



**Metro**

Los Angeles County  
Metropolitan Transportation Authority

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September 21, 2016

**TO:** BOARD OF DIRECTORS

**THROUGH:** PHILLIP A. WASHINGTON <sup>PAW</sup>  
CHIEF EXECUTIVE OFFICER.

**FROM:** NALINI AHUJA *Nalini Ahuja*  
CHIEF EXECUTIVE OFFICER

**SUBJECT:** RESCISSION OF SALES TAX EXEMPTION ON RAIL CARS AND  
RAIL CAR PARTS

### ISSUE

We are informing the Board that the State Board of Equalization (SBOE) rescinded Metro's exemption status from sales tax on its purchase of rail cars and rail car parts effective August 16, 2016.

### DISCUSSION

Recently, in connection with the calendar year 2010-2012 triennial audit of Metro's purchases to verify payment of applicable sales and use taxes, SBOE reversed its position regarding Metro's exemption from sales and use tax on its purchases of rail cars and replacement parts. For more than ten years, SBOE has recognized Metro's exemption under state and federal law based on Metro's status as a rail carrier that is subject to the jurisdiction of the federal Surface Transportation Board (STB). The STB has authority over Metro because railroads and Amtrak operate within Metro-owned right-of-way.

We believe that SBOE's reversal of Metro's sales tax exemption for rail cars and replacement parts is based on SBOE's misunderstanding of basic facts regarding continuing use of Metro rights-of-way by railroads and Amtrak. If unchallenged, SBOE's decision will significantly increase Metro's costs of acquiring and maintaining rail cars. None of Metro's current rail car procurements budgeted for sales taxes, so these procurements will need to be supplemented with substantial additional funds to comply

with SBOE's new decision. Over the next five to six years, we estimate the financial impact of SBOE's decision to exceed \$100 million.

### **NEXT STEPS**

While we pursue our legal options with the assistance of County Counsel, if we do not begin to pay sales tax on rail cars and parts as they are delivered, SBOE could assess penalties and interest in addition to the unpaid sales tax. Thus, we will choose to pay the disputed sales taxes and file a claim for refund with SBOE. Claims for refunds that are not resolved by SBOE staff, may be taken to the full Board of Equalization for final decision, subject to further judicial review. We will keep the Board apprised of Metro's administrative appeal of SBOE's unfavorable decision.