Proposed Text of California Code of Regulations,

Title 18, Division 5, Chapter 5, County Revenue Protection Fund Regulations,

and Section 35401, Registration, Reporting, and Reimbursement

(New chapter and regulation to be added to the California Code of Regulations)

Chapter 5. County Revenue Protection Fund Regulations.

Regulation 35401. Registration, Reporting, and Reimbursement.

(a) Definitions. For purposes of this regulation, the following terms have the following meanings:

(1) “Contact information” means information the Department deems necessary to contact and communicate with the county registering for a County Revenue Protection Fund Account and with that county’s authorized representative(s). Such information includes, but is not limited to, the county’s current mailing address and the representative information for each of its representatives.

(2) “County” means a county in this state and “county” includes a city and county.

(3) “County Revenue Protection Fund Account” means an account issued and maintained by the Department to uniquely identify a county and each local agency in the county for purposes of reimbursement under subdivision (h).

(4) “Department” means the California Department of Tax and Fee Administration.

(5) “Fiscal year” means the one-year period beginning on July 1 and ending on June 30.

(6) “Gain” means the amount determined by adding the revenue increases and decreases specified in subdivision (a) of section 2.3 of article XIII A of the California Constitution, rounded to the nearest whole dollar.

(7) “Identifying information” means information the Department deems necessary to specifically identify the county and each local agency in the county. Such information includes, but is not limited to, the name and federal Employer Identification Number of the county and each local agency in the county, and the mailing addresses to send reimbursement to the county and each local agency in the county.

(8) “Local agency” means a city, a special district, or a school district as determined pursuant to subdivision (o) of section 42238.02 of the Education Code as that subdivision read on January 8, 2020.

(9) “Negative gain” means a gain that is less than zero.

(10) “Representative information” means information the Department deems necessary to verify that an individual is authorized to represent a county and submit an application for
registration under subdivision (c), report gains under subdivision (f), or request an extension under subdivision (g)(2) on behalf of the county. Such information includes, but is not limited to, the individual’s first and last name, title, email address, and phone number.

(11) “State holiday” means a state holiday listed in section 6700 of the Government Code, including every Sunday.

(b) Annual Determinations. Each county is required to annually determine the gain for the county and each local agency in the county. If a county or local agency has a negative gain it shall be expressed as a negative number.

c) Registration.

(1) Each county shall register with the Department for a County Revenue Protection Fund Account for the purpose of electronically reporting the gains it annually determines pursuant to subdivision (b) to the Department by completing an application for registration through the Department’s online services portal via its website at www.cdtfa.ca.gov.

(2) Every application for registration for a County Revenue Protection Fund Account shall provide the county’s contact information and identifying information.

Each county shall ensure that its contact information and identifying information is updated in a reasonable and timely manner.

d) Determination Periods and Annual Determination Date.

(1) The initial determination period is the period beginning on February 16, 2021, and ending on June 30, 2022. Each subsequent determination period is a fiscal year, commencing with the fiscal year beginning on July 1, 2022, and ending on June 30, 2023.

(2) On or before January 31, 2023, each county shall determine the gain for the county and each local agency in the county for the initial determination period. On or before January 31, 2024, and each January 31 thereafter, each county shall determine the gain for the county and each local agency in the county for the determination period ending on the preceding June 30. For example, on or before January 31, 2024, each county shall determine the gain for the county and each local agency in the county for the fiscal year ending on June 30, 2023.

(3) If any January 31 by which each county is required to determine the gain for the county and each local agency in the county under subdivision (d)(2) falls on a Saturday or state holiday, then each county shall determine the gain for the county and each local agency in the county on or before the next business day following that January 31.

e) Changing Gains. A county may change any gain timely determined under subdivision (d)(2) for any reason before the gain is required to be reported to the Department, including during any extension of the reporting due date granted under subdivision (g).
(f) Reporting Due Date.

(1) Except as provided in subdivision (g), each county shall electronically report the gains for the county and each local agency in the county for each of the three preceding determination periods through the Department’s online services portal via its website at www.cdtfa.ca.gov on or before January 31, 2025, and every third January 31 thereafter, beginning with January 31, 2028.

For example, each county shall electronically report the gains it determines for the determination periods February 16, 2021, through June 30, 2022, July 1, 2022, through June 30, 2023, and July 1, 2023, through June 30, 2024, on or before January 31, 2025. Each county shall electronically report the gains it determines for the determination periods July 1, 2024, through June 30, 2025, July 1, 2025, through June 30, 2026, and July 1, 2026, through June 30, 2027, on or before January 31, 2028.

(2) The Department will not accept any gain, unless it is reported through the Department’s online services portal before the expiration of any extensions of the reporting due date granted under subdivision (g).

(g) Extensions of Reporting Due Date.

(1) The Department shall automatically grant an extension of the reporting due date specified in subdivision (f)(1) to the following February 29 in leap years and the following February 28 in years that are not leap years.

(2) If a state of emergency due to a disaster, as proclaimed by the Governor pursuant to section 8625 of the Government Code, is in effect in any county at any time during the period from the January 1 immediately preceding the reporting due date specified in subdivision (f)(1) to the extended reporting due date specified in subdivision (g)(1), the Department may grant the county an extension of the reporting due date specified in subdivision (f)(1) to the following April 30.

(A) The extension shall be granted provided a request therefor is electronically filed with the Department on or before the April 30 following the reporting due date specified in subdivision (f)(1).

(B) For purposes of this subdivision, “disaster” includes, but is not limited to, fire, flood, storm, tidal wave, earthquake, epidemic, or similar public calamity, whether or not resulting from natural causes.

(3) If any date by which a county is required to report gains, including any extensions of that due date under subdivisions (g)(1) and (2), falls on a Saturday or state holiday, then the Department shall automatically grant the county an extension to the next business day to report the gains.

(h) Determining Aggregate Gains and Reimbursement.

(1) On May 5, 2025, and on each May 5 every three years thereafter:
(A) The Department shall determine each county’s and each local agency’s aggregate gain, by combining the gains determined by each county and timely reported to the Department for the county and each local agency in the county for each of the three preceding determination periods, and each county and local agency with an aggregate negative gain shall be eligible to be reimbursed an amount equal to its aggregate negative gain expressed as a positive number for that aggregation period. For example, if a local agency’s aggregate gain was negative one hundred dollars (-$100) for an aggregation period, then the local agency would be eligible to be reimbursed one hundred dollars ($100) for that period.

(B) The Department shall also determine if there is money in the County Revenue Protection Fund and whether it is sufficient to provide each county and local agency the full amount it is eligible to be reimbursed for the current aggregation period under subdivision (h)(1)(A).

(2) If there is sufficient money in the County Revenue Protection Fund, the Department shall begin the process to provide each county and local agency with the full amount it is eligible to be reimbursed for the current aggregation period under subdivision (h)(1)(A).

(3) If there is money in the County Revenue Protection Fund, but not sufficient money to provide each county and local agency the full amount it is eligible to be reimbursed for the current aggregation period under subdivision (h)(1)(A), the Department shall begin the process to provide a pro rata share of the money in the fund to each county and local agency based on the amount the county or local agency is eligible to be reimbursed relative to the total amount all the counties and local agencies are eligible to be reimbursed for the current aggregation period under subdivision (h)(1)(A). For example, if a county is eligible to be reimbursed one percent (1%) of the total amount all the counties and local agencies are eligible to be reimbursed for the current aggregation period, then the Department will provide one percent (1%) of the money in the fund to that county for that period.

(4) If any May 5 specified in subdivision (h)(1) falls on a Saturday or state holiday, then the Department shall perform the acts required by subdivision (h)(1) on the next business day following that May 5.

(i) Failure to Report. If a county fails to report a gain for the county or a local agency in the county for any determination period within an aggregation period before the expiration of the extensions of the reporting due date granted under subdivision (g), the Department will conclusively presume that the county or local agency does not have an aggregate negative gain for the aggregation period and thus is not eligible to be reimbursed from the County Revenue Protection Fund for that period.