March 4, 2015

VIA INTERNET

Dear Interested Party:

The Audit Manual (AM) is a guide for the Board of Equalization (BOE) staff in administering tax and fee programs. It is available to the public and can be accessed from the BOE web page at http://www.boe.ca.gov/sutax/staxmanuals.htm.

The Sales and Use Tax Department (SUTD) is proposing to revise AM Chapter 4, General Audit Procedures. The revision adds section 0423.00, Audit of Franchisors or Large Retailers, to the AM to incorporate current audit policies and management guidelines. The revision material is provided on the following pages for the convenience of interested parties who may wish to submit comments or suggestions. Please feel free to publish this information on your website or otherwise distribute it to your association/members.

If you have any comments or suggestions related to the proposed AM revisions, you may contact the BOE at AM.RevisionSuggestions@boe.ca.gov. Your comments or suggestions must be received by BOE no later than May 6, 2015 in order to be considered by staff. Thank you for your consideration.

Sincerely,

Susanne Buehler, Chief
Tax Policy Division
Sales and Use Tax Department
The Data Analysis Section (DAS) coordinates, solicits and maintains a database of
third-party data for use in audit selection, to create leads for audit and compliance
programs, and to provide purchase/sales information to auditors on accounts being
audited. Third-party data is solicited from various resources such as auction houses,
big box retailers, and franchisors.

Third-party data resources may be identified during audit selection and while auditing
a franchisee, franchisor or large retailer. To enhance the third-party database and
streamline requests, DAS will coordinate requests for franchisor or large retailer data
with the district office in which the franchisor/large retailer is located or with the
office auditing a franchisor/large retailer. District staff will request the third-party
data (i.e., either sales reported to the franchisor by their California franchisee, or all
sales made by the large retailer to their resale customers) using the BOE-116 forms as
described below.

The following two forms are available on eBoe to request third-party data from
franchisors or large retailers. District staff should use these forms when requesting
third-party data directly from franchisors or large retailers that are identified by the
Sales and Use Tax Department (SUTD) or the DAS.

• BOE-116-A, Franchisor/Vendor Sales Transaction Data-1st Request, and
• BOE-116-B, Franchisor/Vendor Sales Transaction Data-2nd Request.

PROCEDURE

When staff begins an audit suited for a third-party data request, the BOE-116-A must
be used for the request. This form allows users to fill in or choose relevant information
and may be addressed to either franchisors or large retailers. The BOE-116-A is signed
by the District Principal Auditor (DPA) and instructs the franchisor/large retailer to
send the data directly to DAS. DAS is copied on the BOE-116-A. Third-party data
should be requested for the same period(s) as the franchisor or large retailer is being
audited.

Once the initial request for the third-party data to the franchisor or large retailer is
made using the BOE-116-A, DAS will monitor the request. If necessary, the DPA will
send a follow-up second request using the BOE-116-B. DAS maintains a central list of
all data requested through the use of these forms. If a franchisor/large retailer does
not comply with the request to supply records, the DPA of the district conducting the
audit will pursue a subpoena for records as outlined in AM Chapter 4, Exhibit 3.

Upon receipt of the third-party data from the franchisor or large retailer, DAS will
notify the district office and process, cleanse, data match, and validate the data to
BOE IRIS registration for seller’s permit identification and verification. Any leads (i.e.,
noncompliance leads and under-reported leads) that result from processing this third-party data will be sent to the appropriate district.

In order to avoid sending franchisors or large retailers multiple requests for the same data, staff is instructed to contact DAS for third-party data availability when auditing a franchisee and certain large retail accounts. For franchisor accounts not already available in DAS, staff should use their judgment and discuss with their supervisors if they believe a third-party data request is appropriate. All questions regarding third-party data should be emailed to SUTD-Data Request Mailbox.