

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

Statement of Explanation

Title 18. Public Revenues

Section 1684. Collection of Use Tax by Retailers.

[Effective until at least 9-15-2012; see history note for new version of § 1684 for details]

Assembly Bill No. (AB) 155 (Stats. 2011, ch. 313) was enacted September 23, 2011. Section 1 of AB 155 repealed Revenue and Taxation Code (RTC) section 6203 effective September 23, 2011. Section 2 of AB 155 reenacted RTC section 6203, effective and operative September 23, 2011, in substantially the same form as it read before its repeal by section 1. Section 3 of AB 155 added new section 6203. Also, subdivision (b) of section 6 of AB 155 specified that the date new RTC section 6203 would become operative and old RTC section 6203 as reenacted by section 2 of AB 155 would become inoperative was dependent on whether a federal law was enacted on or before July 31, 2012, “authorizing the states to require a seller to collect taxes on sales of goods to in-state purchasers without regard to the location of the seller.” It provided that:

- If such a law was enacted on or before July 31, 2012, and the state did not elect to implement that law on or before September 14, 2012, then new RTC section 6203 would become operative and old RTC section 6203 as reenacted by section 2 of AB 155 would become inoperative on January 1, 2013; and
- If no such law was enacted on or before July 31, 2012, then new RTC section 6203 would become operative and old RTC section 6203 as reenacted by section 2 of AB 155 would become inoperative on September 15, 2012.

The State Board of Equalization (Board) proposed amendments to California Code of Regulations (CCR), title 18, section (Regulation) 1684, *Collection of Use Tax by Retailers*, to make it consistent with the provisions of new RTC section 6203 before new RTC section 6203 was operative. The Board also included provisions in the amendments specifying that they would become operative on the same date as new RTC section 6203.

The Board submitted the rulemaking file for the adoption of the proposed amendments to Regulation 1684 to the Office of Administrative Law (OAL) before the operative date of the amendments could be determined. The adoption of the proposed amendments was also approved by OAL on July 27, 2012, before the operative date of the amendments could be determined. Therefore, OAL published amended Regulation 1684 in the CCR as if it were a new regulation (new Regulation 1684) and continued to publish the unamended version of Regulation 1684 (old Regulation 1684) in the CCR because it was still operative. OAL also added text to the title of old Regulation 1684 to clarify that it was “[Effective until at least 9-15-2012; see history note for new version of § 1684 for details] and explained that new Regulation 1684 would be operative on either September 15, 2012, or January 1, 2013, in the original history note for new Regulation 1684.

The Director of the Department of Finance subsequently certified that no such federal law was enacted on or before July 31, 2012. (Second history note for new Regulation 1684.) As a result,

new RTC section 6203 and new Regulation 1684 were operative on September 15, 2012, and old RTC section 6203 and old Regulation 1684 were inoperative on the same day. Also, the Board added the September 15, 2012, operative date to new Regulation 1684 pursuant to CCR, title 1, section (Rule) 100.

The administration and enforcement of the Sales and Use Tax Law (SUTL) (RTC section 6001 et seq.) was transferred from the Board to the California Department of Tax and Fee Administration (Department) by Government Code (GC) section 15570.22, operative July 1, 2017. Also, the references to the Board in the SUTL and sales and use tax regulations, including old and new Regulation 1684, are deemed to refer to the Department by GC section 15570.24.

The Department now proposes to repeal old Regulation 1684 pursuant to Rule 100. The Department determined that the proposed repeal of old Regulation 1684 is appropriate for processing under Rule 100 because old Regulation 1684 is outdated, it has been inoperative since September 15, 2012, and repealing old Regulation 1684 will not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any operative CCR provision.