



State Board of Equalization

News Release

Betty T. Yee, Member

1st District – San Francisco

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Betty T. Yee Announces New Wine Regulation

Proposed Regulation Will Clarify Taxation of Wine-Based Products

Betty T. Yee, First District Member of the Board of Equalization (BOE), today announced that the Board approved the Alcoholic Beverage Tax Regulation 2558.1 and authorized its publication, beginning the formal rule making process. The next step is a 45 day comment period which will lead to a public hearing in front of the Board in May.

The proposed regulation, Alcoholic Beverage Tax Regulation 2558.1, will be effective January 1, 2012, upon approval by the Office of Administrative Law. The proposed regulation will provide clear direction to the wine industry regarding the circumstances under which a wine-based product should be classified as a distilled spirit for state tax purposes. This proposed regulation follows the same approach as the Distilled Spirits Regulations that went into effect October 1, 2008, which the Board adopted primarily to address the proper taxation of Flavored Malt Beverages (FMBs). This additional proposed regulation clarifies the definition of wine, specifying that any wine-based product that contains substantial amounts of distilled alcohol from sources other than the agricultural product of which the wine is made will be taxed as a distilled spirit, not as a wine.

Notices will be sent by the BOE to all alcoholic beverage tax program registrants, notifying them of the proposed regulation. More information will be available on the BOE website at www.boe.ca.gov.

“This regulation will clarify the tax rule to apply it equally to both wine-based and beer-based products,” said Yee. “Because most wineries do not use non-wine-based, distilled spirit additives as addressed by the original rule, standard wine products will be unaffected.”

At the November 17, 2010 Board meeting, the Board authorized an internal rulemaking process that allowed staff to begin talking to interested parties about the proposed regulations. On December 17, 2010, there was an interested parties meeting with BOE staff and industry representatives to discuss the initial draft of the regulations. The resulting language of the regulation focuses on the type and amount of distilled alcohol added to the wine, and follows the same approach taken in drafting the Distilled Spirits Regulations to properly classify alcoholic beverages like FMBs.

Wine and Beer products are taxed at \$0.20 per gallon, distilled spirits (100 proof or less) are taxed at \$3.30 per gallon, and distilled spirits (over 100 proof) are taxed at \$6.60 per gallon. The excise tax on beer and wine is generally paid by manufacturers, wine growers, and importers. Sellers of beer and wine must pay the excise tax if the tax was not paid by the manufacturers, winegrowers, or importers.

In general, the excise tax on distilled spirits collected from retailers by distilled spirits wholesalers at the time of sale to the retailer.

Board Member Betty T. Yee was elected to her post in November 2006. She is the Immediate Past Chairwoman representing the First Equalization District. Her district includes many of California's coastal counties, from Del Norte to Santa Barbara, and includes the entire San Francisco Bay Area.

The five-member California State Board of Equalization (BOE) is a publicly elected tax board. The BOE collects more than \$48 billion annually in taxes and fees supporting state and local government services. It hears business tax appeals, acts as the appellate body for franchise and personal income tax appeals, and serves a significant role in the assessment and administration of property taxes. For more information on other taxes and fees in California, visit www.taxes.ca.gov.

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