



State Board of Equalization

News Release

Vice Chair Michelle Steel

3rd District – Rolling Hills Estates

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For Immediate Release
July 26, 2011

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Board of Equalization Approves Plan for New Use Tax Nexus Law

ABx1 28 May Create Nexus for Many Out-Of-State Online Retailers

Michelle Steel, Vice Chair of the California State Board of Equalization (BOE), announced that the Board, in a three to two vote, agreed today to commence a process to discuss with interested parties the implementation of the provisions of ABx1 28 (Stats. 2011, Ch. 7), the measure that imposes use tax collection obligations on out-of-state retailers who meet certain criteria. The Board also directed staff to obtain an opinion from the Attorney General related to how the referendum process may affect the effectiveness of ABx1 28.

“I oppose the drive to increase tax collections through a potentially illegal scheme that requires out-of-state retailers to collect California’s sales tax,” said Steel, who voted against starting implementation. “The implementation process should be put on hold until we have a clear picture of where the referendum to overturn this law is headed.”

The changes made by ABx1 28 expand the use tax registration requirements so that they apply to some out-of-state retailers that were previously not required to collect use tax on sales to California customers. Transactions subject to use tax are generally conducted either through mail order, telephone orders or via the Internet.

ABx1 28 provides that large out-of-state retailers that pay in-state affiliate commissions for sales completed after clicking through a link on the affiliate’s website must collect California use tax.

This measure also makes it clear that out-of-state retailers have to start collecting tax if they receive the benefit of services in California through certain related companies that enable the retailers to establish and maintain a market for selling tangible personal property in California. The Board will be identifying further examples through its public process.

ABx1 28 was signed into law by Governor Edmund G. Brown Jr. on June 28, 2011. The Board will now initiate a public process to consider amending Sales and Use Tax Regulation 1684, *Collection of California Use Tax by Retailers*. The first interested parties meeting will be likely be held some time in October, following the development of an initial discussion paper.

The public meeting process offers interested parties the opportunity to provide input regarding formulation or amendment of rules and regulations administered by the Board. Interested parties may subscribe to receive notices and agendas for proposed rules and regulations announcements by signing up for email notifications at www.boe.ca.gov/meetings/boardcomm.htm.

California and non-California retailers with questions regarding their registration requirements or California nexus are encouraged to contact the Board of Equalization's Out-of-State Field Office in Sacramento at 916-227-6600.

Elected to the Board of Equalization in 2006 and re-elected in 2010, Michelle Steel serves as *Southern California's elected taxpayer advocate*. In December 2007, Steel discovered the Board of Equalization had delayed the return of millions of dollars in security deposits owed to California businesses. Procedures were changed due to Steel's decisive leadership. Following her investigation, the tax agency refunded tax security deposits to over 5,500 small businesses. To date, over \$100 million in security deposits have been returned to taxpayers.

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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