



STATE OF CALIFORNIA
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FTB NOTICE 2001-6

MANUFACTURERS' INVESTMENT CREDIT (MIC) AUDIT POLICY REGARDING USE OF BOARD OF EQUALIZATION SALES AND USE TAX AUDIT RESULTS

Advice and guidance have been requested with respect to the extent that the Franchise Tax Board staff will rely on Board of Equalization (BOE) sales and use tax audits in connection with audits of the Manufacturers' Investment Credit (MIC) conducted by Franchise Tax Board staff.

Where the BOE has examined a taxpayer's fixed assets in connection with a sales and use tax audit for the same year in which a MIC is claimed, and the taxpayer can establish that the assets upon which the MIC is claimed are included within the scope of the BOE audit, Franchise Tax Board staff will accept the audit determinations for the payment of both sales and use tax. As a result, a taxpayer who has undergone a BOE audit described above will be treated as having satisfied the MIC requirement that sales or use tax be paid directly or indirectly on qualified MIC assets included in the BOE audit.

Taxpayers are cautioned, however, that even though the BOE audit may satisfy the requirement that sales or use tax be paid for purposes of claiming the MIC, taxpayers must retain the invoices or other documentation concerning the acquisition or construction of the fixed assets included in the scope of the BOE audit for examination by Franchise Tax Board audit staff. The taxpayer has the burden to establish that the assets upon which the MIC was claimed were included within the scope of the BOE sales and use tax audit. In addition, fixed asset invoices and other documentation are also relevant to determine whether other statutory requirements for determining the appropriate amount of the MIC have been met. As with all other credits, taxpayers must retain the substantiating documentation throughout the appropriate statute of limitations period for examining the return upon which the MIC was claimed.

DRAFTING INFORMATION

The principal author of this notice is Geoff Way of the Franchise Tax Board, Legal Branch. For further information regarding this ruling, contact Mr. Way at the Franchise Tax Board, Legal Branch, P. O. Box 1720, Rancho Cordova, CA 95741-1720, or (916) 845-6351.