

## California Adopts Regulatory Changes Regarding Portable Toilets

Regulation 1660, *Leases of Tangible Personal Property – In General*, was recently revised to add a presumption that maintenance and cleaning charges related to the lease of a portable toilet are mandatory, and thus subject to tax, absent evidence to the contrary. Conversely, when it is established that the maintenance and cleaning charges are optional, they are exempt from tax.

Maintenance or cleaning services are considered mandatory when the customer, as a condition of the lease or rental agreement, is required to purchase the maintenance or cleaning service. However, maintenance or cleaning services are considered optional when the customer is not required to purchase the maintenance or cleaning service.

The terms of the lease or rental agreement determine whether the maintenance or service charges are mandatory or optional. When there is no written lease or rental agreement (or the language in the agreement is inconclusive), an invoice stating that the maintenance or cleaning charges are optional, along with separately stating the maintenance or cleaning charges, will be sufficient to support the exemption from tax. Other documentary evidence may be accepted by the Board to establish that the maintenance or cleaning is performed at the option of the lessee.

The amended language also clarifies that when the maintenance and cleaning charges are mandatory, and thus subject to tax, the supplies purchased may be purchased without tax for resale. However, when the maintenance and cleaning charges are exempt from tax, tax will apply to the purchase of supplies that you use in performing these services.

For more information see Regulation 1660, *Leases of Tangible Personal Property – In General* or call our Information Center at 800-400-7115.

This information is provided as a supplement to the Board of Equalization's  
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