

CHANGES WITHOUT REGULATORY EFFECT UNDER
CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Title 18. Public Revenues

Regulation 1584, *Membership Fees*

A. Factual Basis

The State Board of Equalization (Board)¹ originally adopted California Code of Regulations, title 18, section (Regulation) 1584, *Membership Fees*, in 1996 to prescribe the application of sales and use tax to membership fees retailers charge their customers to shop at membership club stores. As relevant here, Regulation 1584, subdivision (a)(1)(A), provides that "[m]embership fees related to the anticipated retail sale of tangible personal property are includible in taxable gross receipts when ... the retailer sells its products only to members and the membership fee exceeds a nominal amount." Regulation 1584, subdivision (b) defines the term "nominal amount."

When Regulation 1584 was first adopted in 1996, subdivision (b) defined the term "nominal amount" to mean "an amount totaling \$40 or less per year." However, subdivision (b) also provided and continues to provide that "during September in the year 2000, and every five years thereafter, the threshold for the nominal amount will be adjusted effective the following January 1, rounded to the nearest \$5, to reflect changes in the California Consumer Price Index (CCPI) whenever that change is more than 5 percent higher than any previous adjustment. For purposes of computing the CCPI increase, the June 30 CCPI index of the computation year will be compared with the June 30 CCPI index of the computation year which resulted in an adjusted nominal amount." Therefore, the Board subsequently changed the definition for the term "nominal amount," pursuant to California Code of Regulations, title 1, section (Rule) 100, in 2000, 2005, 2010, 2015, and 2020, to provide that a nominal amount means an "amount totaling \$45 or less per year," effective January 1, 2001, a nominal amount means an "amount totaling \$50 or less per year," effective January 1, 2006, a nominal amount means an "amount totaling \$55 or less per year," effective January 1, 2011, a nominal amount means an "amount totaling \$60 or less per year," effective January 1, 2016, and a nominal amount means an "amount totaling \$70 or less per year," effective January 1, 2021, respectively, due to increases in the CCPI.

During the most recent five-year period, the CCPI changed from 284.835 in June 2020 (the most recent computation year that resulted in an adjusted nominal amount) to 353.044 in June 2025 (the current computation year). The California Department of Tax and Fee Administration

¹ The administration and enforcement of the Sales and Use Tax Law was transferred to the California Department of Tax and Fee Administration by Government Code (GC) section 15570.22, effective July 1, 2017, and the references to the "board" in the Sales and Use Tax Law and any regulation promulgated pursuant to that law are deemed to refer to the Department by GC section 15570.24.

(Department) has determined that this change resulted in a 23.95 percent increase in the CCPI,² and that a 23.95 percent increase in the CCPI automatically results in a \$15 increase³ in the current \$70 or less per year nominal amount, effective the following January 1, so that the term nominal amount means an amount totaling "\$85 or less per year," effective January 1, 2026. Therefore, the Department proposes to revise the first sentence in Regulation 1584, subdivision (b)(1), to provide that "beginning January 1, 2026, the term 'nominal amount' means an amount totaling \$85 or less per year subject to increase as provided in subdivision (b)(2)" and add a new second sentence to subdivision (b)(1) to clarify that "For periods from January 1, 2021, through December 31, 2025, the term 'nominal amount' for purposes of this regulation means an amount totaling \$70 or less per year." The Department also proposes to update the dates in the example set forth in the last two sentences in Regulation 1584, subdivision (b)(2), in order to provide guidance to the public and Department staff regarding the January 1, 2031, and January 1, 2036, nominal amount adjustment computations. Finally, the Department also proposes to add GC sections 15570.22 and 15570.24 to the authority note citation to provide clarification regarding the transfer of rulemaking authority from the Board to the Department.

The Department has determined that the proposed changes to Regulation 1584 are appropriate for processing under Rule 100 because they update the definition for the term "nominal amount" in Regulation 1584, subdivision (b)(1), in accordance with the regulation's existing provisions and update the dates in the last two sentences of subdivision (b)(2) to make the example set forth therein applicable to the succeeding 2031 and 2036 nominal amount adjustment computations, they add authority note citations, and they do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

² Note that 353.044 CCPI minus 284.835 CCPI equals 68.209 CCPI, and 68.209 CCPI is 23.947 percent of 284.835 CCPI.

³ Note that \$70 multiplied by 23.947 percent equals \$16.76 and that \$16.76 must be rounded to \$15 per the formula in Regulation 1584, subdivision (b)(2).