distilled spirits 100 proof or over (bottled per federal reports).
- F.** Total all entries made in Columns D and E and enter the totals in the boxes at the bottom of the report.

DISTILLED SPIRITS PURCHASED OR RECEIVED FROM OTHER LICENSEES IN CALIFORNIA

Please read the instructions on the reverse before preparing this report.

ACCOUNT NUMBER	FOR MONTH OF	Year	Page	of	Pages
NAME			BUSINESS ADDRESS (street, city, state and ZIP code)		

PURCHASED FROM	CITY	CODE NO. <i>(Board use only)</i>	DATE RECEIVED	REFERENCE NO.	INVOICE			WINE GALLONS	
					DATE	NO.	AMOUNT	100 PROOF AND UNDER	OVER 100 PROOF
A	B	C	D	E	F	G	H	I	J
Totals from previous page →									
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15									
16									
17									
18									
19									
20									
TOTALS									

The original of this report must be mailed to the Excise Taxes Division, State Board of Equalization, 450 N Street, MIC:56, PO Box 942879, Sacramento, CA 94279-0056.

**INSTRUCTIONS FOR COMPLETING
THE DISTILLED SPIRITS PURCHASED OR
RECEIVED FROM OTHER LICENSEES IN CALIFORNIA REPORT**

FILING REQUIREMENTS

This report must be completed in accordance with the instructions below showing each and every purchase or receipt of distilled spirits from another California taxpayer.

PREPARATION OF THE REPORT

Prepare report in duplicate, retain a copy for your files, and mail the original to the Excise Taxes Division, State Board of Equalization, 450 N Street, MIC:56, PO Box 942879, Sacramento, CA 94279-0056.

- Enter entire account number.
- Enter reporting month and year.
- Enter page number and number of pages in reporting month.
- Enter owner or company name.
- Enter business address, including zip code.

COLUMN

- A.** Enter the name of the California seller from whom the distilled spirits were purchased.
- B.** Enter the name of the California city where the seller's business is located.
- C.** Do not write in this column.
- D.** Enter date the shipment was received.
- E.** Enter purchase order number, release number or other reference number.
- F.** Enter invoice date covering the shipment.
- G.** Enter invoice number covering the shipment.
- H.** Enter total dollar amount of invoice.
- I.** Enter total gallons of distilled spirits 100 proof or under per seller's invoice.
- J.** Enter total gallons of distilled spirits over 100 proof per seller's invoice.
- K.** Total all entries made in Columns I and J and enter the totals in the boxes at the bottom of the report.

TILLED SPIRITS IMPORTED INTO CALIFORNIA

Use read the instructions on the reverse before preparing this report.

QUANTITY NUMBER	FOR MONTH OF	Year	Page	of	Pages
BUSINESS ADDRESS (street, city, state and ZIP code)					

NAME OF SHIPPER CITY AND STATE, OR COUNTRY	NAME OF COMMON CARRIER	CODE NO. <i>(Board use only)</i>	VOYAGE NO., NAME OF VESSEL, R.R. CAR NO. OR TRUCK TRAILER NO.	WAYBILL, BILL OF LADING, OR FREIGHT BILL		PURCHASED FROM	INVOICE NO.	DATE RECEIVED	DESCRIPTION OF ALCOHOLIC BEVERAGES		
				NO.	DATE				NUMBER OF PACKAGES	WINE GALLONS 100 PROOF OR UNDER	WINE GALLONS OVER 100 PROOF
				E	F						
A	B	C	D	E	F	G	H	I	J	K	L
Items from previous page →											
		74-00									
		74-00									
		74-00									
		74-00									
		74-00									
		74-00									
		74-00									
		74-00									
		74-00									
		74-00									
		74-00									
		74-00									
TOTALS											

original of this report must be mailed to the Excise Taxes Division, State Board of Equalization, 450 N Street, MIC:56, PO Box 942879, Sacramento, CA 94279-0056.

INSTRUCTIONS FOR COMPLETING THE DISTILLED SPIRITS IMPORTED INTO CALIFORNIA REPORT

FILING REQUIREMENTS

This report must be complete in every detail as called for on the report and mailed on or before the fifteenth day of each month showing all shipments of distilled spirits received from a point outside of California.

PREPARATION OF THE REPORT

Prepare report in duplicate, retain a copy for your files, and mail the original to the Excise Taxes Division, State Board of Equalization, 450 N Street, MIC:56, PO Box 942879, Sacramento, CA 94279-0056.

- Enter entire account number.
- Enter reporting month and year.
- Enter page number and number of pages in reporting month.
- Enter owner or company name.
- Enter business address, including zip code.

COLUMN

- A.** Enter the name of the shipper and the city and state or country in which the shipment originated.
- B.** Enter name of common carrier originally transporting shipment *into* California.
- C.** Do not write in this column — it is for Board use only.
- D.** If shipment entered California by water, *the voyage number* and the name of the vessel in which the shipment was transported into California must be shown.

If the shipment entered California in a railroad car, the number of the car in which the shipment was contained must be shown. If the shipment entered California by motor carrier, the truck trailer number must be shown.
- E.** Enter the waybill, bill of lading, or freight bill number.
- F.** Enter the waybill, bill of lading, or freight bill date.
- G.** Enter the name of the person or firm from whom the merchandise was purchased.
- H.** Enter invoice number covering the shipment.
- I.** Enter date merchandise was received.
- J.** Enter total number of packages contained in the shipment (i.e., cs., ctn., bbl., etc.)
- K.** Enter total gallons of distilled spirits 100 proof or under contained in the shipment.
- L.** Enter total gallons of distilled spirits over 100 proof.
- M.** Total all entries made in Columns K and L and enter the totals in the boxes at the bottom of the report.

**CLAIM FOR DISTILLED SPIRITS EXCISE TAX EXEMPTION ON
SALE OR DELIVERY TO OTHER LICENSEES IN CALIFORNIA**

Please read the instructions on the reverse before preparing this report.

ACCOUNT NUMBER	FOR MONTH OF	Year	Page	of	Pages
NAME			BUSINESS ADDRESS (street, city, state and ZIP code)		

	SOLD TO A	CITY B	CODE NO. (Board use only) C	DATE SHIPPED D	REFERENCE NO. E	INVOICE			WINE GALLONS	
						DATE F	NO. G	AMOUNT H	100 PROOF AND UNDER I	OVER 100 PROOF J
Totals from previous page →										
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										
16										
17										
18										
19										
20										
TOTALS										

The original of this report must be mailed to the Excise Taxes Division, State Board of Equalization, 450 N Street, MIC:56, PO Box 942879, Sacramento, CA 94279-0056.

**INSTRUCTIONS FOR COMPLETING
THE CLAIM FOR DISTILLED SPIRITS EXCISE TAX EXEMPTION ON
SALE OR DELIVERY TO OTHER LICENSEES IN CALIFORNIA REPORT**

FILING REQUIREMENTS

This report must be completed in accordance with the instructions below showing each and every sale or delivery of distilled spirits to another California taxpayer.

PREPARATION OF THE REPORT

Prepare report in duplicate, retain a copy for your files, and mail the original to the Excise Taxes Division, State Board of Equalization, 450 N Street, MIC:56, PO Box 942879, Sacramento, CA 94279-0056.

- Enter entire account number.
- Enter reporting month and year.
- Enter page number and number of pages in reporting month.
- Enter owner or company name.
- Enter business address, including zip code.

COLUMN

- A.** Enter the name of the California purchaser to whom the distilled spirits were sold.
- B.** Enter the name of the California city where delivered.
- C.** Do not write in this column.
- D.** Enter date the distilled spirits were shipped.
- E.** Enter purchase order number, release number or other referenced number.
- F.** Enter invoice date covering the shipment.
- G.** Enter invoice number covering the shipment.
- H.** Enter total dollar amount of the invoice.
- I.** Enter total gallons of distilled spirits 100 proof or under which were sold.
- J.** Enter total gallons of distilled spirits over 100 proof which were sold.
- K.** Total all entries made in Columns I and J and enter the totals in the boxes at the bottom of the report.

**CLAIM FOR EXCISE TAX EXEMPTION ON DISTILLED SPIRITS
EXPORTED OR SOLD TO COMMON CARRIERS AND ARMED FORCES INSTRUMENTALITIES**

Please read the instructions on the reverse before preparing this report.

ACCOUNT NUMBER	FOR MONTH OF	Year	Page	of	Pages
NAME			BUSINESS ADDRESS (street, city, state and ZIP code)		

SHIPPED TO (CONSIGNEE)			NAME OF CARRIER	BILL OF LADING OR FREIGHT BILL NO.	INVOICE		WINE GALLONS		
NAME	CITY	STATE OR COUNTRY			DATE	NO.	100 PROOF AND UNDER	OVER 100 PROOF	
A	B	C	D	E	F	G	H	I	
Totals from previous page →									
1									
2									
3									
4									
5									
6									
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9									
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11									
12									
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16									
17									
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19									
20									
TOTALS									

The original of this report must be mailed to the Excise Taxes Division, State Board of Equalization, 450 N Street, MIC:56, PO Box 942879, Sacramento, CA 94279-0056.

**INSTRUCTIONS FOR COMPLETING
THE CLAIM FOR EXCISE TAX EXEMPTION ON DISTILLED SPIRITS
EXPORTED OR SOLD TO COMMON CARRIERS REPORT**

FILING REQUIREMENTS

This report must be completed in accordance with the instructions below showing all bottled or packaged distilled spirits exported from California, sold for export and actually exported from California, sold to common carriers engaged in interstate or foreign passenger service, or sold to instrumentalities of the Armed forces.

PREPARATION OF THE REPORT

Prepare report in duplicate, retain a copy for your files, and mail the original to the Excise Taxes Division, State Board of Equalization, 450 N Street, MIC:56, PO Box 942879, Sacramento, CA 94279-0056.

- Enter entire account number.
- Enter reporting month and year.
- Enter page number and number of pages in reporting month.
- Enter owner or company name.
- Enter business address, including zip code.

COLUMN

- A.** Enter the name of the consignee of the shipment.
- B.** Enter the name of the city where the shipment is being delivered.
- C.** Enter the name of the state or country where shipment is being delivered.
- D.** Enter the name of carrier transporting the shipment out of California.
- E.** Enter the bill of lading or freight bill number.
- F.** Enter invoice date covering the shipment.
- G.** Enter invoice number covering the shipment.
- H.** Enter total gallons of distilled spirits 100 proof or under contained in the shipment.
- I.** Enter total gallons of distilled spirits over 100 proof contained in the shipment.
- J.** Total all entries made in Columns H and I and enter the totals in the boxes at the bottom of the report.

BEER AND WINE IMPORTED INTO CALIFORNIA

Please read the instructions on the reverse before preparing this report.

ACCOUNT NUMBER	FOR MONTH OF	Year	Page	of	Pages
TAXPAYER (name of importer)			ADDRESS (street, city, state, and zip code)		

A	B	C	D	WAYBILL, BILL OF LADING, OR FREIGHT BILL		G	H	I	J	STILL WINE		M
				E	F					K	L	
Totals for Current Month to Date Brought Forward												
1.		74-00										
2.		74-00										
3.		74-00										
4.		74-00										
5.		74-00										
6.		74-00										
7.		74-00										
8.		74-00										
9.		74-00										
10.		74-00										
TOTALS												

The original of this report must be mailed to the State Board of Equalization, 450 N Street, MIC:56, P.O. Box 942879, Sacramento, CA 94279-0056.

INSTRUCTIONS

BEER AND WINE IMPORTED INTO CALIFORNIA

Prepare report in duplicate, retain copy, mail original to State Board of Equalization, Excise Taxes Division, 450 N Street, MIC:56, P.O. Box 942879, Sacramento, California 94279-0056.

A report on this form must be completed in full and mailed on or before the fifteenth day of each month showing all shipments of beer and wine received from a point outside of California.

PREPARATION OF REPORT

Column A. Enter the name of shipper and the city and state or country in which the shipment originated.

Column B. Enter name of carrier transporting shipment into California.

Column C. Do not write in this column—it is for BOE use only.

Column D. If shipment entered California by water, the *voyage number* and the name of the vessel in which the shipment was transported into California must be shown.

If the shipment entered California in a railroad car, the car number in which the shipment was contained must be shown. If the shipment entered California by motor carrier, the truck trailer number must be shown.

Columns E and F. Show the bill of lading, waybill, or freight bill number and date.

Column G. Enter the name of the person or firm from whom the merchandise was purchased.

Column H. Enter invoice number covering the shipment.

Column I. Enter date merchandise was received.

Column J. **Regulation 2558 may require you to adjust how you report your beer gallons. Beer gallons reported on this return should only include beer brands in which the manufacturer or importer has successfully rebutted the presumption under Regulation 2559 and 2559.1. Beer brands in which the manufacturer or importer has successfully rebutted the presumption are listed on the BOE website at www.boe.ca.gov/sptaxprog/alcoholicbeverage.htm. Alcohol gallons other than wine that are not listed on the BOE website should be reported on your distilled spirits tax return.**

Column K. Enter total gallons of wine not over 14 percent contained in the shipment.

Column L. Enter total gallons of wine over 14 percent contained in the shipment.

Column M. Enter total gallons of sparkling wine contained in the shipment.



DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB)

BREWER'S REPORT OF OPERATIONS

(You must follow the instructions following this report.)

Brewery EIN is:

Our Brewery Number is:

BR-

TTB can reach us by telephone at:

()

What is your brewery's name?

What is the location of your brewery?

(Number and Street) (City) (County) (State) (ZIP Code)

Reporting Period (Enter Year) _____

Quarterly Report for

Monthly Report for (Enter Month) _____

OR

January - March

July - September

April - June

October - December

(See instruction 4.)

Part 1 - Beer Summary (Barrels)

Operations (a)	Cellar (b)	Racking		Bottling		Totals (g)
		Bulk (c)	Keg (d)	Bulk (e)	Case (f)	

Additions to beer inventory (round your entries to the nearest second decimal)

1. On hand beginning of this report period						
2. We produced by fermentation						
3. We added water and other liquids in cellar operations						
4. Beer received from racking and bottling						
5. Beer received in bond from other breweries and pilot brewing plants of same ownership						
6. Beer received from cellars						
7. Beer returned to this brewery after removal from this brewery						
8. Beer returned to this brewery after removal from another brewery of the same ownership						
9. Racked						
10. Bottled						
11. Physical inventory disclosed an overage						
12.						
13. Total beer						

Removals from beer inventory (round your entries to the nearest second decimal)

14. Removed for consumption or sale						
15. Removed tax-determined for use at tavern on brewery premises						
16. Removed without payment of tax for export						
17. Removed without payment of tax for use as supplies (vessels/aircraft)						
18. Removed without payment of tax for use in research, development, or testing						
19. Removed without payment of tax to other breweries and pilot brewing plants of same ownership						
20. Beer unfit for sale removed for use in manufacturing						
21. Beer consumed on premises (example: tasting room)						
22. Beer transferred for racking						
23. Beer transferred for bottling						
24. Beer returned to cellars						
25. Beer racked						

		Prior Period Adjustments (See Instr. 6)			
35. Additions to beer inventory	(+)	(-)	36. Removals from beer inventory	(+)	(-)

Under penalties of perjury I declare that this report is supported by true, complete, and correct records that are available for inspection at my brewery. I have examined this report and to the best of my knowledge and belief it is true, complete, and correct.

Signature _____ Title _____ Date _____

Part 2 - Report Period Tax Payments (See Instructions - Part 2)

Return Serial Number	Date Filed	Tax Liability	Adjustments	Amount Paid
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$

Part 3 - Summary of Materials Used and Wort Produced

Item	Hops (pounds) (a)	Hops Extract		Wort (barrels) (d)	specify (e)	specify (f)	specify (g)	specify (h)
		(pounds) (b)	Hops Equivalent (c)					
1. Material for beer & cereal beverage								
2. Wort received and used								
3. Wort removed								
4.								

Part 4 - Cereal Beverage Summary (products at less than 0.5% alcohol by volume)

1. Produced	Bbls.	5.	Bbls.
2. Removed	Bbls.	6.	Bbls.
3. Loss and wastage	Bbls.	7.	Bbls.
4. Received from DSP	Bbls.	8. On hand end of period	Bbls.

Part 5 - Remarks

Instructions

This is the Brewer's Report of Operations. You must file this report if:

- You produce more than 5,000 barrels of beer per year or
- You produce not more than 5,000 barrels of beer per year and you bottle or keg your beer for removal from your brewery. Otherwise, you may file the Brewpub Report of Operations, TTB F 5130.26.

1. Where can I get help for this report? You may call us at 1-513-684-2238 or toll-free at 1-877-882-3277.

2. Where do I file this report? Make an original and a copy.

Send original to us at this address:
 Director, National Revenue Center
 Alcohol and Tobacco Tax and Trade Bureau
 550 Main St, Ste 8002
 Cincinnati, Ohio 45202

- You must keep a copy at the brewery available for inspection by TTB officers.

3. When must I file this report? You must file this report by the fifteenth day after the end of the reporting period.

4. What is the reporting period? File this report for the following report periods.

If you....	Then the reporting period is....
Produce 10,000 or more barrels per year	Monthly - enter the month you are reporting
Produce less than 10,000 barrels per year	Quarterly - by calendar quarters - check the box for the quarter you are reporting
Discontinue business	Monthly - for the months in the final quarter you are in business - enter the month you are reporting. Write "final report" in Part 5 - Remarks.

Part 2 - Report Period Tax Payments

- 8. What information do I record in this part of the report?** You must record certain information from each of your beer Excise Tax Returns (TTB F 5000.24) you file for the period of this report:
- Enter the serial number and the date filed for each return
 - Record adjustments (+ or -)
 - Record the tax liability from line 11 of the return
 - Record the amount you paid with the return

Part 3 - Summary of Materials Used and Wort Produced

- 9. How do I report materials I use to produce my beer?** You must report material you use to produce your beer. Report the quantity in pounds by the appropriate general classification. The general classifications are:
- hops
 - hops extracts
 - malt and malt products
 - barley products
 - corn and corn product
 - sugar and syrups
 - wheat and wheat products
 - flavoring products
 - rice and rice products
 - sorghum grain and sorghum grain products
- 10. How do I report hops extracts?** You must report quantities of hops extracts in two ways: first, report the actual quantity in pounds in column (b); then report the hops equivalent in pounds in column (c).
- 11. How do I report wort?** Report wort quantities in barrels: record wort you receive and use on line 2 and wort you remove on line 3.
- 12. How do I report the original materials I use to produce my wort or wort concentrate?** Record the materials you use to produce wort or wort concentrate in pounds and in the appropriate column. Use columns (e) through (h) as needed. Label the column with the general classification in instruction 10.
- 13. How do I report the quantity and bailing of wort or wort concentrate?** You must report the quantity and bailing of wort or wort concentrate. Use line 4, or a separate attachment.

Part 4 - Cereal Beverage Summary

- 14. How do I report cereal beverage (beer with less than 0.5% alcohol by volume)?** For the cereal beverage you produce, record in **whole barrels only**.

Paperwork Reduction Act Notice

This request is in accordance with the Paperwork Reduction Act of 1995. We use this information to determine whether your operations are in compliance with the requirements of law and regulations and to verify your tax liability. The government uses summaries of this information to make economic forecasts and to evaluate industry operations and trends. The information we request is required for you to maintain your qualification to operate and is mandatory by law (26 USC 5415).

We estimate the average burden associated with this collection to be 1 hour per brewer, depending on individual circumstances. Address your comments concerning the accuracy of this burden estimate and suggestions to reduce this burden to: Reports Management Officer, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Washington, DC 20220.

TTB may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a current, valid OMB control number. The OMB control number for this Brewer's Report of Operations is 1513-0007. This control number expires on 11/30/2010.

**DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB)
REPORT OF WINE PREMISES OPERATIONS**

PERIOD MONTH _____ (Month) YEAR _____ 2006
(If applicable)

REGISTRY NUMBER _____
BW-(State)-xxxx

OPERATED BY (Name, Address and Telephone)
Operating Name of Wine Premises
Address
Telephone Number
EIN: 99-999999x

INSTRUCTIONS

- The reporting period for this form shall be monthly, except that proprietors who qualify under the exception stated in 27 CFR 24.300 (g)(2) may file this form on a calendar year basis unless required to file monthly by the Alcohol and Tobacco Tax and Trade Bureau (TTB). A proprietor who files monthly reports but does not expect any reportable operations in a subsequent month or months may indicate in Part X that no monthly reports will be filed until a reportable operation occurs. (§24.300 (g)(1))
- Prepare this form in duplicate and file it by the fifteenth day after the end of the report period (*month or year*). Keep the copy on your bonded wine premises for inspection by TTB officers. Send the original to TTB at this address:

Director, National Revenue Center
Alcohol and Tobacco Tax and Trade Bureau
550 Main St, Ste 8002
Cincinnati, OH 45202-5215

- Explain any unusual operations in Part X.
- The quantities "on hand end" will ordinarily be "book inventory" figures, that is the quantity required to balance each summary. Use the "on hand end" from your report for the previous period as the "on hand beginning" of the current report. On reports for any period when you take a physical inventory, report the difference as losses for bulk wine and shortages for bottled wine, or as gains, as the case may be.
- If the quantity of wine previously reported on TTB F 5120.17 is affected by adjustments made on a tax return, TTB F 5000.24, adjust the current TTB F 5120.17 in Section A (*and Section B, if bottled wine is involved*). Explain the entries in Part X.

PART I - SUMMARY OF WINES IN BOND (GALLONS)

ITEM	ALCOHOL CONTENT BY VOLUME			ARTIFICIALLY CARBONATED WINE (d)	SPARKLING WINE (e)	HARD CIDER (f)
	NOT OVER 14 PERCENT (a)	OVER 14 TO 21 PERCENT (Inclusive) (b)	OVER 21 TO 24 PERCENT (Inclusive) (c)			
SECTION A - BULK WINES						
1. ON HAND BEGINNING OF PERIOD	105,000	150				0
2. PRODUCED BY FERMENTATION ^{1/}	22,600				BF BP	1,200
3. PRODUCED BY SWEETENING						
4. PRODUCED BY ADDITION OF WINE SPIRITS			325			
5. PRODUCED BY BLENDING			230			
6. PRODUCED BY AMELIORATION						
7. RECEIVED IN BOND	600					
8. BOTTLED WINE DUMPED TO BULK	285					
9. INVENTORY GAINS						
10.						
11.						
12. TOTAL	128,485	705				1,200
13. BOTTLED ^{2/}	2,378				BF BP	
14. REMOVED TAXPAID						
15. TRANSFERS IN BOND						
16. REMOVED FOR DISTILLING MATERIAL						
17. REMOVED TO VINEGAR PLANT						
18. USED FOR SWEETENING						
19. USED FOR ADDITION OF WINE SPIRITS	300					
20. USED FOR BLENDING ^{4/}	115	115				
21. USED FOR AMELIORATION						
22. USED FOR EFFERVESCENT WINE						
23. USED FOR TESTING						
24.						
25.						
26.						
27.						
28.						
29. LOSSES (OTHER THAN INVENTORY)						
30. INVENTORY LOSSES						
31. ON HAND END OF PERIOD	125,692	590				1,200
32. TOTAL	128,485	705				1,200
SECTION B - BOTTLED WINES						
1. ON HAND BEGINNING OF PERIOD	50,070	59				
2. BOTTLED ^{2/}	2,378				BF BP	
3. RECEIVED IN BOND						
4. TAXPAID WINE RETURNED TO BOND	59					
5.						
6.						
7. TOTAL	52,507	59				
8. REMOVED TAXPAID	1,189	5				
9. TRANSFERRED IN BOND						
10. DUMPED TO BULK	285					
11. USED FOR TASTING	7					
12. REMOVED FOR EXPORT	119					
13. REMOVED FOR FAMILY USE						
14. USED FOR TESTING						
15.						
16.						

PART II - (RESERVED)

PART III - SUMMARY OF DISTILLED SPIRITS (Proof Gallons)

ITEM	WINE SPIRITS					DISTILLATES CONTAINING ALDEHYDES ⁵	SPIRITS FOR USE IN NON BEVERAGE WINES	
	FOR ADDITION TO WINE ⁵				FOR PREPARATION OF DOSAGES OR ESSENCES ⁵			
	GRAPE (a)	(b)	(c)	(d)		(e)	(f)	(g)
1. ON HAND BEGINNING OF PERIOD	0							
2. RECEIVED	60							
3. INVENTORY GAIN								
4. TOTAL	60							
5. USED	35							
6. TRANS. TO COL. (e)								
7.								
8. LOSSES								
9. ON HAND END OF PERIOD	25							
10. TOTAL	60							

PART IV - SUMMARY OF MATERIALS RECEIVED AND USED

ITEM	GRAPE MATERIAL				KINDS OF MATERIALS OTHER THAN GRAPE ⁵ (Pounds or Gallons)			SUGAR	
	GRAPES		JUICE (Gallons) (c)	CONCENTRATE (Gallons) (d)	(e)	(f)	(g)	DRY (Pounds) (h)	LIQUID (Gallons) (i)
	UNCRUSHED (Pounds) (a)	FIELD CRUSHED (Gallons) (b)							
1. ON HAND BEGINNING OF PERIOD	0				0				
2. RECEIVED	500,000				200				
3. JUICE OR CONCENTRATE PRODUCED									
4. TOTAL	500,000				200				
5. USED IN WINE PRODUCTION	500,000				200				
6. USED IN JUICE OR CONCENTRATE PRODUCTION									
7. USED IN ALLIED PRODUCTS									
8. REMOVED									
9. ON HAND END OF PERIOD	0				0				
10. TOTAL	500,000				200				

PART V - (RESERVED)

PART VI - SUMMARY OF DISTILLING MATERIAL AND VINEGAR STOCK (Gallons)⁵

ITEM	DISTILLING MATERIAL ⁵		VINEGAR STOCK	
	(a)	(b)	(c)	(d)
1. ON HAND BEGINNING OF PERIOD (Storage Tanks)				
2. PRODUCED				
3. RECEIVED FROM OTHER BONDED WINE PREMISES				
4.				
5. TOTAL				
6. REMOVED TO DISTILLED SPIRITS PLANTS				
7. REMOVED TO OTHER BONDED WINE PREMISES				
8. REMOVED TO VINEGAR PLANTS				
9.				
10. ON HAND END OF PERIOD (Storage Tanks)				
11. TOTAL				

PART VII - IN FERMENTERS END OF PERIOD (Gallons)⁵

TOTAL	(a)	(b)	(c)	(d)	(e)	TOTAL
1. IN FERMENTERS (ESTIMATED QUANTITY OF LIQUID)	18,700					

PART VIII - SUMMARY OF NONBEVERAGE WINES (Gallons)

ITEM	NOT OVER 14 PERCENT ALCOHOL (a)	OVER 14 TO 21 PERCENT ALCOHOL (Inclusive) (b)	TOTAL (c)
1. PRODUCED			
2. WITHDRAWN			

PART IX - SPECIAL NATURAL WINES AND 27 CFR 24.218 WINES (Gallons)

ITEMS	VERMOUTH (a)	OTHER SPECIAL NATURAL WINES				TOTAL (cols. a, b, c, d and e) (f)	27 CFR 24.218 WINES (g)
		NOT OVER 14 PERCENT ALCOHOL (b)	OVER 14 TO 21 PERCENT ALCOHOL (c)	ARTIFICIALLY CARBONATED (d)	SPARKLING (e)		
1. PRODUCED							
2. TAXABLE REMOVALS							
3. ON HAND END OF PERIOD							

PART X - REMARKS

Analysis of Forms and Documents Referred to in Proposed Rule 100 Changes to California Code of Regulations, title 18, section 2504 et seq.

I. Background Information Regarding Constitutional and Statutory Framework for Alcoholic Beverage Tax Law

A. California Constitution

Article XX, section 22 of the California Constitution provides that “The Department of Alcoholic Beverage Control shall have the exclusive power, except as herein provided and in accordance with laws enacted by the Legislature, to license the manufacture, importation and sale of alcoholic beverages in this State, and to collect license fees or occupation taxes on account thereof.” It further provides that “The State Board of Equalization shall assess and collect such excise taxes as are or may be imposed by the Legislature on account of the manufacture, importation and sale of alcoholic beverages in this State.”

B. Alcoholic Beverage Tax Law

The current Alcoholic Beverage Tax Law (Rev. & Tax. Code, § 32001 et seq.) was initially enacted by Statutes 1955, chapter 1842. Revenue and Taxation Code section 32152 was enacted as part of the original Alcoholic Beverage Tax Law and since then has provided as follows:

The board shall adopt such rules and regulations as may be necessary to coordinate so far as permitted by the provisions of this part the system of beer and wine taxation imposed by this part with the system of beer and wine taxation imposed by the internal revenue laws of the United States.

Revenue and Taxation Code section 32171 was enacted as part of the original Alcoholic Beverage Tax Law, was slightly amended in 1957, and since then has provided as follows:

It shall be presumed, for the purposes of this part, that all beer removed from the internal revenue bonded premises of a beer manufacturer has been sold in this State by the manufacturer, unless one of the following is proved to the satisfaction of the board, *in reports on forms* prescribed by the board:

(a) That the beer has been sold and delivered in internal revenue bond to another beer manufacturer in this State.

(b) That the beer has been exported without this State or sold for export by the beer manufacturer making the report and actually exported from this State.

(c) That the beer is beer otherwise exempted from taxation under this part.
(Emphasis added.)

Revenue and Taxation Code section 32173 was enacted as part of the original Alcoholic Beverage Tax Law, was slightly amended in 1957, and since then has provided as follows:

It shall be presumed, for the purposes of this part, that all wine removed from a winery or wine cellar bonded under the internal revenue laws of the United States on payment of the internal revenue tax by a wine grower has been sold in this State by the wine grower, unless it is proved to the satisfaction of the board, *in reports on forms prescribed* by the board, that the wine has been exported from this State or sold for export by the wine grower making the report and actually exported from this State or that the wine is otherwise exempt from taxation under this part. (Emphasis added.)

Revenue and Taxation Code section 32175 was enacted as part of the original Alcoholic Beverage Tax Law, was slightly amended in 1957, and since then has provided as follows:

It shall be presumed, for the purposes of this part, that all beer and wine imported into this State by a beer manufacturer or wine grower or importer has been sold in this State at the time it is received by the licensee, unless it is proved to the satisfaction of the board, *on forms prescribed by the board*, that the beer or wine is still in the possession of the beer manufacturer or the wine grower in internal revenue bond within this State, or has been exported from this State by the licensee making the report or has been sold by him for export and actually exported from this State, or is otherwise exempt under this part. (Emphasis added.)

Revenue and Taxation Code section 32211 was enacted as part of the original Alcoholic Beverage Tax Law, has not been amended since its enactment, and provides as follows:

It shall be presumed that all distilled spirits acquired by any taxpayer have been sold in this State by him unless one of the following is proved to the satisfaction of the board, *in reports on forms* prescribed by the board:

(a) That the distilled spirits are still in the possession of the licensee.

(b) That the distilled spirits have been sold or delivered to another licensed distilled spirits manufacturer, rectifier, importer, or wholesaler.

(c) That the distilled spirits have been exported without this State or sold for export by the licensee making the report and actually exported from this State within 90 days from the date of the sale.

(d) That prior to the termination of possession the distilled spirits have been lost through unintentional destruction.

(e) That prior to the termination of possession there has been an unaccounted for loss, but the unaccounted for loss shall not exceed a tolerance to be fixed by the board.

(f) That the distilled spirits are otherwise exempt from taxation under this part. (Emphasis added.)

Revenue and Taxation Code section 32251 was enacted as part of the original Alcoholic Beverage Tax Law, underwent minor clarifying amendments in 2002, and since then has provided as follows:

The tax is a direct obligation of the taxpayer and is due and payable monthly on or before the 15th day of each calendar month.¹ Each taxpayer, on or before the 15th day of each month, shall make out a tax return for the preceding calendar month, in the form as prescribed by the board, which may include, but not be limited to, electronic media, showing the amount of beer or wine or distilled spirits sold in this state, the amount of tax for the period covered by the return, and any other information as the board deems necessary. The taxpayer shall deliver the return, together with a remittance of the amount of tax due, to the office of the board on or before the 15th day of the month. **Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board.** (Emphasis added.)

Revenue and Taxation Code 32452 was enacted as part of the original Alcoholic Beverage Tax Law, has not been amended since its enactment, and provides as follows:

In addition to any other reports required under this part, the board may, **by rule and otherwise**, require additional, other, or supplemental reports from alcoholic beverage licensees, common and private carriers, and other persons and prescribe the form, including verification, of the information to be given on, and the times for filing of, such additional, other, or supplemental reports. The failure or refusal of any person to render the reports required under this section is a misdemeanor. (Emphasis added.)

Revenue and Taxation Code 32453 was also enacted as part of the original Alcoholic Beverage Tax Law, has not been amended since its enactment, and provides as follows:

The board may make such examinations of the books and records of any person selling, manufacturing, warehousing, or transporting alcoholic

¹ Revenue and Taxation Code section 32251.5 has authorized the Board to require quarterly or annual returns since it was added in 1975.

beverages as it may deem necessary in carrying out the provisions of this part.

II. Analysis of Changes to References to Forms in Specific Regulations

A. Distilled Spirits (Regulations 2504, 2505, 2506, 2507, 2509, 2535, and 2560)

The first two sentences in Regulation 2504, which are not being changed, provide that “Every distilled spirits manufacturer, manufacturer’s agent, brandy manufacturer, and rectifier shall keep and preserve a record of all distilled spirits produced, manufactured, cut, blended, rectified, bottled, packaged, or otherwise acquired in this State. A daily record of such acquisitions shall be made in book forms prescribed by the board.” The Board proposes to change the third sentence in Regulation 2504 to refer to form BOE-240-A, which the Board has provided, instead of outdated SBE Form 240A, which the Board has not used for several years. Form BOE-240-A is merely a spreadsheet for distilled spirits manufacturers, manufacturers’ agents, brandy manufacturers, and rectifiers to record all the distilled spirits they received from their own bottling or packaging department each month. Revenue and Taxation Code sections 32211 and 32251 already require these taxpayers to maintain records of such information in the form prescribed by the Board so that the Board can verify their returns and so that the taxpayers can rebut the presumption of taxability. Furthermore, the information required in the form is specifically required by the first two sentences of Regulation 2504. Therefore, the Board believes that updating Regulation 2504 to refer to form BOE-240-A is appropriate for processing under Rule 100 because it does not change the types of records required from distilled spirits taxpayers and is without regulatory effect.

The Board proposes to change Regulation 2505 to refer to form BOE-241-A, which the Board has provided, instead of outdated SBE Form 241A, which the Board has not used for several years. Form BOE-241-A is also a spreadsheet that distilled spirits taxpayers use to record all of the bottled or packaged distilled spirits the taxpayers acquired from other distilled spirits taxpayers in California and all the distilled spirits the taxpayers received from their own branches in California each month. Revenue and Taxation Code sections 32211 and 32251 already require these taxpayers to maintain records of such information in the form prescribed by the Board so that the Board can verify their returns and so that the taxpayers can rebut the presumption of taxability. Furthermore, the express language of Regulation 2505, which is not being changed, already requires distilled spirits taxpayers to keep records of the same information, although in outdated SBE Form 241A. Therefore, the Board believes that updating Regulation 2505 to refer to form BOE-241-A is appropriate for processing under Rule 100 because it does not change the types of records required from distilled spirits taxpayers and is without regulatory effect.

The Board proposes to change Regulation 2506 to refer to form BOE-242-A, which the Board has provided, instead of outdated SBE Form 242A, which the Board has not used for several years. Form BOE-242-A is a spreadsheet that distilled spirits, including

brandy, importers use to record distilled spirits the taxpayers imported into California each month. Revenue and Taxation Code sections 32211 and 32251 already require these taxpayers to maintain records of such information in the form prescribed by the Board so that the Board can verify their returns and so that the taxpayers can rebut the presumption of taxability. Furthermore, the express language of Regulation 2506, which is not being changed, already requires distilled spirits taxpayers to keep records of the same information, although in outdated SBE Form 242A. Therefore, the Board believes that updating Regulation 2506 to refer to form BOE-241-A is appropriate for processing under Rule 100 because it does not change the types of records required from importers of distilled spirits and is without regulatory effect.

The first paragraph in Regulation 2507, which is not being changed, provides that “Every distilled spirits taxpayer shall keep a record of all distilled spirits sold, and in addition thereto, shall make a daily record in book forms prescribed by the board covering all distilled spirits sold or delivered to other taxpayers in California and all distilled spirits exported or sold for export from California. . . .” The express language of Regulation 2507, subdivision (a), which is not being changed, already requires distilled spirits taxpayers to record “All sales or deliveries of distilled spirits to other California distilled spirits taxpayers, all transfers of distilled spirits to licensee's own branches in California, and all returns of distilled spirits to original vendors in California,” although in outdated SBE Form 243B. The express language of Regulation 2507, subdivision (b), which is not being changed, already requires distilled spirits taxpayers to record “All sales of distilled spirits exported or sold for export from California and actually exported and all sales of distilled spirits to common carriers engaged in interstate or foreign passenger service,” although in outdated SBE Form 244B. Furthermore, Revenue and Taxation Code sections 32211 and 32251 already require these taxpayers to maintain records of such information in the form prescribed by the Board so that the Board can verify their returns and so that the taxpayers can rebut the presumption of taxability. The Board proposes to change Regulation 2507, subdivisions (a) and (b), to refer to current forms BOE-243-B and BOE-244-B, respectively, which have been provided. These two forms are both spreadsheets for recording the information specified in subdivisions (a) and (b), which distilled spirits taxpayer are required to record pursuant to Revenue and Taxation Code sections 32211 and 32251. Therefore, the Board believes that changing Regulation 2507 to refer to forms BOE-243-B and BOE-244-B is appropriate for processing under Rule 100 because it does not change the types of records required from distilled spirits taxpayers and is without regulatory effect.

The first sentence in Regulation 2509 allows a distilled spirits wholesaler to apply to the Board for permission to prepay the distilled spirits excise tax on his inventory of distilled spirits on hand as of the first day of any calendar month, and for permission thereafter to pay the excise tax levied on sales of distilled spirits on the basis of subsequent purchases and acquisitions of distilled spirits by him. The second sentence in Regulations 2509 explains that when the Board grants such permission to a wholesaler who operates more than one location for which a distilled spirits wholesalers' license is issued and who elects to file a consolidated tax return covering distilled spirits transactions for all of his branch premises, the wholesaler does not need to record transfers of distilled spirits between his

own branch premises. This is because the transfers would not be taxable and an electing wholesaler would not need to record such information to verify its return or rebut the presumption of taxability in Revenue and Taxation Code section 32211. However, the second sentence in Regulation 2509 directs wholesalers to omit the unnecessary information from outdated SBE Forms 241A and 243B, rather than current forms BOE-241-A and BOE-243-B (discussed above), which a wholesaler would otherwise use to record the information. Therefore, the Board proposes to change the second sentence in Regulation 2509 to refer to current forms BOE-241-A and BOE-243-B, instead of outdated SBE Forms 241A and 243B, respectively. The Board believes that this change is appropriate for processing under Rule 100 because it essentially tells wholesalers where to omit information they are not otherwise required to record and is a change without regulatory effect.

Regulation 2535 currently provides that “Every distilled spirits taxpayer shall immediately following the close of business on the last day of each month, forward the original page, or pages, of SBE Forms 241A, 242A, 243B, and 244B to the Board.” This regulation implements Revenue and Taxation Code section 32453, which authorizes the Board to examine taxpayers’ records as it deems necessary and Revenue and Taxation Code section 32251 by prescribing a method by which distilled spirits taxpayers’ returns may be verified. However, all of the referenced forms are outdated and have not been provided to distilled spirits taxpayers for years. Instead, the Board has provided forms BOE-241-A, BOE-242-A, BOE-243-B, and BOE-244-B, which are all spreadsheets for recording information required by statutes and regulations (as discussed above), to distilled spirits taxpayers and they have been recording the information needed to verify their returns in the new forms and transmitting the new forms to the Board for years. Therefore, the Board proposes to change the references to SBE Forms 241A, 242A, 243B, and 244B to refer to forms BOE-241-A, BOE-242-A, BOE-243-B, and BOE-244-B so that Regulation 2535 refers to the records distilled spirits taxpayers are currently required to maintain and must provide to the Board pursuant to Revenue and Taxation Code section 32251 and 32453 to verify their returns. The Board believes that this change is appropriate for processing under Rule 100 because it does not change the types of records distilled spirits taxpayers are required to maintain and provide to the Board and is a change without regulatory effect.

Regulation 2560 provides that “Each transfer of samples between licensees authorized to possess alcoholic beverages on which the California state alcoholic beverages taxes have not been paid (manufacturers, manufacturers’ agents, distilled spirits wholesalers and rectifiers) shall be on an ex-tax basis, and shall be recorded on an invoice marked: ‘Samples.’” Revenue and Taxation Code sections 32211 and 32251 already require these taxpayers to maintain records of such information in the form prescribed by the Board so that the Board can verify their returns and so that the taxpayers can rebut the presumption of taxability. Regulation 2560 also directs distilled spirits taxpayers receiving ex-tax samples from other California licensees to record the receipt in SBE Form 241A and ex-tax samples received by direct importation from outside California in SBE Form 242A. However, both of these forms are outdated. Therefore, the Board proposes to change the reference in Regulation 2560 to SBE Form 241A to refer to current form BOE-241-A, the

Board provided spreadsheet that distilled spirits taxpayers use to record all of the bottled or packaged distilled spirits the taxpayers acquired from other distilled spirits taxpayers in California and all the distilled spirits the taxpayers received from their own branches in California each month. The Board also proposes to change the reference in Regulation 2560 to SBE Form 242A to refer to current form BOE-242-A, the Board provided spreadsheet that distilled spirits importers use to record distilled spirits the taxpayers imported into California each month. The Board believes that these changes are appropriate for processing under Rule 100 because they do not change the types of records distilled spirits taxpayers must maintain to verify their returns and rebut the presumption of taxability and are without regulatory effect.

B. Beer and Wine (Regulations 2513 and 2538)

Revenue and Taxation Code sections 32175 and 32251 require importers to maintain records of all beer and wine imported into California in the form prescribed by the Board so that the Board can verify their returns and so that the importers can rebut the presumption of taxability. Regulation 2513 specifically requires every importer of beer and wine to keep a record of all beer and wine imported into California and to support the record with purchase invoices filed in such manner as to be readily accessible for verification by Board employees. However, Regulation 2513 directs importers to record the required information in outdated SBE Form 269A, rather than current form BOE-269-A, which contains a spreadsheet for reporting such information and has been provided. Therefore, the Board proposes to change Regulation 2513 to refer to form BOE-269-A rather than SBE Form 269A. The Board believes that this change is appropriate for processing under Rule 100 because it does not change the types of records importers are required to keep and is a change without regulatory effect.

Regulation 2538 requires beer and wine importers to file returns with the Board. Regulation 2538 also requires beer and wine importers to file the records of the beer and wine they imported into California, which they are required to maintain by Revenue and Taxation Code sections 32175 and 32251 and Regulation 2513 so that the Board can verify their returns and so that the importers can rebut the presumption of taxability. However, Regulation 2538 refers to the records as outdated SBE Form 269A, rather than current form BOE-269-A, just like Regulation 2513 (described above). Therefore, the Board also proposes to change Regulation 2538 to refer to form BOE-269-A rather than SBE Form 269A. The Board believes that this change is appropriate for processing under Rule 100 because it does not change the records importers are required to maintain and provide to the Board and is a change without regulatory effect.

C. Exemption from APA Rulemaking Requirements

The Board does not believe that forms BOE-240-A, BOE-241-A, BOE-242-A, BOE-243-B, BOE-244-B, and BOE-269-A require alcoholic beverage licensees to record and provide information that is not otherwise required by the statutes and regulations cited above. This is because the forms are all simple spreadsheets for recording taxable and non-taxable events that would be required to be recorded and provided to the Board to

verify the licensees' returns. However, Revenue and Taxation Code section 32452 authorizes the Board to require reports from alcoholic beverage licensees and prescribe the contents of those reports through regulations or otherwise and provides that the failure or refusal of any person to render the required reports is a misdemeanor. Therefore, to the extent that any of the forms may be construed as requiring licensees to report and provide information that is not required by the above referenced statutes and regulations, such information is already required pursuant to the authority granted to the Board under Revenue and Taxation Code section 32452. Therefore, the Board believes that this is another reason for concluding that the proposed changes to the form references in Regulations 2504, 2505, 2506, 2507, 2509, 2513, 2535, 2538, and 2560 are changes without regulatory effect.

D. References to Federal Forms (Regulations 2536 and 2537)

Federal law requires brewers to file a Brewer's Report of Operations with the federal Alcohol and Tobacco Tax and Trade Bureau (TTB). Federal law requires the operators of "wine operations," including bonded wineries, wholesalers, and bonded wine cellars to file a Report of Wine Premises Operations with TTB. Revenue and Taxation Code section 32152 requires the Board to coordinate California's system for taxing beer and wine with the federal system for taxing beer and wine; and Regulations 2536 and 2537 require beer manufacturers and wine growers to file alcoholic beverage tax returns with the Board and require that the returns agree with information provided to the federal government on the filer's Brewer's Report of Operations or Report of Wine Premises Operations. However, the federal government changed the designation for the Brewer's Report of Operations from Federal Form 5130.9 to Federal Form TTB F 5130.9 and the designation for Report of Wine Premises Operations from Federal Form 5120.17 (702) to Federal Form TTB F 5120.17. Therefore, the Board proposes to change the forms designations in Regulations 2536 and 2537 to refer to the current federal designations for Brewer's Report of Operations and Report of Wine Premises Operations, respectively. The Board believes that the changes are appropriate for processing under Rule 100 because they do not change the fact that beer manufacturers and winegrowers are required to file returns with the Board that are consistent with similar information required to be reported to the Board and therefore do not have a regulatory effect.

III. Analysis of Reference to Documents in Regulation 2561

Regulation 2561 prescribes four ways that a taxpayer can substantiate a tax exemption for exports of alcoholic beverages or sales of alcoholic beverages for export. Regulation 2561, subdivision (a)(4), provides a claim for tax exemption may be supported by a Form BT-260 signed by the purchaser and containing the certificate of the appropriate liquor control or tax authority of the state in which the beverages have been delivered to the effect that receipt of the delivery of the beverages has been reported to such authority by the purchaser. This is because the form provides verifiable proof from reliable third parties that the appropriate taxes will be collected by the state where the alcohol was delivered. However, the Board discontinued publishing Form BT-260 years ago and has consistently accepted any type of independently verifiable document that was signed by

the purchaser and contains the certificate of the appropriate liquor control or tax authority of the state in which the beverages were delivered as substantiating a tax exemption. This is because these types of documents are sufficient to rebut Revenue and Taxation Code section 32211's presumption of taxability and because these documents meet all the same legal requirement as the outdated Form BT-260. Therefore, the Board proposes to change Regulation 2561, subdivision (a)(4), to advise taxpayers that the Board will accept any document that meets the same requirements as outdated Form BT-260 as substantiating a tax exemption. The Board believes that this change is appropriate for processing under Rule 100 because it does not change the types of documents the Board is legally required to accept as substantiating a tax exemption and is a change without regulatory effect. Furthermore, the Board does not believe that changing Regulation 2561's reference to Form BT-260 to refer to "documentation" is vague because the regulation will continue to expressly require that qualifying "documentation" be signed by the purchaser and contain the certificate of the appropriate liquor control or tax authority of the state in which the beverages have been delivered to the effect that receipt of the delivery of the beverages has been reported to such authority by the purchaser. Therefore, the word documentation, as used in this context, can only refer to a narrow class of records containing the required signature and certification, which could actually substantiate a tax exemption.

IV. Conclusion

The Board believes that the above analysis full explains why the proposed changes referenced above are suitable for processing under Rule 100 as changes without regulatory effect. Furthermore, the Board believes that the above discussion explains why the proposed changes to Regulation 2561 are not vague. If you have any questions regarding this memorandum or the proposed changes to Regulation 5204 et seq., please contact Bradley Heller, Tax Counsel III (Specialist), at 916-324-2657 or via email at bradley.heller@boe.ca.gov.

Regulations 2504 et seq.
Section 100

Complete Rule Making File

OAL Approval with Approved Text Regulations 2504, 2505, 2506, 2507, 2508, 2509, 2512, 2513, 2514, 2525, 2530, 2535, 2536, 2537, 2538, 2540, 2541, 2542, 2543, 2544, 2557, 2560, and 2561

Index

1. *Form 400 and Proposed Regulations 2504, 2505, 2506, 2507, 2508, 2509, 2512, 2513, 2514, 2525, 2530, 2535, 2536, 2537, 2538, 2540, 2541, 2542, 2543, 2544, 2557, 2560, and 2561*
2. *Statement of Explanation*
3. *Memo to OAL Dated 01/20/10*
4. *Memo to OAL Dated 01/25/10*
5. *Forms from Regulations BOE 240A, BOE 241A, BOE 242A, BOE 243B, BOE 244B, BOE 269A, TTBF 5120.17, and TTBF 5130.9*
6. *Analysis of Forms and Documents Referred to*

Other Documents Relied upon

- A. *Chief Counsel Memo Dated 10/27/09*
- B. *Approved Minutes, 11/19/09*
- C. *BOE "Section 100 Change" Recommendation*
- D. *Reporters Transcript, 11/19/09*

Memorandum

To: Mr. Ramon J. Hirsig
Executive Director, MIC:73

Date: October 27, 2009

From: Kristine Cazadd, Chief Counsel
Legal Department, MIC:83 *K. Cazadd*
David Gau, Deputy Director *David Gau*
Property and Special Taxes Department, MIC:63

Subject: Alcoholic Beverage Tax Regulations
Chief Counsel’s Rulemaking Calendar
Board Meeting—November 17, 2009

We request your approval to place proposed Rule 100 changes to a number of Alcoholic Beverage Tax regulations on the Chief Counsel’s Rulemaking Calendar for the November 17, 2009, Board meeting in order to request the Board’s authorization to complete the changes. The attached Statement of Explanation includes a detailed description of the proposed changes to each regulation and strikeout and underlined versions of each regulation. These changes are appropriate for processing under Rule 100 without the normal notice and public hearing process because they correct grammatical errors, update outdated references to state and federal forms and a federal agency, and update or add citations to the current authorities and references for these regulations.

If you have any questions regarding this request, please let me know or contact Ms. Carolee Johnstone, at 323-7713.

Recommendation by:

Approved:

Kristine Cazadd

Kristine Cazadd, Chief Counsel

Ramon J. Hirsig

Ramon J. Hirsig, Executive Director

Approved:

BOARD APPROVED
At the 11/19/09 Board Meeting

David Gau

David Gau, Deputy Director
Property and Special Taxes Department
Attachment

Diane Olson

Diane Olson, Chief
Board Proceedings Division

cc (with attachment):

Ms. Diane Olson	(MIC 80)
Mr. Randy Ferris	(MIC 82)
Mr. Steve Smith	(MIC 82)
Mr. Bradley Heller	(MIC 82)
Ms. Monica Silva	(MIC 82)
Ms. Lynn Bartolo	(MIC 56)
Mr. Richard Parrott	(MIC 56)
Mr. Dave McKillip	(MIC 63)

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

Statement of Explanation

Changes to Title 18. Public Revenue

Regulation 2504, *Distilled Spirits Produced, Packaged, or Bottled*
Regulation 2505, *Bottled or Packaged Distilled Spirits Acquired in California*
Regulation 2506, *Bottled or Packaged Distilled Spirits Imported*
Regulation 2507, *Distilled Spirits Sold or Exported*
Regulation 2508, *Distilled Spirits Invoices and Bottling or Packaging Records*
Regulation 2509, *Prepayment of Distilled Spirits Tax; Consolidated Returns*
Regulation 2512, *Beer and Wine Production; Beer Bottling; Wholesalers' Beer and Wine Purchases*
Regulation 2513, *Beer and Wine Imported*
Regulation 2514, *Beer and Wine Sold*
Regulation 2525, *Contents*
Regulation 2530, *Inventories*
Regulation 2535, *Distilled Spirits*
Regulation 2536, *Beer Manufacturers*
Regulation 2537, *Wine Growers*
Regulation 2538, *Beer and Wine Importers*
Regulation 2540, *Common Carrier Receipts and Delivery Reports*
Regulation 2541, *Common Carrier Tax Reports*
Regulation 2542, *Public Warehouses*
Regulation 2543, *Customs Brokers*
Regulation 2544, *Conversion of Liters to Gallons*
Regulation 2557, *Powdered Distilled Spirits*
Regulation 2560, *Treated as Sales*
Regulation 2561, *Exports and Sales for Export*

A. Factual Basis

Chapter 6 of division 2 of title 18 of the California Code of Regulations (Chapter 6) generally prescribes the application of the Alcoholic Beverage Tax Law (part 14 (commencing with section 32001) of division 2 of the Revenue and Taxation Code) to the sale of beer, wine, and distilled spirits in this state. The State Board of Equalization (Board) hereby proposes to amend certain provisions, as set forth above and described in detail below, of Chapter 6 under California Code of Regulations, title 1, section (Rule) 100 to correct outdated references to state and federal forms and outdated references to federal authority, to make other minor corrections to the text of certain regulations, and to provide accurate authority and reference citations, where necessary, throughout the chapter.

The regulations in Chapter 6 were, for the most part, originally promulgated in 1955, and none of the regulations proposed to be amended here, with the exception of Regulations 2538 and 2550,

have been amended since at least 1989. Since then, the Board has changed how it designates its forms, and, in 2003, the federal government moved responsibility for regulation and taxation of alcoholic beverages from the Federal Bureau of Alcohol, Tobacco, and Firearms to the Federal Alcohol and Tobacco Tax and Trade Bureau (TTB) and has also changed how it designates its forms.

The Board now proposes to amend these regulations to update the federal and state form and federal agency references. In addition, the Board proposes to take this opportunity to correct grammatical errors and update citations to statutes, including updating and correcting citations to the “authorities” and “references,” as appropriate, for the regulations that were adopted in 1955 and have not been recently amended.

B. Proposed Amendments

1. Rule 100 Changes to Regulation 2504, *Distilled Spirits Produced, Packaged, or Bottled*

A Rule 100 change is proposed to replace the reference to SBE Form 240A with the current designation, form BOE-240-A, in Regulation 2504.

A Rule 100 change is also proposed to replace the general Revenue and Taxation Code sections cited as references for Regulation 2504, sections 32001-32556, with more specific citations to sections 32211 and 32452.

2. Rule 100 Changes to Regulation 2505, *Bottled or Packaged Distilled Spirits Acquired in California*

A Rule 100 change is proposed to replace the reference to SBE Form 241A with the current designation, form BOE-241-A, in Regulation 2505.

A Rule 100 change is also proposed to replace the general Revenue and Taxation Code sections cited as references for Regulation 2505, sections 32001-32556, with more specific citations to sections 32211 and 32452.

3. Rule 100 Changes to Regulation 2506, *Bottled or Packaged Distilled Spirits Imported*

A Rule 100 change is proposed to replace the reference to SBE Form 242A with the current designation, form BOE-242-A, in Regulation 2506.

A Rule 100 change is also proposed to replace the general Revenue and Taxation Code sections cited as references for Regulation 2506, sections 32001-32556, with more specific citations to sections 32211 and 32452.

4. Rule 100 Changes to Regulation 2507, *Distilled Spirits Sold or Exported*

Rule 100 changes are proposed to replace the references to SBE Form 243B and SBE Form 244B with their current designations, form BOE-243-B and form BOE-244-B, respectively, in Regulation 2507.

Rule 100 changes are also proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2507, and citations to sections 32211 and 32452, the references for Regulation 2507.

5. Rule 100 Change to Regulation 2508, *Distilled Spirits Invoices and Bottling or Packaging Records*

A Rule 100 change is proposed to replace the general Revenue and Taxation Code sections cited as references for Regulation 2508, Sections 32001-32556, with more specific citations to sections 32211 and 32452.

6. Rule 100 Changes to Regulation 2509, *Prepayment of Distilled Spirits Tax; Consolidated Returns*

Rule 100 changes are proposed to replace the references to SBE Form 241A and SBE Form 243B with their current designations, form BOE-241-A and form BOE-243-B, respectively, in Regulation 2509.

Rule 100 changes are also proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2509, and citations to sections 32211 and 32452, the references for Regulation 2509.

7. Rule 100 Changes to Regulation 2512, *Beer and Wine Production; Beer Bottling; Wholesalers' Beer and Wine Purchases*

Rule 100 changes are proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2512, and citations to sections 32171, 32173, and 32452, the references for Regulation 2512.

8. Rule 100 Changes to Regulation 2513, *Beer and Wine Imported*

Rule 100 changes are proposed to replace the reference to SBE Form 269A with the current designation, form BOE-269-A, in Regulation 2513.

Rule 100 changes are also proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2513, and citations to sections 32175 and 32452, the references for Regulation 2513.

9. Rule 100 Changes to Regulation 2514, *Beer and Wine Sold*

Rule 100 changes are proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2514, and citations to sections 32171, 32173, and 32452, the references for Regulation 2514.

10. Rule 100 Changes to Regulation 2525, *Contents*

Rule 100 changes are proposed to add a citation to Revenue and Taxation Code section 32451, the authority for Regulation 2525, and citations to sections 32173, 32211, and 32452, the references for Regulation 2525.

11. Rule 100 Changes to Regulation 2530, *Inventories*

Rule 100 changes are proposed to Regulation 2530 to: revise “Distilled Spirits Taxpayer’s Return” to read “Distilled Spirits Tax Return”; change “tax” to “taxpayer”;¹ replace the references to “regional director (compliance) of the Federal Bureau of Alcohol, Tobacco and Firearms” with references to the “Federal Alcohol and Tobacco Tax and Trade Bureau (TTB)” or “TTB”; and change “reads” to “read.”

Rule 100 changes are also proposed to add citations to Revenue and Taxation Code sections 32201 and 32220 and commas after “32201”, “32211”, and “32220”, to the references for Regulation 2530.

12. Rule 100 Changes to Regulation 2535, *Distilled Spirits*

Rule 100 changes are proposed to Regulation 2535 to: replace the references to SBE Forms 241A, 242A, 243B, and 244B with their current designations, “forms BOE-241-A, BOE-242-A, BOE-243-B, and BOE-244-B”, respectively; and delete “as required by Article 1” due to the lack of clarity in the reference.

A Rule 100 change is also proposed to add a citation to Revenue and Taxation Code section 32220 and a comma after “32220” to the references for Regulation 2535.

13. Rule 100 Changes to Regulation 2536, *Beer Manufacturers*

Rule 100 changes are proposed to Regulation 2536 to: delete the comma following “Sacramento”; and replace the reference to Federal Form 5130.9 with its current designation, TTB F 5130.9.

A Rule 100 change is also proposed to add a citation to Revenue and Taxation Code section 32220 and a comma after “32220” to the references for Regulation 2536.

14. Rule 100 Change to Regulation 2537, *Wine Growers*

Rule 100 changes are proposed to Regulation 2537 to: delete the comma following “Sacramento”; and replace the reference to Federal Form 5120.17 (702) with its current designation, TTB F 5120.17.

A Rule 100 change is also proposed to add a citation to Revenue and Taxation Code section 32220 and a comma after “32220” to the references for Regulation 2537.

15. Rule 100 Changes to Regulation 2538, *Beer and Wine Importers*

Rule 100 changes are proposed to Regulation 2538 to: delete the comma following “Sacramento”; replace the phrase “Winegrower’s Tax Return”. with the phrase “Winegrower Tax Return.”; replace the phrase “Tax Return of Beer Manufacturer”. with the phrase “Beer

¹ This term reads correctly as “taxpayer” in the First Quarter, 2009 edition of volume 3 of the Business Taxes Law Guide (BTLG), but it is incorrect in the official version of the regulation published in Barclays Official California Code of Regulations, so a Rule 100 correction of the term is included here.

Manufacturer Tax Return.”; replace “Tax Return of Beer and Wine Importer” with “Beer and Wine Importer Tax Return”; and replace the reference to “BOE 269-A” with a reference to “form BOE-269-A.”

A Rule 100 change is also proposed to add a citation to Revenue and Taxation Code section 32220 and a comma after “32220” to the references for Regulation 2538.

16. Rule 100 Changes to Regulation 2540, *Common Carrier Receipts and Delivery Reports*

Rule 100 changes are proposed to add citations to Revenue and Taxation Code sections 32171, 32173, 32211, and 32452, the references for Regulation 2540.

17. Rule 100 Change to Regulation 2541, *Common Carrier Tax Reports*

A Rule 100 change is proposed to Regulations 2541 to delete the comma following “Sacramento”.

18. Rule 100 Changes to Regulation 2542, *Public Warehouses*

Rule 100 changes are proposed to add citations to Revenue and Taxation Code sections 32451 and 32452, the authorities for Regulation 2542, and citations to sections 32211 and 32452, the references for Regulation 2542.

19. Rule 100 Changes to Regulation 2543, *Customs Brokers*

Rule 100 changes are proposed to add citations to Revenue and Taxation Code sections 32171, 32173, 32211, and 32452, the references for Regulation 2543.

20. Rule 100 Change to Regulation 2544, *Conversion of Liters to Gallons*

A Rule 100 change is proposed to replace the reference to the “Bureau of Alcohol, Tobacco and Firearms” with a reference to the “Alcohol and Tobacco Tax and Trade Bureau (TTB)” and “Bureau” with “TTB” in Regulation 2544.

A Rule 100 change is also proposed to add a comma and delete “and” after “32152”, add “and” and a citation to Revenue and Taxation Code section 32220, and add a comma after “32220” to the references for Regulation 2544.

21. Rule 100 Change to Regulation 2557, *Powdered Distilled Spirits*

A Rule 100 change is proposed to replace the general Revenue and Taxation Code sections cited as references for Regulation 2557, sections 32001-32556, with more specific citations to sections 32211 and 32452.

22. Rule 100 Changes to Regulation 2560, *Treated as Sales*

Rule 100 changes are proposed to Regulation 2560 to replace the references to SBE Form 241A and SBE Form 242A with their current designations, form BOE-241-A and form BOE-242-A, respectively.

A Rule 100 change is also proposed to add a citation to Revenue and Taxation Code section 32220 and add “and” before and a comma after “32220” to the references for Regulation 2560.

23. Rule 100 Change to Regulation 2561, *Exports and Sales for Export*

A Rule 100 change is proposed to Regulation 2561 to replace the reference to Form BT-260, which has been discontinued, with the word “documentation.”

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, the changes are necessary to bring the regulations into conformity with current forms designations and federal references, to correct minor grammatical errors in the text, and to provide current citations to the authorities and references for each regulation.

PROPOSED AMENDMENTS

1. Amend Regulation 2504 (Distilled Spirits Produced, Packaged, or Bottled) to read as follows:

Regulation 2504. Distilled Spirits Produced, Packaged, or Bottled.

Every distilled spirits manufacturer, manufacturer's agent, brandy manufacturer, and rectifier shall keep and preserve a record of all distilled spirits produced, manufactured, cut, blended, rectified, bottled, packaged, or otherwise acquired in this State. A daily record of such acquisitions shall be made in book forms prescribed by the board. All distilled spirits received from licensee's own bottling or packaging department shall be recorded in ~~SBE Form 240A~~ form BOE-240-A. Receipts from the bottling or packaging department shall include all distilled spirits bottled or packaged, whether or not the distilled spirits are owned by the licensee.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~ 32211 and 32452, Revenue and Taxation Code.

2. Amend Regulation 2505 (Bottled or Packaged Distilled Spirits Acquired in California) to read as follows:

Regulation 2505. Bottled or Packaged Distilled Spirits Acquired in California.

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~ 32211 and 32452, Revenue and Taxation Code.

3. Amend Regulation 2506 (Bottled or Packaged Distilled Spirits Imported) to read as follows:

Regulation 2506. Bottled or Packaged Distilled Spirits Imported.

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~ 32211 and 32452, Revenue and Taxation Code.

4. Amend Regulation 2507 (Distilled Spirits Sold or Exported) to read as follows:

Regulation 2507. Distilled Spirits Sold or Exported.

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

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32211 and 32452, Revenue and Taxation Code.

5. Amend Regulation 2508 (Distilled Spirits Invoices and Bottling or Packaging Records) to read as follows:

Regulation 2508. Distilled Spirits Invoices and Bottling or Packaging Records.

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~ 32211 and 32452, Revenue and Taxation Code.

6. Amend Regulation 2509 (Prepayment of Distilled Spirits Tax; Consolidated Returns) to read as follows:

Regulation 2509. Prepayment of Distilled Spirits Tax; Consolidated Returns.

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32211 and 32452, Revenue and Taxation Code.

7. Amend Regulation 2512 (Beer and Wine Production; Beer Bottling; Wholesalers' Beer and Wine Purchases) to read as follows:

Regulation 2512. Beer and Wine Production; Beer Bottling; Wholesalers' Beer and Wine Purchases.

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

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

Every beer and wine wholesaler shall keep and preserve a record of all beer and wine purchased in this State. This record must show the kind and quantity of beer or wine purchased, the name and address of the person from whom purchased, and the date received. Purchase invoices containing all of the above information, if filed so as to be readily accessible for verification by employees of the board, shall suffice to comply with this regulation.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32171, 32173, and 32452, Revenue and Taxation Code.

8. Amend Regulation 2513 (Beer and Wine Imported) to read as follows:

Regulation 2513. Beer and Wine Imported.

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32175 and 32452, Revenue and Taxation Code.

9. Amend Regulation 2514 (Beer and Wine Sold) to read as follows:

Regulation 2514. Beer and Wine Sold.

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32171, 32173, and 32452, Revenue and Taxation Code.

10. Amend Regulation 2525 (Contents) to read as follows:

Regulation 2525. Contents.

(a) Every sale or delivery of alcoholic beverages, except beer, from one licensee to another licensee must be recorded on a sales invoice, whether or not consideration is involved.

Invoices covering the sale or purchase of alcoholic beverages must be filed in such manner as to be readily accessible for examination by employees of the board and shall not be commingled with invoices covering commodities other than alcoholic beverages.

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

(1) Name and address of the purchaser.

(2) Date of sale and invoice number.

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

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

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

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

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

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32173, 32211, and 32452, Revenue and Taxation Code.

11. Amend Regulation 2530 (Inventories) to read as follows:

Regulation 2530. Inventories.

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

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

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

(b) Beer. Every licensed beer manufacturer shall take a physical inventory monthly of bulk and bottled beer in the brewery bottling house in such manner as provided in Title 27, Code of Federal Regulations, Section 25.294 as it reads on April 1, 1989.

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

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

Note: Authority cited: Sections 32152 and 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, 32201, 32211, 32220, and 32452, Revenue and Taxation Code.

12. Amend Regulation 2535 (Distilled Spirits) to read as follows:

Regulation 2535. Distilled Spirits.

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

Every distilled spirits taxpayer shall, immediately following the close of business on the last day of each month, forward the original page, or pages, of ~~SBE Forms 241A, 242A, 243B, and 244B~~forms BOE-241-A, BOE-242-A, BOE-243-B, and BOE-244-B to the board at Sacramento,

provided that additional entries in these forms ~~as required by Article 1~~ have been made since the last reporting date.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32201, 32211, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

13. Amend Regulation 2536 (Beer Manufacturers) to read as follows:

Regulation 2536. Beer Manufacturers.

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

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

Number of Bottles or Cans Per Case	Fluid Contents (Ounces) of Each Bottle or Can	Barrel Equivalent
4.....	64	0.06452
6.....	64	.09677
12.....	6	.01815
12.....	7	.02117
12.....	8	.02419
12.....	12	.03629
12.....	14	.04234
12.....	30	.09073
12.....	32	.09677
24.....	6	.03629
24.....	7	.04234
24.....	8	.04839
24.....	9	.05444
24.....	10	.06048
24.....	11	.06653
24.....	12	.07258
24.....	13	.07863
24.....	14	.08468
24.....	15	.09073
24.....	16	.09677
36.....	6	.05444
36.....	7	.06351
36.....	8	.07258
48.....	12	.14516
50.....	12	.15120

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

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, 32175, 32176, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

14. Amend Regulation 2537 (Wine Growers) to read as follows:

Regulation 2537. Wine Growers.

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, 32173, 32174, 32175, 32176, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

15. Amend Regulation 2538 (Beer and Wine Importers) to read as follows:

Regulation 2538. Beer and Wine Importers.

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

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

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32171, 32173, 32174, 32175, 32176, 32220, 32251, 32251.5 and 32452, Revenue and Taxation Code.

16. Amend Regulation 2540 (Common Carrier Receipts and Delivery Reports) to read as follows:

Regulation 2540. Common Carrier Receipts and Delivery Reports.

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

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

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

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

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32171, 32173, 32211, and 32452, Revenue and Taxation Code.

17. Amend Regulation 2541 (Common Carrier Tax Reports) to read as follows:

Regulation 2541. Common Carrier Tax Reports.

Every common carrier engaged in interstate or foreign passenger service making sales of distilled spirits in California and every person licensed to sell distilled spirits aboard such a carrier, shall, on or before the first day of the second calendar month following the close of each

calendar month, or such other reporting period as is authorized by the Board, file with the Board at Sacramento, a report of all sales of distilled spirits in California for the preceding reporting period. The report shall be in such form as the Board shall prescribe and shall be accompanied by a remittance of the amount of tax due for the period covered by the report.

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

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

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

18. Amend Regulation 2542 (Public Warehouses) to read as follows:

Regulation 2542. Public Warehouses.

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

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32211 and 32452, Revenue and Taxation Code.

19. Amend Regulation 2543 (Customs Brokers) to read as follows:

Regulation 2543. Customs Brokers.

Every person holding a Federal customhouse broker's license and making customs entries in connection with original importations of alcoholic beverages into California in customs bond for California licensed importers shall, on or before the fifteenth day of each month, report to the board in Sacramento on forms prescribed by the board, every such importation of alcoholic beverages handled by him as a customhouse broker during the preceding calendar month.

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

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32171, 32173, 32211, and 32452, Revenue and Taxation Code.

20. Amend Regulation 2544 (Conversion of Liters to Gallons) to read as follows:

Regulation 2544. Conversion of Liters to Gallons.

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

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

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

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections 32151, 32152, ~~and~~ 32201, and 32220, Revenue and Taxation Code.

21. Amend Regulation 2557 (Powdered Distilled Spirits) to read as follows:

Regulation 2557. Powdered Distilled Spirits.

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

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

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

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

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

(c) Conversion of Weight to Volume. The weight of powdered distilled spirits, and powdered distilled spirits products, shall be converted to volume as follows:

(1) One pound equals .16 wine gallons;

(2) One ounce equals .01 wine gallons;

(3) One gram equals .000353 wine gallons.

Note: Authority cited: Section 32451, Revenue and Taxation Code. Reference: Sections ~~32001-32556~~32201, 32211, and 32452, Revenue and Taxation Code.

22. Amend Regulation 2560 (Treated as Sales) to read as follows:

Regulation 2560. Treated As Sales.

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

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

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

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

Note: Authority cited: Sections 32451 and 32452, Revenue and Taxation Code. Reference: Sections 32003, 32151, 32201, and 32220, Revenue and Taxation Code.

23. Amend Regulation 2561 (Exports and Sales for Export) to read as follows:

Regulation 2561. Exports and Sales for Export.

(a) Proof of Claim for Exemption for Exports and Sales for Export. The claim for exemption from tax for exports of alcoholic beverages or sales of alcoholic beverages for export shall be allowed only when the alcoholic beverages are actually exported to a point outside this state (and, in the case of distilled spirits sold for export, actually exported to a point outside this state within 90 days from the date of the sale) and one or more of the following conditions is met:

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

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

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

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

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

Thursday, November 19, 2009

Whether respondent's ReplCLD value indicator for the 2009 Board-adopted unitary value for AT&T Mobility LLC (Mobility) which is based on a write-down of a portion of Mobility's property, plant and equipment costs denies petitioner equal protection of the laws and demonstrates that respondent's valuation methodology does not fully reflect depreciation.

Whether respondent's ReplCLD value indicator includes exempt intangible property value.

Action: Upon motion of Mr. Horton, seconded by Ms. Steel and unanimously carried, Ms. Yee, Mr. Horton, Mr. Leonard and Ms. Steel voting yes, Mr. Chiang absent, the Board ordered that the petition be submitted for decision.

Golden State Water Company (101), 495665

2009, \$516,100,000.00 Unitary Value

For Petitioner:

Peter Hladek, Representative

Andrew Davis, Representative

Matthew Rakela, Representative

For Property and Special Taxes Department:

Carole Ruwart, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether petitioner has shown that respondent's Historical Cost Less Depreciation (HCLD) value indicator fails to account for all forms of obsolescence in petitioner's unitary property.

Whether petitioner has shown that equal reliance should be placed on the HCLD value indicator and the Capitalized Earning Ability indicator to compute petitioner's 2009 unitary value.

Action: Upon motion of Mr. Horton, seconded by Ms. Steel and unanimously carried, Ms. Yee, Mr. Horton, Mr. Leonard and Ms. Steel voting yes, Mr. Chiang absent, the Board ordered that the petition be submitted for decision.

The Board recessed at 12:10 p.m. and reconvened at 12:25 p.m. with Ms. Yee, Mr. Horton, Mr. Leonard and Ms. Steel present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

CHIEF COUNSEL MATTERS

RULEMAKING

Proposed Revisions to Alcoholic Beverage Tax Regulations, Section 100 Changes

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for the Board's authorization to complete Rule 100 changes to correct grammatical errors and revise outdated references in specified alcoholic beverage tax regulations: 2504, *Distilled Spirits Produced, Packaged, or Bottled*; 2505, *Bottled or Packaged Distilled Spirits Acquired in California*; 2506, *Bottled or Packaged Distilled Spirits Imported*; 2507, *Distilled Spirits Sold or Exported*; 2508, *Distilled Spirits Invoices and Bottling or Packaging Records*; 2509, *Prepayment of Distilled Spirits Tax; Consolidated Returns*; 2512, *Beer and Wine Production; Beer Bottling; Wholesalers' Beer and Wine Purchases*; 2513, *Beer and Wine Imported*; 2514, *Beer and Wine Sold*; 2525, *Contents*; 2530, *Inventories*; 2535, *Distilled Spirits*; 2536, *Beer Manufacturers*; 2537, *Wine Growers*; 2538, *Beer*

Thursday, November 19, 2009

and Wine Importers; 2540, Common Carrier Receipts and Delivery Reports; 2541, Common Carrier Tax Reports; 2542, Public Warehouses; 2543, Customs Brokers; 2544, Conversion of Liters to Gallons; 2557, Powdered Distilled Spirits; 2560, Treated as Sales; and, 2561, Exports and Sales for Export. (Exhibit 11.6.)

Action: Upon motion of Mr. Horton, seconded by Ms. Steel and unanimously carried, Ms. Yee, Mr. Horton, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the section 100 changes to specified alcoholic beverage tax regulations as recommended by staff.

Exhibits to these minutes are incorporated by reference.

OTHER CHIEF COUNSEL MATTERS

Opinion and Recommendation on Federal Ban and Attorney General's De-Listing of Flavored Cigarettes and Roll-Your-Own Tobacco Products

Randy Ferris, Assistant Chief Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's analysis and recommendation on the federal ban and the Attorney General's removal of flavored cigarettes and roll-your-own tobacco products from Tobacco Directory. (Exhibit 11.7.)

Mr. Leonard requested a cost comparison of this proposal above normal operations.

Ms. Yee directed staff to work with the External Affairs Department and other points of contact to further develop the outreach plan; and, schedule this matter for the next meeting.

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Ms. Steel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board made the following orders:

Action: Adopt the following resolutions extending its best wishes on their respective retirements and its appreciation for their service to the State Board of Equalization and the State of California. (Exhibit 11.8.)

Frederick T. Bagood, Business Taxes Specialist I, Internal Security and Audit Division

Patricia A. Clough, Tax Technician III, Return Analysis Unit, Sales and Use Tax Department

Kathleen Cobb, Business Tax Specialist I, Consumer Use Tax Section

Lucille C. Lascano, Tax Technician III, Norwalk Office

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2504

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
- deleting regulatory provision for which all statutory or constitutional authority has been repealed
- deleting regulatory provision held invalid in a judgment that has become final, entered by a California court of competent jurisdiction, a US District Court located in the State of California, the US Court of Appeals for the Ninth Circuit, or the US Supreme Court
- revising structure, syntax, cross-reference, grammar, or punctuation
- changing an "authority" or "reference" citation
- making consistent with changed California statute if (A) provision is inconsistent with and superseded by changed statute; and (B) Board has no discretion to adopt a change which differs in substance from this proposal

Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief [Signature] Date 1/26/10

Deputy Director [Signature] Date 1/27/10

Assistant Chief Counsel [Signature] Date 1/26/10

Chief Counsel [Signature] Date 1/27/10

Chief, Board Proceedings [Signature] Date 1/28/10

INSTRUCTIONS:
After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2505

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
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Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief *Pupin Bartolo* Date 1/26/10

Deputy Director *David J. [unclear]* Date 1/27/10

Assistant Chief Counsel *Paddy [unclear]* Date 1/26/10

Chief Counsel *Kristine [unclear]* Date 1/27/10

Chief, Board Proceedings *Diana [unclear]* Date 1/28/10

INSTRUCTIONS:

After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2506

REASON FOR CHANGE (check those applicable)

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Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVAN Date 1-25-2010

Approvals
Division Chief *John Bartolo* Date 1/26/10
Deputy Director *David Han* Date 1/27/10
Assistant Chief Counsel *Pamela Farris* Date 1/26/10
Chief Counsel *Kristine Cozadd* Date 1/27/10
Chief, Board Proceedings *David G. Olson* Date 1/28/10

INSTRUCTIONS:

After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2507

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
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Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief Pyrron Bartolo Date 1/26/10

Deputy Director David Han Date 1/27/10

Assistant Chief Counsel Paul Farris Date 1/26/10

Chief Counsel Kristine Casadd Date 1/27/10

Chief, Board Proceedings Diane G. Brown Date 1/28/10

INSTRUCTIONS:

After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2508

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
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Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief Ryan Bartels Date 1/26/10

Deputy Director David Han Date 1/27/10

Assistant Chief Counsel Patty Ferris Date 1/26/10

Chief Counsel Kristina Azadd Date 1/27/10

Chief, Board Proceedings David G. Olson Date 1/28/10

INSTRUCTIONS:

After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2509

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
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Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief Ryan Bartels Date 1/20/10

Deputy Director David Han Date 1/27/10

Assistant Chief Counsel Randy Ferris Date 1/26/10

Chief Counsel Kristene Cazadd Date 1/27/10

Chief, Board Proceedings David Han Date 1/28/10

INSTRUCTIONS:

After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2512

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
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Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief [Signature] Date 1/26/10

Deputy Director [Signature] Date 1/27/10

Assistant Chief Counsel [Signature] Date 1/26/10

Chief Counsel [Signature] Date 1/27/10

Chief, Board Proceedings [Signature] Date 1/28/10

INSTRUCTIONS:
After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2513

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
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Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief Supra Bastolo Date 1/26/10

Deputy Director Davis Date 1/27/10

Assistant Chief Counsel R. J. FARRS Date 1/26/10

Chief Counsel Kristine Cigadd Date 1/27/10

Chief, Board Proceedings David G. Olson Date 1/28/10

INSTRUCTIONS:
After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2514

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
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Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief [Signature] Date 1/26/10

Deputy Director [Signature] Date 1/27/10

Assistant Chief Counsel [Signature] Date 1/26/10

Chief Counsel [Signature] Date 1/27/10

Chief, Board Proceedings [Signature] Date 1/28/10

INSTRUCTIONS:
After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2525

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
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Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief [Signature] Date 1/26/10

Deputy Director [Signature] Date 1/27/10

Assistant Chief Counsel [Signature] Date 1/26/10

Chief Counsel [Signature] Date 1/27/10

Chief, Board Proceedings [Signature] Date 1/28/10

INSTRUCTIONS:

After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2530

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
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Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVICOVICI Date 1-25-2010

Approvals
Division Chief [Signature] Date 1/26/10

Deputy Director [Signature] Date 1/27/10

Assistant Chief Counsel [Signature] Date 1/26/10

Chief Counsel [Signature] Date 1/27/10

Chief, Board Proceedings [Signature] Date 1/28/10

INSTRUCTIONS:
After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2535

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
- deleting regulatory provision for which all statutory or constitutional authority has been repealed
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Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief Aymn Bastolo Date 1/26/10

Deputy Director David Han Date 1/27/10

Assistant Chief Counsel Andy Faris Date 1/26/10

Chief Counsel Kristine Lazell Date 1/27/10

Chief, Board Proceedings David G. Olson Date 1/28/10

INSTRUCTIONS:

After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2536

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
- deleting regulatory provision for which all statutory or constitutional authority has been repealed
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Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief Lynn Bagstole Date 1/26/10

Deputy Director David Han Date 1/27/10

Assistant Chief Counsel Polly Farris Date 1/26/10

Chief Counsel Kristine Caszard Date 1/27/10

Chief, Board Proceedings Diana G. Allen Date 1/28/10

INSTRUCTIONS:
After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2537

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
- deleting regulatory provision for which all statutory or constitutional authority has been repealed
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- changing an "authority" or "reference" citation
- making consistent with changed California statute if (A) provision is inconsistent with and superseded by changed statute; and (B) Board has no discretion to adopt a change which differs in substance from this proposal

Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief Alynn Bartolo Date 1/26/10

Deputy Director David Han Date 1/27/10

Assistant Chief Counsel Paddy Fenech Date 1/26/10

Chief Counsel Kristine Azedd Date 2/27/10

Chief, Board Proceedings Dorey Gibson Date 1/28/10

INSTRUCTIONS:
After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2538

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
- deleting regulatory provision for which all statutory or constitutional authority has been repealed
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Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVIC Date 1-25-2010

Approvals
Division Chief Ayren Bartolo Date 1/26/10

Deputy Director David Han Date 1/27/10

Assistant Chief Counsel D. J. Ferris Date 1/26/10

Chief Counsel Kristine Azidd Date 1/27/10

Chief, Board Proceedings Dawn Gibson Date 1/28/10

INSTRUCTIONS:

After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2540

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
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Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief [Signature] Date 1/26/10

Deputy Director [Signature] Date 1/27/10

Assistant Chief Counsel [Signature] Date 1/26/10

Chief Counsel [Signature] Date 1/27/10

Chief, Board Proceedings [Signature] Date 1/28/10

INSTRUCTIONS:
After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2541

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
- deleting regulatory provision for which all statutory or constitutional authority has been repealed
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Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief [Signature] Date 1/26/10

Deputy Director [Signature] Date 1/27/10

Assistant Chief Counsel [Signature] Date 1/26/10

Chief Counsel [Signature] Date 1/27/10

Chief, Board Proceedings [Signature] Date 1/28/10

INSTRUCTIONS:

After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2542

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
- deleting regulatory provision for which all statutory or constitutional authority has been repealed
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Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief Dyan Bertolo Date 1/26/10

Deputy Director David Han Date 1/27/10

Assistant Chief Counsel Patrick Ferris Date 1/26/10

Chief Counsel Kristine Agard Date 1/27/10

Chief, Board Proceedings David Han Date 1/28/10

INSTRUCTIONS:

After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2543

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
- deleting regulatory provision for which all statutory or constitutional authority has been repealed
- deleting regulatory provision held invalid in a judgment that has become final, entered by a California court of competent jurisdiction, a US District Court located in the State of California, the US Court of Appeals for the Ninth Circuit, or the US Supreme Court
- revising structure, syntax, cross-reference, grammar, or punctuation
- changing an "authority" or "reference" citation
- making consistent with changed California statute if (A) provision is inconsistent with and superseded by changed statute; and (B) Board has no discretion to adopt a change which differs in substance from this proposal

Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by Robert Zirkovitch Date 1-25-2010

Approvals
Division Chief Alyn Baptista Date 1/26/10

Deputy Director David Han Date 1/27/10

Assistant Chief Counsel Fredy Ferrer Date 1/26/10

Chief Counsel Kristen Cazadd Date 1/27/10

Chief, Board Proceedings Dawn Gibson Date 1/28/10

INSTRUCTIONS:

After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2544

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
- deleting regulatory provision for which all statutory or constitutional authority has been repealed
- deleting regulatory provision held invalid in a judgment that has become final, entered by a California court of competent jurisdiction, a US District Court located in the State of California, the US Court of Appeals for the Ninth Circuit, or the US Supreme Court
- revising structure, syntax, cross-reference, grammar, or punctuation
- changing an "authority" or "reference" citation
- making consistent with changed California statute if (A) provision is inconsistent with and superseded by changed statute; and (B) Board has no discretion to adopt a change which differs in substance from this proposal

Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by Robert Zirkovon Date 1-25-2010

Approvals
Division Chief Lynn Bartolo Date 1/26/10

Deputy Director David [Signature] Date 1/27/10

Assistant Chief Counsel [Signature] Date 1/26/10

Chief Counsel Kristina [Signature] Date 1/27/10

Chief, Board Proceedings [Signature] Date 1/28/10

INSTRUCTIONS:

After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2557

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
- deleting regulatory provision for which all statutory or constitutional authority has been repealed
- deleting regulatory provision held invalid in a judgment that has become final, entered by a California court of competent jurisdiction, a US District Court located in the State of California, the US Court of Appeals for the Ninth Circuit, or the US Supreme Court
- revising structure, syntax, cross-reference, grammar, or punctuation
- changing an "authority" or "reference" citation
- making consistent with changed California statute if (A) provision is inconsistent with and superseded by changed statute; and (B) Board has no discretion to adopt a change which differs in substance from this proposal

Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by ROBERT ZIVKOVICH Date 1-25-2010

Approvals
Division Chief Sybil Beardsley Date 1/26/10

Deputy Director David Han Date 1/27/10

Assistant Chief Counsel Forly Farris Date 1/26/10

Chief Counsel Kristine Aziz Date 1/27/10

Chief, Board Proceedings David Nelson Date 1/28/10

INSTRUCTIONS:

After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2560

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
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- revising structure, syntax, cross-reference, grammar, or punctuation
- changing an "authority" or "reference" citation
- making consistent with changed California statute if (A) provision is inconsistent with and superseded by changed statute; and (B) Board has no discretion to adopt a change which differs in substance from this proposal

Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by Robert Zivkovich Date 1-25-2010

Approvals
Division Chief Dyan Restolo Date 1/26/10

Deputy Director David Han Date 1/27/10

Assistant Chief Counsel Andy Fuchs Date 1/26/10

Chief Counsel Kristen Cizadd Date 1/27/10

Chief, Board Proceedings Dawn Gibson Date 1/28/10

INSTRUCTIONS:
After approval, forward to next on list. In the event of disapproval, return to preparer.

BOARD OF EQUALIZATION
REGULATORY ACTION IN ACCORDANCE
WITH OAL SECTION 100 (CHANGE WITHOUT REGULATORY EFFECT)

RULE/REG 2561

REASON FOR CHANGE (check those applicable)

- renumbering, reordering, or relocating regulatory provision
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- deleting regulatory provision held invalid in a judgment that has become final, entered by a California court of competent jurisdiction, a US District Court located in the State of California, the US Court of Appeals for the Ninth Circuit, or the US Supreme Court
- revising structure, syntax, cross-reference, grammar, or punctuation
- changing an "authority" or "reference" citation
- making consistent with changed California statute if (A) provision is inconsistent with and superseded by changed statute; and (B) Board has no discretion to adopt a change which differs in substance from this proposal

Therefore, I recommend that these amendments be submitted to OAL as a change without regulatory effect and without public hearing.

Prepared by Robert Zivkovica Date 1/25/2010

Approvals
Division Chief Lynn Bartolo Date 1/26/10

Deputy Director David Han Date 1/27/10

Assistant Chief Counsel Fredy Ferraz Date 1/26/10

Chief Counsel Kristen Bizzadi Date 1/27/10

Chief, Board Proceedings Diane G. Olson Date 1/28/10

INSTRUCTIONS:

After approval, forward to next on list. In the event of disapproval, return to preparer.

BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION

450 N Street, Room 121

Sacramento, California

REPORTER'S TRANSCRIPT

NOVEMBER 19, 2009

ITEM J1

CHIEF COUNSEL MATTERS

RULEMAKING

Reported by: Beverly D. Toms

No. CSR 1662

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P R E S E N T

For the Board
of Equalization:

Betty Yee
Chair

Jerome E. Horton
Vice-Chair

Bill Leonard
Member

Michelle Steel
Member

Marcy Jo Mandel
Appearing for John
Chiang, State Controller
(per Government Code
Section 7.9)

Diane Olson
Chief, Board
Proceedings Division

Board of Equalization
Staff:

Bradley Heller
Legal Department, Tax and Fee
Programs Division

Carolee Johnstone
Legal Department, Tax and Fee
Programs Division

---oOo---

1 Sacramento, California

2 November 19, 2009

3 ----oOO----

4 MS. OLSON: Our next item is J1, Adoption of
5 Proposed Revisions to Alcoholic Beverage Tax
6 Regulations.

7 MS. YEE: Okay. Let me see here.

8 Okay. Good morn -- good afternoon.

9 MR. HELLER: Good afternoon, Madam Chair,
10 Members of the Board. My name is Bradley Heller. I'm
11 here with Carolee Johnstone, and we're attorneys from
12 the Tax and Fee Programs Division in the Legal
13 Department.

14 And we're requesting the Board's authorization
15 to complete Rule 100 changes to specific alcoholic
16 beverage tax regulations to essentially just update
17 cross-references to a Federal agency and -- and some
18 forms, and otherwise make a few grammatical changes.

19 MS. YEE: Okay.

20 MR. HORTON: So moved.

21 MS. STEEL: So moved. And then --

22 MS. YEE: Okay, motion by Mr. Horton. Second
23 by Ms. Steel.

24 Without objection, the changes are approved.

25 Thank you very much.

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REPORTER'S CERTIFICATE.

State of California)
) ss
County of Sacramento)

I, BEVERLY D. TOMS, Hearing Reporter for the California State Board of Equalization certify that on November 19, 2009 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 3 pages constitute a complete and accurate transcription of the shorthand writing.

Dated: December 2, 2009.

BEVERLY D. TOMS
Hearing Reporter