

Memorandum

To: Honorable Malia M. Cohen, Chair
Honorable Mike Schaefer, Vice Chair
Honorable Ted Gaines, First District
Honorable Antonio Vazquez, Third District
Honorable Betty T. Yee, State Controller

Date: March 15, 2022

From: Henry D. Nanjo
Chief Counsel

Subject: *March 29-30, 2022, Board Meeting
Chief Counsel Matters - Item G – Rulemaking
Publication of Notice of Proposed Action
Proposed Amendments to Appendices A and B to Regulation 6001, State Board of Equalization's
Conflict of Interest Code*

We recommend and request your adoption of the proposed amendments to the Board of Equalization's (Board's) Conflict of Interest Code (Code) as set forth in California Code of Regulations, title 18, section (Regulation) 6001, *General Provisions, Appendices A and B to Regulation*. The proposed amendments are based upon staff's review of the Board's current organizational chart, the job descriptions for each of the positions shown on the chart, and reflect input from each of the departments and divisions that report to the Executive Director, as well as the recommendations of Fair Political Practices Commission (FPPC) staff. The proposed amendments will:

- Update Appendix A to implement classification and organizational changes that have taken place at the Board since the Code, including Appendices A and B, was last amended on April 3, 2015.
- Update Appendix A to list only those positions at the Board that make or participate in the making of decisions which may foreseeably have a material financial effect on any financial interest. (Gov. Code, §§ 87300, 87302, subd. (a).) Positions that are no longer used at the Board are being deleted and new positions are being added.
- Modify the disclosure categories listed in Appendix B for the purpose of narrowly tailoring the disclosure requirements assigned to each position listed in Appendix A. The revisions ensure that each position's disclosure requirements correspond with the position's job duties, and differentiate between similar positions with different levels of responsibility.

I. Background

Government Code section 87300 requires the State Board of Equalization (Board) to adopt a conflict of interest code. Government Code section 87302, subdivision (a), requires that the Board's conflict of interest code contain the:

Specific enumeration of the positions within the agency, other than those specified in Section 87200, which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest and for each such enumerated position, the specific types of investments, business positions, interests in real property, and sources of income which are reportable.

California Code of Regulations, title 2, section (Regulation) 18730 contains the terms of a standard conflict of interest code, which can be incorporated by reference into any agency's conflict of interest code.

The Board's Code is set forth in California Code of Regulations, title 18, section (Regulation) 6001, *General Provisions*, and Appendices A and B to Regulation 6001. Regulation 6001 incorporates the provisions of Regulation 18730 into the Board's Code by reference. Appendix B contains the Board's numbered disclosure categories, which each describe different types of reportable economic interests. Appendix A designates (or lists) the Board's positions that involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest, and specifies each listed position's reportable economic interests by reference to the numbered disclosure categories in Appendix B.

The Board's Code must only require employees to report those economic interests which may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his or her position with the Board. Thus, the Code must narrowly tailor the disclosure requirements to the specific duties of each designated position and must adequately differentiate between similar positions with different levels of responsibility. It is improper for the Code to require the disclosure of economic interests which may not be affected materially by decisions made or participated in by designated employees. (*Alperin* Opinion, 3 FPPC Ops. 77 (Aug. 18, 1977); Gov. Code, §§ 87302, subd. (a), 87309, subd. (c).)

The Board's Code is not applicable to Board Members. However, Board Members are required to file a Form 700; the reporting requirements for the Board Members are set forth in Government Code sections 87200-87210.

Proposed Amendments

The Board reviewed its entire organizational chart and the descriptions for all of the positions listed therein, and received input from each department, division, office or section to determine whether Appendix A to Regulation 6001 lists all of the current Board positions, including officers and consultants, but not elected officers, such as the Board Members, that make or participate in the making of decisions which may foreseeably have a material financial effect on any financial interest.

The Board also reviewed its organizational chart, the descriptions for its positions, and received input to ensure that the disclosure requirements for each position listed in Appendix A are narrowly tailored to each position’s job duties, and that the disclosure requirements differentiate between similar positions with different levels of responsibility.

The Board also reviewed the disclosure categories described in Appendix B to Regulation 6001 to ensure that the categories sufficiently describe all the reportable economic interests that designated employees are required to disclose in a clear, concise, and efficient manner.

II. Summary

For the reasons stated above, Board staff believes that the proposed amendments to the Code are necessary to incorporate and implement the requirements of the Political Reform Act. Therefore, Board staff recommends that the Board authorize staff to publish the proposed amendments to the Code’s Appendices A and B. The proposed amendments to Appendices A and B in underline form are attached hereto.

Recommended by:

Approved:

/s/ Henry Nanjo

/s/ BFleming

Henry D. Nanjo, Chief Counsel

Brenda Fleming, Executive Director

Approved:

BOARD APPROVED on: _____

/s/ Lisa Renati

Lisa Renati, Chief Deputy Director

Catherine Taylor, Chief
Board Proceedings Division

Attachment(s): Regulation 6001, Proposed Amendments to Appendix A, Proposed Amendments to Appendix B

- cc: Ms. Brenda Fleming (MIC: 73)
- Ms. Lisa Renati (MIC: 73)
- Mr. David Yeung (MIC: 63)
- Ms. Lisa Thompson (MIC: 120)
- Mr. Peter Kim (MIC: 73)
- Mr. Dustin Weatherby(MIC: 66)
- Ms. Catherine Taylor (MIC: 80)

California Code of Regulations, Title 18, Section 6001

6001. General Provisions.

The Political Reform Act (Gov. Code, § 81000 et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (Cal. Code Regs., tit. 2, § (Regulation) 18730) containing the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of Regulation 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices A and B, designating positions and establishing disclosure categories, shall constitute the conflict of interest code of the State Board of Equalization.

Individuals holding designated positions shall file their statements of economic interests with the State Board of Equalization, which will make the statements available for public inspection and reproduction. (Gov. Code, § 81008.) Upon receipt of the statement for the Executive Director, the State Board of Equalization shall make and retain copies and forward the original to the Fair Political Practices Commission. All other statements will be retained by the State Board of Equalization.

Note: Authority cited: Section 87300 Government Code. Reference: Sections 87300-87302 and 87306, Government Code.

18 CCR Appendix A

Appendix A

Disclosure Positions

Designated Positions

Disclosure
Categories

Board Members' Offices

Deputy to Board Member	1-6 8
Administrative Assistant to Board Member	1-8
Assistant to Board Member	1-8
CEA (All Levels)	1-8
<u>Attorney (All Levels)</u>	<u>1-5</u>
District Director	1-8
Community Affairs Deputy	1-8
Staff Services Manager	7,9
Tax Counsel (All Levels)	1-5 7
Tax Consultant Expert (All Levels)	1-7
Tax Services Specialist	1-7
Assistant Tax Services Specialist	1-7
Associate Tax Auditor	1-7
Associate Governmental Program Analyst	<u>1, 3-5</u> 1-2, 4-7
Business Taxes Representative	1-7
Business Taxes Specialist (All Levels)	1-5 7
Information Officer (All Levels)	<u>1, 3-5</u> 1-2, 4-7
Special Consultant	1-7

Executive Office

Executive Director	1-6 8
<u>CEA (All Levels)</u>	<u>1-6</u>
<u>Business Taxes Specialist (All Levels)</u>	<u>1-6</u>
<u>Staff Services Manager (All Levels)</u>	<u>1-6</u>

Executive Services Section

Staff Services Manager (All Levels)	1-8
Business Taxes Specialist (All Levels)	1-2, 4-7
Associate Management Analyst	1-2, 4-7
Associate Governmental Program Analyst	1-2, 4-7

Board Proceedings Division- Administrative Section

Chief	1-8
<u>Staff Services Manager (All Levels)</u>	<u>5, 7, 9-</u>
Business Tax Specialist (All Levels)	7, 9

External Affairs Department

Deputy Director	1-8
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<i>Outreach Services Division</i>	
Staff Service Manager (All Levels)	1-2,4-7,9
Information Officer (All Levels)	1-2,4-7
Tax Services Specialist	1-2,4-7
<i>Customer Service and Publishing Division</i>	
Staff Services Manager (All Levels)	1-2,4-7
Business Taxes Compliance Supervisor (All Levels)	1-2,7
Tax Service Specialist	1-2,7,9-11
Business Taxes Compliance Specialist	1-2,7,9-11
Systems Software Specialist (All Levels)	10
<i>Web Services Division</i>	
Senior Information Systems Analyst (Supervisor)	10
<i>Office of Public Affairs</i>	
Tax Service Specialist	1-2,4-8
Information Officer (All Levels)	1-2,4-7,9
Staff Services Manager	1-2,4-7,9
<i>Legislative and Research Division</i>	
CEA (All Levels)	1-6-8-
Staff Services Manager (All Levels)	1-7,9
Business Taxes Specialist (All Levels)	1-7
Research Manager (All Levels)	1-2,5,9
Research Program Data Specialist (All Levels)	1,3,7,1-2,5,9
<i>Technology Services Department</i>	
Chief Information Officer	1-8
CEA (All Levels)	1-8
Data Processing Manager IV	1-8
Data Processing Manager (I-III)	10
Systems Software Specialist (II or III)	10
Systems Software Specialist III (Supervisor)	10
Senior Information Systems Analyst (Specialist or Supervisor)	10
Staff Information Systems Analyst (Specialist or Supervisor)	10
Senior Programmer Analyst (Supervisor)	10
<i>CROS Project Team</i>	
CEA (All Levels)	1-8
Data Processing Manager (All Levels)	1-2,4-8
Business Taxes Administrator III	1-2,4-8
Business Taxes Specialist (All Levels)	10
Staff Services Manager (All Levels)	10
Business Taxes Representative (All Levels)	10

Associate Governmental Program Analyst	10
Systems Software Specialist (All Levels)	10
Senior Information Systems Analyst (Specialist)	10
Senior Programmer Analyst (Specialist)	10
Staff Information Systems Analyst (Specialist or Supervisor)	10
Evaluators***	10
Subject Matter Experts ***	10

Taxpayers' Rights Advocate Office Equal Employment Opportunity Division

Taxpayers' Rights Advocate	1-68
Tax Counsel (All Levels)	1-7
Business Taxes Administrator (TRA) (All Levels)	1-7,9
Business Taxes Specialist (TRA) (All Levels)	1-7
Senior Specialist Property Appraiser (TRA)	2, 53, 7
Associate Property Appraiser	2, 5
Assistant Property Appraiser (TRA)	3, 72, 5
Staff Services Manager (EEO) (All Levels)	7, 9

Equal Employment Opportunity Division

<u>Staff Services Manager I</u>	<u>1-6</u>
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Internal Audit Division

Chief	1-8
Business Taxes Administrator (all Levels)	1-7, 9
Business Taxes Specialist (All Levels)	1-7
Associate Tax Auditor	1-7

Administration Department

Deputy Director	1-8
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Information Security Office

Data Processing Manager (All Levels)	1-2, 4-8
Senior Information Systems Analyst (Specialist)	10
Business Taxes Specialist (All Levels)	10
Staff Information Systems Analyst	10
Associate Information Systems Analyst	10

Administrative Support Division

Chief	1-7, 9-10
Staff Services Manager (All Levels)	1-7, 9-10
Business Services Officer (Supervisor)	9-10
Printing Trades Supervisor (All Levels)	9-10
Warehouse Manager (All Levels)	9-10
Office Services Supervisor (All Levels)	9-10
Chief Construction Supervisor	9-10

<i>Human Resources Division</i>	
Chief	1-7, 9, 11
Staff Services Manager (All Levels)	9, 11
Associate Governmental Program Analyst	9, 11
Associate Personnel Analyst	9, 11
Personnel Supervisor (All Levels)	9, 11
Training Officer	9, 11
Labor Relations Manager	9, 11
Labor Relations Specialist	9, 11
 <i>Financial Management Division</i>	
Chief	1-8
Staff Services Manager (All Levels)	8
Accounting Administrator (ALL Levels)	8
Senior Administrative Analyst	8
Mailing Machines Supervisor (All Levels)	10
Office Services Manager (All Levels)	9
 <i>Legal Department</i>	
Chief Counsel	1-8
CEA (All Levels)	1-68
Assistant Chief Counsel	1-8
Tax Counsel (All Levels)	1-57
Attorney (All Levels)	1-57
Business Taxes Administrator (All Levels)	9
Librarian	9
Business Taxes Specialist II or III	1, 2, 7
Business Taxes Specialist I	1, 2, 7
Business Taxes Compliance Specialist (Offers in Compromise)	1, 2, 7
Business Taxes Specialist (Offers in Compromise) (All Levels)	1, 2, 7
 <i>Investigations and Special Operations Division</i>	
Chief	1-8
Business Taxes Administrator (All Levels)	1-7, 9
Business Taxes Compliance Supervisor (All Levels)	1-7, 9
Business Taxes Specialist (All Levels)	1-7
Business Taxes Compliance Specialist	1-7
Supervising Tax Auditor	1-7
Associate Tax Auditor	1-7
Senior Information Systems Analyst (specialist)	10
Staff Information Systems Analyst	10
 <i>Data Analysis Section</i>	
Supervising Tax Auditor (All Levels)	1-8
Business Taxes Specialist II or III	1, 7

Business Taxes Specialist I	12
Business Taxes Compliance Specialist	12
Property and Special Taxes Department	
Deputy Director	1-8
Business Taxes Specialist II or III (Technical Advisors)	1-4, 6-7, 9

~~County Assessed Properties Division & State Assessed
Properties Division Property Tax Department~~

CEA (All Levels)	2-7, 9
Deputy Director	1-8
Chief	1-8
Business Taxes Administrator (All Levels)	9, 13
Principal Property Appraiser	7, 11, 9, 13
Principal Property Appraiser (Timber)	4, 9
Supervising Property Appraiser	7, 11, 9, 13
Supervising Property Appraiser (SAPD)	9, 13
Research Data Manager Supervisor (All Levels)	7, 11, 9, 13
Senior Specialist Property Appraiser	11, 13
Senior Specialist Property Auditor Appraiser	11, 13
Senior Specialist Property Auditor Appraiser (Timber)	4
Senior Forest Property Appraiser	4
Senior Petroleum and Mining Appraisal Engineer	11, 13
Associate Forest Property Appraiser	4
Associate Property Appraiser	11, 13
Associate Property Auditor Appraiser	11, 13
Associate Property Auditor Appraiser (Timber)	4
Assistant Property Appraiser	11, 13
Assistant Property Auditor Appraiser	11, 13
Assistant Property Auditor Appraiser (Timber)	4
Junior Property Appraiser	11
Business Taxes Specialist (All Levels)	11, 13
Research Data Analyst (All Levels)	11, 13
Tax Auditor	11, 13
Business Tax Representative (Timber)	4
Associate Government Program Analyst	11, 13
Staff Services Analyst (LEOP)	10, 12

~~Special Taxes Policy & Compliance Division and Special Taxes Audit
and Carrier Division~~

CEA (All Levels)	1-2, 6, 7, 9
Business Taxes Administrator (All Levels)	1-2, 6, 7
Supervising Tax Auditor (All Levels)	1-2, 6, 7
Business Taxes Compliance Supervisor (All Levels)	1-2, 6, 7
Business Taxes Specialist II or III	1-2, 6, 7, 9
Business Taxes Compliance Specialist	12

Business Taxes Specialist I	12
Associate Tax Auditor	12
Tax Auditor	12
Business Taxes Representative	12
 <i>Sales and Use Tax Department</i>	
Deputy Director	1,8
Business Taxes Specialist II or III	1,7,9
Business Taxes Administrator (All Levels)	1,7,9
Business Taxes Compliance Specialist	1,7
 <i>Headquarters Operations Division</i>	
Chief	1,7,9
Business Taxes Specialist II or III	1,7,9
Supervising Tax Auditor II or III	1,7,9
Business Taxes Administrator (All Levels)	1,7,9
Business Taxes Specialist I	12
Business Taxes Compliance Specialist	12
Supervising Tax Auditor I	1,7
Supervising Tax Technician	1,7
Associate Tax Auditor	12
Tax Auditor	12
Business Taxes Representative	12
Senior Information Systems Analyst (Specialist)	10
 <i>Tax Policy Division</i>	
Chief	1,7,9,10
Business Taxes Specialist II or III	1,7,9,10
Supervising Tax Auditor II or III	1,7,9
Business Taxes Administrator (All Levels)	1,7,9,10
Business Taxes Specialist I	1,7
Business Taxes Compliance Specialist	1,7
Supervising Tax Auditor I	1,7
Supervising Tax Technician	1,7
Associate Tax Auditor	12
Tax Auditor	12
Business Taxes Representative	12
Senior Information Systems Analyst (Specialist)	10
 <i>Field Operation Division</i>	
Chief	1,7,9
Business Taxes Administrator (All Levels)	1,7,9
Business Taxes Specialist II or III	1,7
Business Taxes Compliance Supervisor (All Levels)	1,7
Supervising Tax Auditor (All Levels)	1,7
Supervising Tax Technician (All Levels)	1,7

Information Officer (All Levels)	1,7
Business Taxes Compliance Specialist	12
Business Taxes Representative	12
Business Taxes Specialist I	12
Associate Tax Auditor	12
Information Officer (All Levels)	1,7

Retired Annuitants *

Consultants/New Positions **

CROS Evaluators ***

* Retired Annuitants who are appointed in classifications corresponding to civil service employee classification categories listed in this conflict of interest code will disclose under that civil service classification category.

** Consultants/New Positions shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation: The Executive Director may determine in writing that a particular consultant or new position, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant or new position's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code. (Gov. Code, § 81008.)

~~*** CROS Evaluators and CROS Subject Matter Experts shall disclose based on the designations made (1) for Evaluators or Subject Matter Experts under the CROS Project Team and (2) the position, if designated, that they hold with any other department/division/office/section at the State Board of Equalization. This database is current through 3/6/20 Register 2020, No. 10 18 CCR Appendix A, 18 CA ADC Appendix A~~

18 CCR Appendix B

Appendix B

Disclosure Categories

~~Category 1~~

~~Designated positions in this category must report investments, business positions in business entities, and sources of income, including receipt of loans, gifts and travel payments, from sources of the type licensed or regulated by or registered with the State Board of Equalization (Board) under the Bradley-Burns Uniform Local Sales and Use Tax Law, the Sales and Use Tax Law, and the Transactions and Use Tax Law.~~

~~Category 12~~

~~Designated positions in this category must report investments, business positions in business entities, and sources of income, including receipt of loans, gifts and travel payments, from sources of the type licensed or regulated by or registered with the Board, including those licensed, taxed or regulated by or registered to file under the Board under the Aircraft Jet Fuel Tax, Alcoholic Beverage Tax Law, California Cigarette and Tobacco Products Licensing Act of 2003, California Tire Fee Law, Childhood Lead Poisoning Prevention Fee Law, Cigarette and Tobacco Products Tax Law, Diesel Fuel Tax Law, Electronic Waste Recycling Fee Law, Emergency Telephone Users Surcharge Law, Energy Resources Surcharge Law, Fire Prevention Fee Law, Hazardous Waste Activity Fee Law, Hazardous Waste Disposal Fee Law, Hazardous Waste Environmental Fee Law, Hazardous Waste Facility Fee Law, Hazardous Waste Generator Fee Law, Integrated Waste Management Fee Law, International Fuel Tax Agreement, Marine Invasive Species Fee Collection Law, Motor Vehicle Fuel Tax Law, Natural Gas Surcharge Law, Occupational Lead Poisoning Prevention Fee Law, Oil Spill Prevention and Administration Fee Law, Oil Spill Response Fee Law, Underground Storage Tank Maintenance Fee Law, Use Fuel Tax Law, or Water Rights Fee Law.~~

~~Category 32~~

~~Designated positions in this category must report (1) investments, business positions in business entities, and sources of income, including receipt of loans, gifts and travel payments, from sources that own, or owned, property of the type assessed or valued or exempted by the Board, and (2) interests in real property located within the State of California.~~

~~Category 4~~

~~Designated positions in this category must report investments, business positions in business entities, and sources of income, including receipt of loans, gifts and travel payments, from sources of the type registered with or regulated by the Board under the Timber Yield Tax Law and interests in real property classified as timberland under the Timber Yield Tax Law.~~

~~Category 53~~

~~Designated positions in this category must report investments, business positions in business entities, and sources of income, including receipt of loans, gifts and travel payments, from sources who have filed an appeal within the preceding 12 months or have an appeal pending under the Personal Income Tax Law, Bank and Corporation Tax Law, or Senior Citizens —~~

~~Property Tax Assistance Law~~ or have a pending claim under the Taxpayers' Bill of Rights for ~~one of these~~ this a BOE tax program.

Category ~~64~~

Designated positions in this category must report investments, business positions in business entities, and sources of income, including receipt of loans, gifts and travel payments, from sources authorized by the Insurance Commissioner to transact business in this state.

Category ~~75~~

Designated positions in this category must report investments, business positions in business entities, and sources of income, including receipt of loans, gifts and travel payments, from sources that were the subject of a complaint to, investigation by, or enforcement action of the Board, or administrative action before the Board that was acted upon or participated in by the filer during the period covered by the statement of economic interest.

Category ~~86~~

Designated positions in this category must report investments, business positions in business entities, and sources of income, including receipt of loans, gifts and travel payments, from sources that provide goods, equipment, vehicles, services, or leased space of the type utilized by the Board.

Category ~~97~~

Designated positions in this category must report investments, business positions in business entities, and sources of income, including receipt of loans, gifts and travel payments, from sources that provide goods, equipment, vehicles, services, or leased space of the type utilized by the designated position's department, division, section, or office.

Category ~~108~~

Designated positions in this category must report investments, business positions in business entities, and sources of income, including receipt of loans, gifts and travel payments, from sources that provide telecommunications equipment, computers, computer programming, or any other services or training or equipment related to such things as computers, software, automation, data processing, communication and telecommunication, information technology, and duplication services of the type utilized by the Board.

Category ~~119~~

Designated positions in this category must report investments, business positions in business entities, and sources of income, including receipt of loans, gifts and travel payments, from sources that provide services, materials, equipment, conference facilities, or consultation of the type utilized by the Board for personnel services or the training of employees.

Category ~~120~~

Designated positions in this category shall indicate whether, during the reporting period, they had a financial interest in any of their assignments. If they had no such interest, they shall file Fair Political Practices Commission Form 700-A. Otherwise, they shall disclose their pertinent

financial interests in any of their assignments on the schedules for Fair Political Practices Commission Form 700.

Category ~~13~~1

Designated positions in this category must report (1) investments, business positions in business entities, and sources of income, including receipt of loans, gifts and travel payments, from sources that own, or owned, property of the type assessed or valued or exempted by the Board, and (2) interests in real property located within 500 feet of the real property the designated position was assigned to assess or value or exempt.

This database is current through 3/6/20 Register 2020, No. 10
18 CCR Appendix B, 18 CA ADC Appendix B