

TITLE 18. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

PROPOSED ADOPTION OF AMENDMENTS TO CALIFORNIA CODE OF REGULATIONS, TITLE 18, SECTION 3500, APPLICATION OF THE FEE COLLECTION PROCEDURES LAW

NOTICE IS HEREBY GIVEN that the California Department of Tax and Fee Administration (Department), pursuant to the authority in Revenue and Taxation Code (RTC) section 55301, proposes to adopt amendments to California Code of Regulations (CCR), title 18, section (Regulation) 3500, Application of the Fee Collection Procedures Law. The proposed amendments to Regulation 3500 clarify that the California Electronic Cigarette Excise Tax, covered battery-embedded waste recycling fee, environmental mitigation surcharge, firearm, ammunition, and firearm precursor part excise tax, and lithium extraction excise tax are collected by the Department pursuant to the Fee Collection Procedures Law (FCPL) (RTC section 55001 et seq.).

AUTHORITY

RTC sections 55301, Government Code (GC) sections 15570.22 and 15570.24

REFERENCE

Health and Safety Code section 25215.45; Public Resources Code (PRC) sections 4629.5, 42064, 42464.2 and 42882; Public Utilities Code section 893; RTC sections 31002, 34013, 36031, 42103, 44003 and 47060; and Water Code section 1537.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Background and Current Law

Regulation 3500 clarifies what taxes and fees are collected pursuant to the FCPL. Regulation 3500 was adopted January 27, 2010, and was last updated on June 8, 2022.

The following taxes and fees are collected pursuant to the FCPL, but not currently listed in Regulation 3500:

1. The California Electronic Cigarette Excise Tax imposed by and collected pursuant to the FCPL in accordance with RTC section 31002.
2. The covered battery-embedded waste recycling fee imposed by PRC section 42464 and collected pursuant to the FCPL in accordance with PRC section 42464.2.
3. The environmental mitigation surcharge imposed by and collected pursuant to the FCPL in accordance with RTC section 42064.
4. The firearm, ammunition, and firearm precursor part excise tax imposed by RTC section 36011 and collected pursuant to the FCPL in accordance with RTC section 36031.
5. The lithium extraction excise tax imposed by RTC section 47010 and collected pursuant to the FCPL in accordance with RTC section 47060.

Proposed Amendments to Regulation 3500

The Department determined that there is an issue (or problem within the meaning of GC section 11346.2, subdivision (b)) because the California Electronic Cigarette Excise Tax, covered battery-embedded waste recycling fee, environmental mitigation surcharge, firearm, ammunition, and firearm precursor part excise tax, and lithium extraction excise tax are collected by the Department pursuant to the FCPL, but not listed in Regulation 3500 and it may be causing confusion about whether those five taxes and fees are in fact collected pursuant to the FCPL. Therefore, the Department determined that it is reasonably necessary to propose to amend the text of Regulation 3500 to add “California Electronic Cigarette Excise Tax” after “California Battery Fee,” add “Covered Battery-Embedded Waste Recycling Fee” after “Cannabis Excise Tax,” add “Environmental Mitigation Surcharge,” “Firearm, Ammunition, and Firearm Precursor Part Excise Tax,” and “Lithium Extraction Excise Tax” after “Covered Electronic Waste Recycling Fee” to have the effect and accomplish the objective of addressing the issue (or problem) by clarifying that all five of the taxes and fees are collected pursuant to the FCPL. The Department also determined that it is reasonably necessary to propose to amend Regulation 3500’s reference note to refer to PRC section 42064 and RTC sections 31002, 36031, and 47060 to have the effect and accomplish the objective of addressing the issue (or problem) because those statutes are being implemented, interpreted, and made specific by the proposed amendments to the regulation’s text, but not currently included in the reference note.

The Department anticipates that the adoption of the amendments to Regulation 3500 will promote fairness and benefit both the public and the Department by clarifying that the California Electronic Cigarette Excise Tax, covered battery-embedded waste recycling fee, environmental mitigation surcharge, firearm, ammunition, and firearm precursor part excise tax, and lithium extraction excise tax are collected pursuant to the FCPL.

The Department has performed an evaluation of whether the proposed amendments to Regulation 3500 are inconsistent or incompatible with existing state regulations and determined that they are not inconsistent or incompatible with existing state regulations. This is because there are no other state regulations that clarify that the California Electronic Cigarette Excise Tax, covered battery-embedded waste recycling fee, environmental mitigation surcharge, firearm, ammunition, and firearm precursor part excise tax, and lithium extraction excise tax are collected by the Department pursuant to the FCPL. The Department has also determined that there are no existing federal regulations or statutes that are comparable to the proposed amendments to Regulation 3500.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department has determined that the adoption of the proposed amendments to Regulation 3500 will not impose a mandate on local agencies or school districts, including a mandate that requires state reimbursement under part 7 (commencing with section 17500) of division 4 of title 2 of the GC.

ONE-TIME COST TO THE DEPARTMENT, BUT NO OTHER COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Department has determined that the adoption of the proposed amendments to Regulation 3500 will result in an absorbable \$484 one-time cost for the Department to update its website after the proposed regulatory action is completed. The Department has determined that the adoption of the proposed amendments to Regulation 3500 will not result in any other direct or indirect cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the GC, no other non-discretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has made an initial determination that the adoption of the proposed amendments to Regulation 3500 will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESS

The Department has determined that the adoption of the proposed amendments to Regulation 3500 may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT REQUIRED BY GC SECTION 11346.3, SUBDIVISION (b)

The Department assessed the economic impact of adopting the proposed amendments to Regulation 3500 on California businesses and individuals and determined that the proposed regulatory action is not a major regulation, as defined in GC section 11342.548 and CCR, title 1, section 2000. Therefore, the Department prepared the economic impact assessment required by GC section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. In the economic impact assessment, the Department determined that the proposed amendments to Regulation 3500 will neither create nor eliminate jobs in the State of California nor result in the creation of new businesses or the elimination of existing businesses within the state and will not affect the expansion of businesses currently doing business within the State of California. Furthermore, the Department determined that the proposed amendments to Regulation 3500 will not affect the benefits of the regulation to the health and welfare of California residents, worker safety, or the state's environment.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

The adoption of the proposed amendments to Regulation 3500 will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

The Department must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

CONTACT PERSONS

Questions regarding the substance the proposed amendments to Regulation 3500 should be directed to Michael Patno, Business Taxes Specialist II, by telephone at (916) 309-5303, by e-mail at Michael.Patno@cdtfa.ca.gov, or by mail at California Department of Tax and Fee Administration, Attn: Michael Patno, MIC:50, 651 Bannon Street, Suite 100, Sacramento, CA 95811-0299.

Written comments for the Department's consideration, written requests to hold a public hearing, notices of intent to present testimony or witnesses at the public hearing, and other inquiries concerning the proposed regulatory action should be directed to Kim DeArte, Regulations Coordinator, by telephone at (916) 309-5227, or by e-mail at CDTFARegulations@cdtfa.ca.gov, or by mail to: California Department of Tax and Fee Administration, Attn: Kim DeArte, MIC:50, 651 Bannon Street, Suite 100, Sacramento, CA 95811-0299. Kim DeArte is the designated backup contact person to Michael Patno.

WRITTEN COMMENT PERIOD

The written comment period ends on March 23, 2026. The Department will consider the statements, arguments, and/or contentions contained in written comments received by Kim DeArte at the postal address, email address, or fax number provided above, prior to the close of the written comment period, before the Department decides whether to adopt the proposed amendments to Regulation 3500. The Department will only consider written comments received by that time.

However, if a public hearing is held, written comments may also be submitted during the day of and at the public hearing and the Department will consider the statements, arguments, and/or contentions contained in written comments submitted during the day of or at the public hearing before the Department decides whether to adopt the proposed amendments to Regulation 3500.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Department has prepared copies of the text of the proposed amendments to Regulation 3500 illustrating the express terms of the proposed action. The Department has also prepared an initial statement of reasons for the proposed amendments to Regulation 3500, which includes the economic impact assessment required by GC section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed regulatory action is based are available to the public upon request. The rulemaking file is available for public inspection at 651 Bannon

Street, Suite 100, Sacramento, California. The express terms of the proposed amendments to Regulation 3500, and the initial statement of reasons are also available on the Department's website at www.cdtfa.ca.gov/taxes-and-fees/regscont.htm.

PUBLIC HEARING

The Department has not scheduled a public hearing to discuss the proposed amendments to Regulation 3500. However, any interested person or their authorized representative may submit a written request for a public hearing no later than 15 days before the close of the written comment period, and the Department will hold a public hearing if it receives a timely written request.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GC SECTION 11346.8

The Department may adopt the proposed amendments to Regulation 3500 with changes that are non-substantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made pursuant to GC section 11346.8, the Department will make the full text of the resulting regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Kim DeArte. The Department will consider timely written comments it receives regarding a sufficiently related change.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Department adopts the proposed amendments to Regulation 3500, the Department will prepare a final statement of reasons. Upon its completion, the final statement of reasons will be made available for inspection at 651 Bannon Street, Suite 100, Sacramento, California, and available upon request by contacting the contact person(s) named above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the notice, initial statement of reasons, and the text of the proposed amendments to Regulation 3500 are available on the Department's website at www.cdtfa.ca.gov/taxes-and-fees/regscont.htm. If the Department publishes other related documents, they will also be available at that website.