TITLE 18. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

PROPOSED ACTION TO MAKE PERMANENT CALIFORNIA CODE OF REGULATIONS, TITLE 18, SECTION 1808, TAX REVENUE SHARING AGREEMENT REPORTING AND PUBLICATION, WITH PROPOSED AMENDMENTS

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 7213, proposes to make permanent, with proposed amendments, California Code of Regulations (CCR), title 18, section (Regulation or Reg.) 1808, *Tax Revenue Sharing Agreement Reporting and Publication*, which the Department originally adopted as an emergency regulation to address issues with RTC section 7213 prior to April 30, 2025, which was the first reporting and publication deadline under RTC section 7213. The Department is now proposing to make emergency Regulation 1808 permanent through the regular rulemaking process pursuant to the Administrative Procedure Act (APA), commencing with Gov. Code (GC) section 11340. This action also includes proposed amendments to subdivisions (a)(7), (b)(1), (c)(1)(A), and (e)(1)(B) of emergency Regulation 1808. The proposed amendments add to subdivision (a)(7) four clarifying examples of offsets and payments that are rebated sales and use tax revenue pursuant to a tax revenue sharing agreement and two clarifying examples of payments that are not rebated sales and use tax revenue pursuant to a tax revenue sharing agreement. The proposed amendments also update the current example in subdivision (b)(1), the email address for submitting extension requests to the Department's Local Revenue Branch (LRB) in subdivision (c)(1)(A), and the current example in subdivision (e)(1)(B).

AUTHORITY

RTC section 7213

REFERENCE

RTC section 7213

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Background and Current Law

Local Sales and Use Taxes

The Bradley-Burns Uniform Local Sales and Use Tax Law (Bradley-Burns) (commencing with RTC section 7200) authorizes counties and cities to impose local sales and use taxes with provisions generally in conformity with the Sales and Use Tax Law (commencing with RTC section 6001). Bradley-Burns local sales and use taxes (local sales and use taxes) are imposed in every city, county, and city and county in California at a uniform total combined rate of 1.25 percent. When state sales tax applies to a transaction, local sales tax also applies to the transaction, and when state use tax applies to a transaction, local use tax also applies to the transaction. (Reg. 1803, *Application of Tax*). Local sales and use taxes are separate and distinct from district taxes imposed in accordance with the Transactions and Use Tax Law (commencing with RTC section 7251). Also, the administration of Bradley-Burns was transferred from the State Board of Equalization to the Department, operative July 1, 2017, by GC section 15570.22 and references to the State Board of Equalization in Bradley-Burns and the regulations implementing, interpreting, and making specific Bradley-Burns mean the Department pursuant to GC section 15570.24 and RTC section 20.

Section 29 of Article XIII of the California Constitution

Subdivision (a) of section 29 of article XIII of the California Constitution (Section 29) provides that the Legislature may authorize counties, cities and counties, and cities to enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them that is collected for them by the State. Subdivision (b) of Section 29 provides that notwithstanding subdivision (a), counties, cities and counties, and cities may enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them pursuant to Bradley-Burns, or any successor provisions, that is collected for them by the State, if the ordinance or resolution proposing each contract is approved by a two-thirds vote of the governing body of each jurisdiction that is a party to the contract.

GC section 53084.5

Subdivision (a) of GC section 53084.5 provides that, on or after January 1, 2016, a local agency shall not enter into any form of agreement that would result, directly or indirectly, in the payment, transfer, diversion, or rebate of any tax revenue resulting from the imposition of local sales and use taxes to any person for any purpose when both of the following apply:

1. The agreement results in a reduction in the amount of revenue under Bradley-Burns that, in absence of the agreement, would be received by another local agency.

2. The retailer continues to maintain a physical presence within the territorial jurisdiction of that other local agency.

Additionally, subdivision (b)(1) of GC section 53084.5 provides that a local agency entering into an agreement that results in a reduction of the amount of revenue under Bradley-Burns that, in the absence of the agreement, would be received by another local agency shall post the proposed agreement on its internet website for at least 30 days prior to ratification or approval of that agreement by its governing body. Subdivision (b)(3) of GC section 53084.5 provides that a local agency shall post on its internet website any agreement it has entered into that results in a reduction of the amount of revenue under Bradley-Burns that, in the absence of the agreement, would be received by another local agency, including any agreements entered into prior to January 1, 2016, that are still in effect on and after that date. Subdivision (c)(1) of GC section 53084.5 also provides that "local agency" means a chartered or general law city, a chartered or general law county, or a city and county, of this state.

RTC section 7213

Assembly Bill No. (AB) 2854 (Stats. 2024, ch. 842) added RTC section 7213 to Bradley-Burns, effective January 1, 2025. RTC section 7213 imposes new reporting and publication requirements on local agencies as defined in GC section 53084.5 and the Department. It also provides penalties that may be imposed on a local agency that fails to comply with the reporting or publication requirements. AB 2854's legislative history indicates that RTC section 7213 is intended to provide "much needed transparency for local sales tax revenues by requiring cities and counties to annually submit information to the [Department] regarding so-called 'rebate agreements' . . . resulting in significant – but [previously] unknown – loss of tax revenues for local agencies across the state." (August 28, 2024, Assembly Floor Analysis of AB 2854, p. 2, and August 19, 2024, Senate Floor Analysis of AB 2854, p. 6.)

Subdivision (a)(2) of RTC section 7213 provides that "rebated sales and use tax revenues" means any direct or indirect payment, transfer, diversion, or rebate of any local sales and use tax revenue resulting from the imposition of a local tax to any person pursuant to an agreement (tax revenue sharing agreement). Subdivision (d) of RTC section 7213 provides that on or before April 30 of each year, for each agreement that resulted in rebated sales and use tax revenue during the immediately preceding fiscal year, a local agency shall report to the Department, in a form and manner prescribed by the Department, the following information:

1. The name or names of any parties to the agreement.

2. The total dollar amount of rebated sales and use tax revenues received by each party to the agreement on or after the date of the execution of the agreement through and including June 30 of the fiscal year immediately preceding the date of the report.

3. The total dollar amount of rebated sales and use tax revenues received by each party to the agreement during the fiscal year immediately preceding the date of the report.

4. The date on which the agreement was originally executed, and the date on which the agreement terminated or will terminate, absent any renewal.

5. The percentage of a retailer's sales and use taxes, if any, used to calculate or otherwise determine the rebated sales and use tax revenues received by each party to the agreement.

6. The percentage of a retailer's sales and use taxes, if any, used to calculate or otherwise determine the rebated sales and use tax revenues received by any other person that is not a party to the agreement.

Subdivision (b) of RTC section 7213 provides that a local agency shall publish on its internet website, on or before April 30 of each year, the information submitted to the Department pursuant to subdivision (d). It provides that a hyperlink to an internet web page containing the information submitted to the Department pursuant to subdivision (d) shall be present and visible on the home page of the local agency's internet website at all times. It also provides that if a local agency maintains a web page containing information about the local agency's economic development subsidies, including, but not limited to, the information required pursuant to GC sections 53083 and 53083.1, the local agency may include the information submitted to the Department pursuant to subdivision (d) on that internet web page.

Subdivision (c) of RTC section 7213 provides that a local agency that has not directly or indirectly paid, transferred, diverted, or rebated any sales and use tax revenues pursuant to an agreement in the immediately preceding fiscal year shall, by April 30, report this fact to the Department in a form and manner prescribed by the Department and shall be exempt from the posting requirement outlined in subdivision (b) discussed above.

Subdivision (e)(1)(A) of RTC section 7213 provides that if a local agency fails to timely provide the information required pursuant to subdivisions (c) or (d), or fails to publish information on its internet website pursuant to subdivision (b), the Department shall notify the local agency by certified mail that it has 45 days from the mailing of the notice to provide or publish the required information or submit a statement to the Department, in the form and manner prescribed by the Department, explaining why it is unable to provide or publish the required information within the 45-day period. If a local agency provides such a statement, the Department may extend the 45-day period to provide or publish the required information by 30 days if the local agency demonstrates that the failure to comply timely with the applicable requirement was due to reasonable cause and circumstances beyond the local agency's control, occurred notwithstanding the exercise of ordinary care, and occurred in the absence of willful neglect. The Department shall not grant an extension for a local agency based on the local agency's claim that the information is confidential.

Subdivision (e)(1)(A) of RTC section 7213 further provides that if the Department grants an extension, the Department shall notify the local agency by certified mail that it has 30 days to provide or publish the required information commencing on the next business day following the expiration of the 45-day period discussed above. If the Department declines to grant an extension, the local agency shall provide or publish the required information within 10 days after the Department notifies the local agency by certified mail that it has denied the extension. The notice shall be addressed to the person authorized to receive confidential data at the local agency's address as it appears in the Department's records. The mailing of the notice shall be deemed complete at the time of deposit of the notice in the United States Post Office, or a mailbox, sub-post office, substation or mail chute, or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason.

Subdivision (e)(1)(B) of RTC section 7213 provides that if a local agency fails to provide or publish the specified information within the applicable period, the Department may impose a penalty for each day after expiration of the applicable period the local agency fails to provide or publish the information, up to 365 days after the expiration of the applicable period, as follows:

- For days one to 180, inclusive, one thousand dollars ($1,000) per day.
- For days 181 to 365, inclusive, four thousand dollars ($4,000) per day.

The provisions of chapter 4 of the Fee Collections Procedures Law (FCPL) (commencing with RTC section 55121) apply with respect to the collection of the penalties imposed.

Fiscal Year

GC section 13290 provides that the fiscal year shall commence on the first day of July. The Department of Finance Budget Analyst Guide's Glossary of Accounting and Budget Terms further clarifies that in California state government, the fiscal year begins July 1 and ends the following June 30.

Emergency Regulation 1808

The Department previously determined that there were issues (or "problems" as used in GC section 11346.2, subdivision (b)) regarding the reporting and publication requirements imposed by RTC section 7213 and the imposition of the penalties imposed by RTC section 7213. The Department also determined that it was reasonably necessary to adopt Regulation 1808 as an emergency regulation prior to April 30, 2025, which was the first reporting and publication deadline under RTC section 7213. Also, emergency Regulation 1808 became operative on March 24, 2025, and it will be repealed by operation of law on March 25, 2027, unless the Department takes action to make it permanent through the APA's regular rulemaking process and submits the completed rulemaking file to the Office of Administrative Law by March 24, 2027. When stated that the Department determined that something was reasonably necessary, that means the Department determined it was reasonably necessary to have the effect and accomplish the objective of addressing those issues.

Subdivision (a) of Emergency Regulation 1808

The Department determined that there were issues because the terms "department," "fiscal year," and "person" are used in RTC section 7213 but not defined in Bradley-Burns. Therefore, the Department determined that it was reasonably necessary for subdivision (a) of emergency Regulation 1808 to clarify that "Department" means the California Department of Tax and Fee Administration because the California Department of Tax and Fee Administration administers Bradley-Burns. The Department determined that it was reasonably necessary to clarify that "fiscal year" means the 12-month period beginning on July 1 and ending on the following June 30 because that is the state's fiscal year. The Department also determined that it was reasonably necessary to clarify that "person" has the same meaning as defined in RTC section 6005 because Bradley-Burns requires local sales and use tax ordinances to include provisions identical to RTC section 6005, which defines "person" for purposes of the Sales and Use Tax Law.

The Department determined that there were issues because RTC section 7213 defines the term "rebated sales and use tax revenues," but does not clarify:

- When the payment, transfer, diversion, or rebate of money other than local sales and use tax revenue is an indirect payment, transfer, diversion, or rebate of local sales and use tax revenue; or
- Whether rebated sales and use tax revenues include the apportionment of local sales and use tax revenue between local agencies pursuant to a contract between the local agencies that is authorized by Section 29 (apportionment of local sales and use tax revenue).

The Department determined that a local agency's payment, transfer, diversion, or rebate of any money other than local sales and use tax revenue is an indirect payment, transfer, diversion, or rebate of local sales and use tax revenue if it is based on a retailer's anticipated, estimated, or actual sales, which are subject to local sales and use taxes, or the anticipated, estimated, or actual local sales and use tax revenue from a retailer's sales. This is because the Legislature intended for RTC section 7213 to provide much needed transparency regarding agreements that result in the loss of local sales and use taxes for local agencies across the state. A retailer's anticipated, estimated, and actual sales subject to local sales and use taxes may be used to determine, respectively, the anticipated, estimated, and actual local sales and use tax revenue from the retailer's sales. The Department also determined that a rebate of any money other than local sales and use tax revenue that is based directly or indirectly on the anticipated, estimated, or actual local sales and use tax revenue from a retailer's sales is an indirect rebate of local sales and use tax revenue from the retailer's sales and results in the loss of local sales and use taxes for local agencies across the state.

The Department also determined that the Legislature did not intend for rebated sales and use tax revenue to include the apportionment of local sales and use tax revenue between local agencies pursuant to a contract between the local agencies that is authorized by Section 29 because apportionment does not result in the loss of local sales and use taxes for local agencies across the state. Therefore, the Department determined that it was reasonably necessary for subdivision (a) of emergency Regulation 1808 to incorporate the statutory definition of "rebated sales and use tax revenue" and clarify that the type of agreement referred to in that definition is a tax revenue sharing agreement for ease of reference. The Department determined that it was reasonably necessary to clarify that a local agency's payment, transfer, diversion, or rebate of any money other than local sales and use tax revenue is an indirect payment, transfer, diversion, or rebate of local sales and use tax revenue if it is based on a retailer's anticipated, estimated, or actual sales, which are subject to local sales and use taxes, or the anticipated, estimated, or actual local sales and use tax revenue from a retailer's sales. The Department also determined that it was reasonably necessary to clarify that rebated sales and use tax revenue does not include the apportionment of local sales and use tax revenue between local agencies pursuant to a contract between the local agencies that is authorized by Section 29.

In addition, the Department determined that it was reasonably necessary for subdivision (a) of emergency Regulation 1808 to define "jurisdiction code number" because that term is used in subdivision (e) of the regulation. It was reasonably necessary to incorporate RTC section 7213's definition of "local agency" for ease of reference. It was also reasonably necessary to define the term "local sales and use tax revenue" to mean tax revenue resulting from the imposition of a sales and use tax under Bradley-Burns, so that the shorter term could be used in place of the longer statutory phrase.

Subdivision (b) of Emergency Regulation 1808

The Department determined that there were issues with RTC section 7213 because subdivisions (c) and (d) do not prescribe the form and manner that a local agency is required to report information to the Department for the immediately preceding fiscal year, and the publication requirements in subdivisions (b) and (f) are tied to the reporting requirements in subdivision (d). Therefore, the Department determined that it was reasonably necessary for subdivision (b) of emergency Regulation 1808 to incorporate and clarify the reporting and publication requirements in subdivisions (b), (c), (d), and (f) of RTC section 7213. The Department also determined that it was reasonably necessary for subdivision (e) of emergency Regulation 1808 (discussed below) to prescribe the content of the tax revenue sharing agreement reporting form referred to and cross-referenced in subdivision (b).

The Department determined that it was reasonably necessary for subdivision (b)(1) of emergency Regulation 1808 to require every local agency to electronically complete and submit a tax revenue sharing agreement reporting form to the Department by April 30 of each year to report the information required to be reported by RTC section 7213 for the immediately preceding fiscal year. This was because the Department determined that it needs the local agencies to submit the information required by RTC section 7213 in a uniform electronic manner so that the Department can quickly process the information and publish the information required by subdivision (f) of RTC section 7213 on the Department's internet website in a timely and uniform manner. The Department also determined that to avoid confusion it was reasonably necessary to include an example to clarify that every local agency is required to complete and submit a tax revenue sharing agreement reporting form to the Department by April 30, 2025, to report the tax revenue sharing agreement information required for the fiscal year beginning on July 1, 2023, and ending on June 30, 2024.

The Department determined that it was reasonably necessary for subdivision (b)(2) of emergency Regulation 1808 to require every local agency to report the essential information required by subdivision (e)(1) (discussed below) on their tax revenue sharing agreement reporting form to determine whether they are subject to the reporting requirements in subdivision (c) or (d) of RTC section 7213. The Department determined that it was reasonably necessary for subdivision (b)(3) of emergency Regulation 1808 to incorporate and implement the provision of subdivision (c) of RTC section 7213 by clarifying that a local agency that has not rebated sales and use tax revenue pursuant to a tax revenue sharing agreement during the immediately preceding fiscal year is required to report that fact on their tax revenue sharing agreement reporting form as part of the information required by subdivision (e)(1) and shall be exempt from the additional reporting and publication requirements in subdivision (b)(4). The Department determined that it was reasonably necessary for subdivision (b)(4) of emergency Regulation 1808 to incorporate and implement the provision of subdivisions (b) and (d) of RTC section 7213 by clarifying that a local agency that has rebated sales and use tax revenue pursuant to a tax revenue sharing agreement during the immediately preceding fiscal year is also required to report the information required by subdivision (e)(2) (discussed below) on their tax revenue sharing agreement reporting form and publish the information required by subdivision (e)(2) on the local agency's internet website by April 30 of each year in the manner required by subdivision (b) of RTC section 7213. The Department determined that it was also reasonably necessary for subdivision (b)(5) of emergency Regulation 1808 to clarify that prior to April 30 of each year, the Department shall provide a link to the required tax revenue sharing agreement reporting form to the local agencies to avoid confusion.

In addition, the Department determined that there were issues because the Department may not have the information required to be submitted pursuant to subdivision (d) of RTC section 7213 in time to publish that information on its internet website on or before June 1, 2025, as required by subdivision (f) of RTC section 7213, because of the extension provisions in subdivision (e) of

RTC section 7213. Also, subdivision (f) of RTC section 7213 does not prescribe the annual publication date for subsequent years or clarify whether the Department may update the information published on its internet website pursuant to that subdivision. Therefore, the Department determined that it was reasonably necessary for subdivision (b)(6) of emergency Regulation 1808 to clarify that on or before June 1, 2025, and annually on each June 1 thereafter, the Department will publish on its internet website at www.cdtfa.ca.gov the information local agencies reported to the Department for the immediately preceding fiscal year pursuant to subdivision (b)(4), and that the Department may update the information published on its internet website to include information local agencies subsequently report to the Department pursuant to subdivision (b)(4). This was because the Department determined that the Legislature intended for the Department to annually publish the information required by subdivision (f) of RTC section 7213 by June 1 each year based on the initial June 1, 2025, publication date. This was also because the Department determined that the Legislature intended for the Department to update the information published on its internet website to include information reported after June 1 pursuant to extensions provided pursuant to subdivision (e)(1)(A) of RTC section 7213 and information reported after June 1 to prevent penalties from continuing to be imposed pursuant to subdivision (e)(1)(B) of RTC section 7213.

Subdivision (c) of Emergency Regulation 1808

The Department determined that there was an issue with RTC section 7213 because subdivision (e)(1)(A)(i) requires the Department's notices to provide that a local agency has 45 days from the mailing of the notice to provide or publish the required information or submit a statement to the Department explaining why it is unable to provide or publish the required information within the 45-day period, but it does not prescribe the form or manner for a local agency to submit such a statement to the Department. The Department also determined that there was an issue with RTC section 7213 because subdivision (e)(1)(A)(ii)(I) gives the Department discretion to grant a local agency a 30-day extension if it provides such a statement and the local agency demonstrates that the failure to timely comply with the applicable requirement was due to reasonable cause and circumstances beyond the local agency's control, occurred notwithstanding the exercise of ordinary care, and occurred in the absence of willful neglect. However, it seems unreasonable for the Department to deny a 30-day extension when those requirements are met.

Therefore, the Department determined that it was reasonably necessary for subdivision (c) of emergency Regulation 1808 to incorporate the provisions of subdivision (e)(1)(A) of RTC section 7213. It was reasonably necessary to clarify that the Department's notices will provide that a local agency has 45 days from the mailing of the notice to provide or publish the required information or submit a written statement to the Department requesting an extension and explaining why the local agency is unable to report or publish the required information within the 45-day period (extension request). It was reasonably necessary to clarify that an extension request must be submitted by email to the Department's Local Revenue Branch (LRB) and that a local agency may use a form provided by the Department to submit an extension request. This was because the Department determined that it is necessary for local agencies to submit the statements referred to in subdivision (e)(1)(A) of RTC section 7213 by email to LRB so that LRB can process the statements and determine whether to grant extensions as quickly as possible, but that it is not necessary for the Department to prescribe a specific form for local agencies to use to submit the statements. The Department also determined that it was reasonably necessary to clarify that the Department shall grant a 30-day extension when it determines that the statement in a local agency's extension request satisfies all the statutory requirements for an extension because it seems unreasonable for the Department to deny a 30-day extension when all the statutory requirements are met.

Subdivision (d) of Emergency Regulation 1808

The Department determined that there was an issue with RTC section 7213 because subdivision (e)(1)(B) gives the Department discretion to impose penalties if a local agency fails to provide or publish the required information within the applicable period, as determined under subdivision (e)(1)(A). However, the Department is not aware of any reason why it would not impose such penalties when they are applicable. The Department also determined that there may be an issue determining when the penalties are in fact applicable because subdivision (e)(1)(A) of RTC section 7213 provides three different periods. Therefore, the Department determined that it was reasonably necessary for subdivision (d) of emergency Regulation 1808 to incorporate the provisions of subdivision (e)(1)(B) of RTC section 7213, clarify that the Department shall impose the penalties when they are applicable, and provide an example illustrating when the penalties will start to be imposed under each of the three different periods provided in subdivision (e)(1)(A).

The Department determined that there were also issues with RTC section 7213 because subdivision (e)(2) does not clarify when the penalties imposed pursuant to that section are due and payable to the Department for purposes of collection under chapter 4 of the FCPL or specify the manner of payment. The Department also determined that it is necessary for any penalties imposed pursuant to RTC section 7213 to be paid by check because the Department's other systems are not equipped to receive electronic payments from local agencies at this time. Therefore, the Department determined that it was reasonably necessary for subdivision (d) of emergency Regulation 1808 to clarify that a penalty imposed on a local agency pursuant to subdivision (d) of the emergency regulation is due and payable to the Department by check 30 days after the Department notifies the local agency that the penalty was imposed.

Subdivision (e) of Emergency Regulation 1808

The Department determined that it was reasonably necessary for subdivision (e) of emergency Regulation 1808 to prescribe the content of the tax revenue sharing agreement reporting form referred to and cross-referenced in subdivision (b) of the regulation to have the effect and accomplish the objective of prescribing the form and manner in which a local agency is required to report information to the Department for the immediately preceding fiscal year pursuant to subdivision (c) or (d) of RTC section 7213. To ensure the Department can identify the local agency, determine whether the local agency is subject to the reporting requirements in subdivision (c) or (d) of RTC section 7213 for the immediately preceding fiscal year, identify the person that completed the form on behalf of the local agency, and ensure that the person completed the form to the best of their knowledge, the Department determined that it was reasonably necessary for subdivision (e)(1) of emergency Regulation 1808 to require a local agency to report the following information :

- The local agency’s jurisdiction code number;

- The end date of the fiscal year (e.g., June 30, 2024) for which information is being reported;

- Whether the local agency rebated sales and use tax revenue pursuant to a tax revenue sharing agreement during the fiscal year for which information is being reported; and

- The name, title, and email address of the person completing the form and their statement that “I hereby certify that this report has been examined by me and to the best of my knowledge and belief is a true, correct, and complete report.”

To implement subdivision (d) of RTC section 7213, the Department determined that it was reasonably necessary for subdivision (e)(2) of emergency Regulation 1808 to require a local agency that rebated sales and use tax revenue pursuant to one or more tax revenue sharing agreements during the fiscal year for which information is being reported to include the following statutorily-required information on their tax revenue sharing agreement reporting form for each agreement:

- The name or names of any parties to the agreement;

- The date the agreement was executed;

- The date the agreement terminated or will terminate, absent a renewal;

- The total dollar amount of rebated sales and use tax revenues received by each party to the agreement on or after the date of the execution of the agreement through and including June 30 of the fiscal year for which information is being reported;

- The total dollar amount of rebated sales and use tax revenues received by each party to the agreement during the fiscal year for which information is being reported;

- The percentage of a retailer’s sales and use taxes, if any, used to calculate or otherwise determine the rebated sales and use tax revenues received by each party to the agreement; and

- The percentage of a retailer’s sales and use taxes, if any, used to calculate or otherwise determine the rebated sales and use tax revenues received by any other person that is not a party to the agreement.

To ensure compliance with subdivision (b) of RTC section 7213, the Department determined that it was reasonably necessary for subdivision (e)(3) of emergency Regulation 1808 to clarify that if a local agency reports the information about tax revenue sharing agreements required by subdivision (e)(2) on its tax revenue sharing agreement reporting form, then the local agency must also state on their tax revenue sharing agreement reporting form whether the information is published on the local agency’s internet website in the manner required by subdivision (b) of RTC section 7213.

Proposed Regulatory Action

The Department is now proposing to make emergency Regulation 1808 permanent through the APA's regular rulemaking process because the Department determined that its adoption is reasonably necessary to have the effect and accomplish the objective of addressing the same issues for which it was originally adopted as an emergency regulation. The Department is also proposing to adopt amendments to subdivisions (a)(7), (b)(1), (c)(1)(A), and (e)(1)(B) of emergency Regulation 1808 as part of the proposed action through the APA's regular rulemaking process because the Department determined that the amendments are reasonably necessary.

Amendments to Subdivision (a)(7)

The Department determined that there is an issue with subdivision (a)(7) of emergency Regulation 1808, which defines the related terms "rebated sales and use tax revenues" and "tax revenue sharing agreement." This is because the Department received several questions from local agencies after emergency Regulation 1808 was adopted about whether specific types of payments and offsets made pursuant to agreements were rebated sales and use tax revenues pursuant to reportable tax revenue sharing agreements, as defined in subdivision (a)(7), and those questions indicated that some local agencies are still confused about the meanings of the terms "rebated sales and use tax revenues" and "tax revenue sharing agreement". Therefore, the Department determined that it is reasonably necessary to propose to amend subdivision (a)(7) of emergency Regulation 1808 to add four clarifying examples of offsets and payments that are rebated sales and use tax revenue pursuant to a tax revenue sharing agreement, as defined in subdivision (a)(7), and two clarifying examples of payments that are not rebated sales and use tax revenue pursuant to a tax revenue sharing agreement. All six examples are based on the specific questions the Department received from local agencies.

Amendments to Subdivisions (b)(1) and (e)(1)(B)

The Department determined that there are issues with the examples in subdivisions (b)(1) and (e)(1)(B) of emergency Regulation 1808. This is because the example in subdivision (b)(1) clarifies the reporting due date for the fiscal year beginning on July 1, 2023, and ending on June 30, 2024, the example in subdivision (e)(1)(B) clarifies the end date of the same fiscal year, and both examples will be outdated by the time emergency Regulation 1808 is made permanent through the APA's regular rulemaking process. Therefore, the Department determined that it is reasonably necessary to propose to update the example in subdivision (b)(1) so that it clarifies that April 30, 2027, is the reporting due date for the fiscal year beginning on July 1, 2025, and ending on June 30, 2026, and update the example in subdivision (e)(1)(B) so that it clarifies the end date of the same fiscal year. This is because the Department anticipates that April 30, 2027, will be the first reporting due date after emergency Regulation 1808 is adopted through the APA's regular rulemaking process.

Amendments to Subdivision (c)(1)(A)

The Department determined that there is an issue with subdivision (c)(1)(A) of emergency Regulation 1808 because it requires extension requests to be emailed to LRB at

JServices@cdtfa.ca.gov, which is LRB's general email address. However, LRB now has a new email address for the specific purpose of receiving extension requests so they can be processed as quickly as possible, which is ab2854reporting@cdtfa.ca.gov. Therefore, the Department determined that it is reasonably necessary to propose to amend subdivision (c)(1)(A) of emergency Regulation 1808 to require extension requests to be emailed to LRB at ab2854reporting@cdtfa.ca.gov, instead of JServices@cdtfa.ca.gov.

The Department anticipates that the adoption of this proposed action to make emergency Regulation 1808 permanent benefits local agencies, the Department, and the public by clarifying the reporting and publication requirements imposed by RTC section 7213, clarifying the imposition of the penalties that may be imposed pursuant to RTC section 7213, and generally increasing openness and transparency in government.

The Department has performed an evaluation of whether this proposed regulatory action is inconsistent or incompatible with existing state regulations and has determined that the action is not inconsistent or incompatible with existing state regulations. This is because there are no other regulations that implement, interpret, or make specific RTC section 7213. In addition, the Department has determined that there are no comparable federal regulations or statutes to emergency Regulation 1808 with the proposed amendments.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department has determined that the proposed action 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 this proposed action will result in an absorbable $547 one-time cost for the Department to update its internet website after the proposed regulatory action is completed. The Department has determined that the proposed action 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 this proposed action 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 this proposed action 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 this proposed action 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 action 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 action 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

This proposed action 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 of emergency Regulation 1808 with the proposed amendments 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, 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 September 8, 2026. The Department will consider the statements, arguments, and/or contentions contained in written comments received by Kim DeArte at the postal address or email address provided above, prior to the close of the written comment period, before the Department decides whether to adopt the proposed action to make emergency Regulation 1808 permanent, with the proposed amendments. 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 also consider the statements, arguments, and/or contentions contained in written comments submitted during the day of or at the public hearing.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

Through the APA's regular rulemaking process, the Department is proposing to make emergency Regulation 1808 permanent. This proposed action also includes amendments to Regulation 1808. The Department has prepared the express terms of the proposed regulation with the changes illustrated in underline and strikeout and has also prepared an initial statement of reasons providing the necessity, purpose, and rationale for this action and the amendments. The Initial Statement of Reasons also 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 action and the initial statement of reasons are also available on the Department's internet 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 action. 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 regulatory action 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 proposed action to make emergency Regulation 1808 permanent with the proposed amendments is adopted through the APA's regular rulemaking process, the Department will prepare a final statement of reasons. Upon 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 emergency Regulation 1808 with the proposed amendments are available on the Department's internet website at www.cdtfa.ca.gov/taxes-and-fees/regscont.htm. If the Department publishes other related documents, they will also be available there.