



STATE BOARD OF EQUALIZATION

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State Controller, Sacramento

JAMES E. SPEED
Executive Director

April 19, 2001

Re: Proposed Regulation 1642

Dear --- --- ---:

During the Business Taxes Committee meeting today, the Board authorized publication of proposed Regulation 1642. You asked for confirmation that one change in the proposed regulation will not have a substantive effect.

Subdivision (f)(1) of the proposed regulation explains the allowable methods of computing loss. A new last sentence has been added permitting the use of an alternative method. The language submitted to the Board in the issue paper stated: "An alternative method of computing a bad debt loss may be used subject to approval by the Board which approval shall not be unreasonably withheld." As requested by staff, the Board authorized publication with a modification to this sentence so that the current language is now: "An alternative method of computing a bad debt loss may be used subject to approval by the Board."

I can confirm that the original language and the current language have the *identical* meaning. That is, the omitted language was superfluous, which is the reason that staff requested the language to be omitted. Assuming the Board adopts the regulation with the current language, a person claiming a bad debt deduction or refund will be permitted by subdivision (f)(1) to use an alternative method of computing bad debt loss. A person who uses an alternative method will, of course, be subject to the requirement of justifying the alternative method. The Board will approve the use of an alternative method unless there is a basis for refusing approval.

Under the current language (as with the original language), the Board will not act arbitrarily to deny an alternative method of computing bad debt loss. If the Board concludes that a proposed alternative method does not fairly compute the bad debt loss, then the Board would refuse approval, and would inform the proponent (i.e., the retailer or lender as applicable) of the basis for the Board's disapproval so that the proponent should understand the Board's objection.

If the Board representative is unable to enunciate a reason for the denial, then that would mean that there is no basis for a denial and the alternative method would be approved.

I hope this explanation satisfies your concerns.

Sincerely,

David H. Levine
Tax Counsel IV

DHL/cmm

cc: Mr. Ramon J. Hirsig (MIC:43)
Ms. Freda Orendt-Evans (MIC:47)
Mr. William D. Dunn (MIC:49)
Ms. Charlotte Paliani (MIC:92)
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