加州物稅局董事
馬世雲(Fiona Ma)
歡迎您來到
飲食業銷售和使用稅稅務講座

http://www.boe.ca.gov/ma/
455 Golden Gate Avenue, Suite 10500
San Francisco, California 94102
415-557-3000

Welcome
to the
RESTAURANT SEMINAR

研討會目的

- 銷售和使用稅法的基本認識；
- 如何避免一般會犯的錯誤；
- 如何填報銷售稅和使用稅；
- 解答您的問題

✓ **Provide basic understanding of the sales and use tax law.**

✓ **Teach how to avoid common mistakes.**

✓ **Discuss Board of Equalization services available.**

銷售稅 vs. 使用稅

銷售稅:

- 銷售稅按零售價格徵收。
- 徵收銷售稅是零售商的責任。

使用稅:

- 使用稅按購買價或成本價徵收。
- 當由外州或使用再銷証購買
  - --設備
  - --在餐館和廚房的用具
  - --自用物品
- 稅率與銷售稅率一樣。

SALES TAX

- **Tax imposed on retail selling price.**
- **Sales tax is the responsibility of the retailer.**

USE TAX

- **Tax imposed on the purchase price or cost.**
- **Typically applies to purchases from out of state vendors or if property is purchased with a resale certificate and is not resold:**
  - **Purchase of equipment**
  - **Consumable supplies**
  - **Personal use**

食品銷售的徵稅規則

	堂吃	外賣
套餐或熱食	*徵稅*	*徵稅或免稅*
冷食和非有汽飲料	*徵稅*	*徵稅或免稅* ***(80/80 條例)***
汽水和酒類	*徵稅*	*徵稅*

熱的食物

- 銷售已準備好的熟食是要徵稅的。（儘管用於外賣）。
- 食品加熱高於室溫視爲熱的食物。

例外:

- 熱飲外賣(咖啡，茶)和熱西式糕點(烤麵包圈)在收據中單獨列出可以免稅。

- Sales of hot prepared food are always taxable (even if sold “to go”).
- Food product heated above room temperature is considered hot food.
- Exceptions to the Rules:
- “To go” sales of hot beverages (coffee, tea) and hot bakery goods (a toasted bagel) are exempt when sold for a separate price.

常見概念

餐館設施
FACILITIES

店主提供餐桌，餐椅，和櫃檯。並且包括盤子，玻璃器具，碗碟或其他餐具。

Tables, chairs, and counters provided by the seller. Also includes trays, glasses, dishes, or other tableware.

哪些食品銷售需徵稅?

- 店主設立，準備，或提供用餐場所。
- 已準備好的熟食。
- 汽車餐館。
- 套餐。
- 在要付入場費的場所內銷售食物。
  例如：遊樂場，付費入場的體育場所。

- **Furnished, prepared, or served for consumption at the facilities provided by the seller.**
- **Hot prepared food products.**
- **Sold at a drive-in.**
- **Some combination packages.**
- **Sold for consumption within a place where admission is charged.**

常見概念

汽車餐廳

DRIVE-IN

專門為在車內用餐而設立的停車設施。

An establishment where parking facilities are primarily for consumption of food and beverages.

常見概念

套餐

MEAL

冷或熱的食物和飲料組合成套餐以單一價格銷售。

A combination of different food and beverage items sold for a single price.

套餐外賣

套餐#1

吞拿魚三文治和凍奶

A tuna sandwich and milk

此類外賣套餐包括凍肉和沒有含(碳酸)汽飲料，以單一價格出售，是不需要徵稅的。

免稅食品

The entire charge for a combination sale of a cold food and a non-carbonated beverage "to go" is not subject to tax.

套餐外賣

套餐 #2

吞拿魚三文治和熱咖啡

A tuna sandwich and coffee

此類外賣套餐包括已準備好的熟食和熱飲，以單一價格出售，是需要徵稅的。

需徵稅

The entire charge for a combination sale that includes a hot prepared food or hot beverage is taxable. See Regulation 1603(e)(1).

套餐外賣

套餐 #3

吞拿魚三文治加
罐裝汽水

A tuna sandwich and a can of soda

部分需徵稅
PARTLY TAXABLE

當套餐包括凍食和有汽飲料時，只是含有(碳酸)汽飲料部分的銷售需要徵稅。

ONLY the selling portion of the carbonated beverage is taxable when a combination package includes a cold food and a carbonated beverage.

例子：

汽水 Soda	$2.00
吞拿魚三文治 Tuna Sandwich	$4.00
套餐 Combo Meal 包括一罐汽水和三文治 (Includes a soda and a sandwich)	$5.00
套餐中需徵稅的金額是多少？ **What is the taxable amount of the combo meal?**	$1.67

計算舉例:

汽水	$2.00	$2.00/$6.00=33%
吞拿魚三文治	$4.00	
合計	$6.00	
套餐	$5.00	33% x $5.00=$1.67

常見概念

出售不適宜<u>立即食用</u>的免稅食品

FOOD NOT ORDINARILY SOLD FOR IMMEDIATE CONSUMPTION

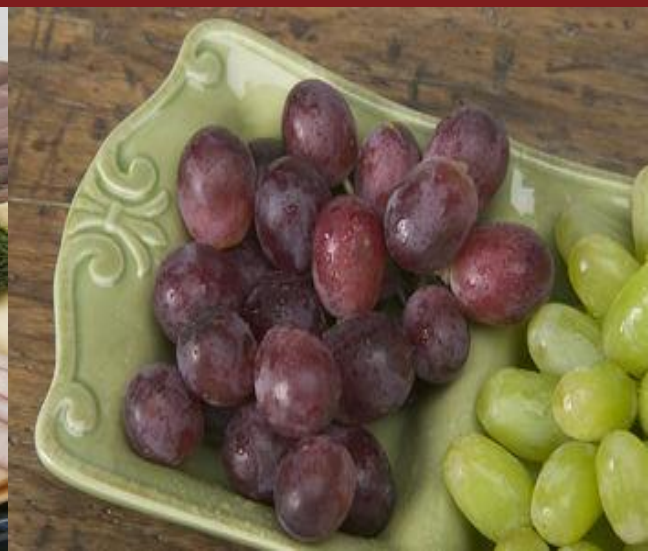
1)食物需進一部加工/烹飪，或

2)出售的分量通常超過一人食用(通常大於一品脫)。

1. **Food requiring further processing/cooking, or**
2. **Sold in a size that cannot ordinarily be consumed by one person (generally larger than one pint).**

舉例常見不宜立即食用的食品

1) 大盒裝雪糕 Quart of ice cream.
2) 一個完整的大餡餅“**PIE**” A whole pie.
3) 一大托盤冷的派對食物或水果
tray of cold cut Party and cheeses or assorted fruits.



哪些外賣食品可以免稅?

- 銷售不宜立即食用的冷食。
- 外賣熱飲和熱西式糕點分別標價。
- 外賣套餐組合包括
  冷的食品*和*
  没有含(碳酸)汽飲料。

- **Sales of cold food not ordinarily sold for immediate consumption.**
- **Hot beverages and hot bakery goods "to go" when sold for a separate price.**
- **Entire charge for a combination sale of a cold food and a non-carbonated beverage "to go".**

常見概念

80/80 條例

80/80 RULE

當符合**80/80 條例**，外賣冷的食品亦要徵稅。

Criteria to be met to determine if sales of cold food products “to go” are taxable.

80/80 條例

食品銷售額達到或超過80%的總銷售額
(食品不包括酒類和有碳酸汽飲料)

同時

80%的食品銷售是需徵稅。

If your food sales are ≥ 80% total sales
(excluding alcoholic and carbonated beverages) **AND**
If 80% of those food sales are taxable
(based on consumption at your facilities,
or they are hot prepared foods).

80/80 條例

符合以下情形需要徵稅：(除非你做了特別的選擇)

- 外賣冷的食品和非有汽的飲料

  並且

- 適合立即食用。

註明：冷凍食品以不宜立即食用的形式出售通常仍然免稅。

- **Tax is required when you meet the following criteria: (unless you choose a special election)**
- **Cold food and noncarbonated beverages are sold "to go" AND**
- **Are suitable for immediate consumption.**

Note: Food sold in a form NOT ordinarily sold for immediate consumption is still exempt

80/80 條例
(*特別選擇*)

- <u>特別選擇：</u>

A. 這個選擇要求餐館要在收據上<u>分別列出</u>冷凍食物和非有汽飲料的銷售金額。這時，餐館才可以在稅表上申報此銷售為免稅食品。

B. 否則，不論冷或熱的食品都要徵稅。

- **This election requires the seller to keep separate accounting records for sale of cold food and noncarbonated beverages.**
- **Seller may then claim these sales as exempt.**

免費餐

- 免費給顧客的食物是免稅的。

- 免費的汽水和酒類需要按成本價來計算報使用稅。

- **No tax is due on *food* given to customers for free.**
- **Use tax due on the <u>cost</u> of carbonated and alcoholic beverages.**

員工餐

如果食物和飲料以下列形式向員工收費，則應報稅：

- 員工支付現金；
- 員工餐的價值從工資中扣除；
- 員工折現未食用的員工餐。

Tax applies when employees are charged for food and drinks if:

- **Employee pays cash.**
- **Value of meal is deducted from employee's wages.**
- **Employee has the option to receive cash for meals not consumed.**

服務費/小費

- 顧客隨意支付的小費是免稅的。
- 餐館強制徵收的小費是應徵稅的。

Voluntary tips are exempt

Mandatory tips are taxable

服務費/小費

<u>隨意支付的小費包括：</u>

- 顧客在付帳后留下現金。
- 在實際支付的餐飲金額之外，
  顧客隨意寫下金額。
- 餐館按顧客的指示，將金額加到帳單中。

Voluntary Tip includes

- **Cash left by guest after paying bill.**
- **Amount voluntarily written by guest after total amount is billed by restaurant.**
- **Amount added to check by restaurant at the direction of the guest.**

服務費/小費

<u>強制性的小費包括：</u>

- 餐館與顧客事前商議好小費的金額或百分比。
- 餐館加收的金額沒有得到顧客的指示。

**餐館加收的小費，顧客事前沒有要求，被視爲強制性小費。(就算收據或菜單上沒有“建議小費”的字眼)。*

Mandatory Tip includes

- **Percentage or amount of tip negotiated with guest in advance.**
- **Amount added by restaurant, unless first directed to do so by the guest.**

  ****A tip added by the restaurant without being first requested by the customer is mandatory whether or not the bill or menu labels it "suggested gratuity"***

服務費/小費

強制性的小費包括:

- **"An 18% gratuity [or service charge] will be added to parties of 8 or more."**
- **"Suggested gratuity 15%," itemized on the invoice or bill by the restaurant, hotel, caterer, boarding house, soda fountain, drive-in or similar establishment.**
- **"A 15% voluntary gratuity will be added for parties of 8 or more."**

服務費/小費

例子：餐館自行附加強制性小費

錯誤稅額 = **$5.97**		正確稅額 = **$7.14***
Food Item A	$ 70.10 T	$70.10 T
Beverage Item B	4.50 T	4.50 T
Subtotal	$ 74.60	$74.60
Tax (at 8%)	5.97	7.14
Total	$ 80.57	$81.74
18% Gratuity	14. 51	14.51 T
Total due	$ 95.08	$96.25

** 計算的稅金應包括**$14.51**強制性小費因爲這不是由顧客隨意附加的金額。*

The amount on which the tax is computed should include the $14.51 mandatory tip since it was not added voluntarily by the guest.

買2付1優惠券

從顧客收取的金額
是應徵稅。

The amount received from the customer is subject to tax.

自用的食品

- 店主或員工免費餐是*免稅*的。
- 在免費餐中，若包含有汽飲料和含酒精飲料，則要按*成本价*自行申報。

- **No tax due on food served to yourself or employees for free.**
- **Tax due on the cost of carbonated and alcoholic beverages consumed by you, your employees, or given free of charge to customers.**

可視爲轉銷而免稅購買的物品

- 有汽飲料。 **Carbonated Beverages.**
- 含酒精的飲料。 **Alcoholic Beverages.**
- 飲筒，餐巾和牙籤。 **Straws, paper napkins, and toothpicks.**
- 一次性使用的外帶飯盒及餐具。 **Nonreturnable "to go" containers, cups, and lids.** **Disposable utensils**

再銷証

BOE-230 (7-02)
GENERAL RESALE CERTIFICATE

STATE OF CALIFORNIA
BOARD OF EQUALIZATION

California Resale Certificate

I HEREBY CERTIFY:

1. I hold valid seller's permit number: _____

2. I am engaged in the business of selling the following type of tangible personal property:

   _____

3. This certificate is for the purchase from _____ of the item(s) I have listed in paragraph 5 below.
   [Vendor's name]

4. I will resell the item(s) listed in paragraph 5, which I am purchasing under this resale certificate in the form of tangible personal property in the regular course of my business operations, and I will do so prior to making any use of the item(s) other than demonstration and display while holding the item(s) for sale in the regular course of my business. I understand that if I use the item(s) purchased under this certificate in any manner other than as just described, I will owe use tax based on each item's purchase price or as otherwise provided by law.

5. Description of property to be purchased for resale:

   _____

   _____

   _____

6. I have read and understand the following:

   For Your Information: A person may be guilty of a misdemeanor under Revenue and Taxation Code section 6094.5 if the purchaser knows at the time of purchase that he or she will not resell the purchased item prior to any use (other than retention, demonstration, or display while holding it for resale) and he or she furnishes a resale certificate to avoid payment to the seller of an amount as tax. Additionally, a person misusing a resale certificate for personal gain or to evade the payment of tax is liable, for each purchase, for the tax that would have been due, plus a penalty of 10 percent of the tax or $500, whichever is more.

NAME OF PURCHASER

SIGNATURE OF PURCHASER, PURCHASER'S EMPLOYEE OR AUTHORIZED REPRESENTATIVE

PRINTED NAME OF PERSON SIGNING | TITLE

ADDRESS OF PURCHASER

TELEPHONE NUMBER ( ) | DATE

Copies of BOE-230, *California Resale Certificate* are available on our website and from our Information Section faxback service.

賣價已包含銷售稅

- 需要在經營場所張貼告示。

  或者

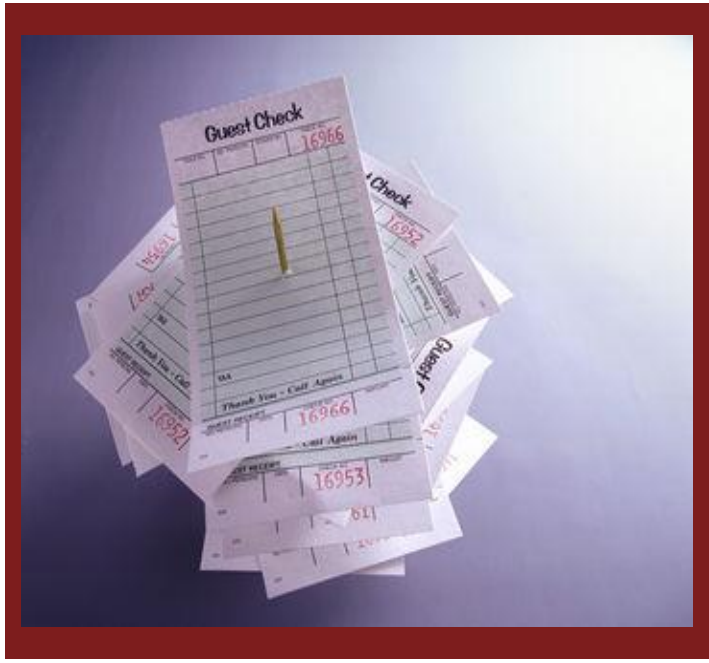
- 在菜單上註明。

- **Post sign on business premise.**
- **Indicate on menu**.

Regulation 1700, Reimbursement for Sales Tax

記錄的保存

- 收銀機單據/收據;
- 顧客點菜記錄;
- 每日銷售額匯總;
- 銷售日記/匯總;
- 購貨收據。



記住須保留充足的文件和記錄至少四年

- **Cash Register Tapes/Receipts.**
- **Guest Checks.**
- **Daily Sales Summary.**
- **Sales Journals/Summary.**
- **Purchase Invoices.**

Remember to maintain adequate books and records for a minimum of four (4) years

記錄的保存

- 購買記錄。
- 已支付的支票副本。
- 每月銀行對帳單。
- 盈虧報表。
- 收入稅稅表。
- 庫貨點算/報表。

記住須保留充足的文件和記錄至少四年

- **Purchase Journal.**
- **Cancelled Checks.**
- **Bank Statements.**
- **Profit and Loss Statements.**
- **Income Tax Returns.**
- **Inventory Counts/Reports.**

Remember to maintain adequate books and records for a minimum of four (4) years

其他應保存的記錄

- 證明隨意性小費的顧客收據。
- 舊的菜單。
- 有關給顧客和員工免費飲料的條例和記錄。
- 偷竊，火災以及相關的保險賠付文件，警察報告等證明損失的記錄。
- 折扣券。
- 銷售合約。
- 其他來源的收入。
- 出租和/或特許經營協議。

- Guest receipts to support optional tips.
- Old Menus.
- Customer and Employee Complimentary Drink Policy.
- Theft, Fire, or Other Type of Losses.
- Coupons.
- Sales Contract or Agreement.
- Other Sources of Income.
- Lease and/or Franchise Agreement.

審計

- 電話和信件。
- 記錄審查。
- 與審計員討論。
- 刊物**76**，審計。

請記住，審計員是審核您的商業經營，並不是財務記錄。

- **Initial contact by telephone or letter.**
- **Records to review.**
- **Discussion with auditor.**
- **Publication 76, *Audits*.**

Please remember the auditor is auditing the business, not just the financial records.

常見錯誤

- 缺少充足的證明文件。
- 免費餐 (漏報應付使用稅的飲料)。
- 沒有報使用稅。
- 沒有扣除已付銷售稅的物品用於再銷售。

- **Lack of adequate supporting documents.**
- **Complimentary meals.**
- **Not reporting use tax.**
- **Tax-paid purchases resold, not claimed.**

常見錯誤

- 銷售記錄與報表不符。
- 誤解**80/80**條例。
- 漏報強制性的小費。

- **Difference between reported and recorded sales.**
- **Misunderstanding of 80/80 rule.**
- **Mandatory tips.**

新條例

40 % 罰款*
(1-1-07生效)

*納稅人有意識徵收了銷售或使用稅，
但沒有上報和繳付稅款給物稅局。

40 % Penalty* (effective 1-1-07)
***can apply to a person who knowingly collects and fails to pay sales tax reimbursement or use tax to the BOE (exemptions apply).**

B E SERVICES

- 網址：
  www.boe.ca.gov/elecsrv/eservices/htm

- 各地區分局 (Handout A)

- 咨詢中心
  - 800-400-7115
  - 800-735-2929 (TDD)

- 鏈接其他有用的網站

B E SERVICES

- 納稅人教育咨詢計劃
- 課程和講座:
  - 在各分局舉辦基本銷售和使用稅課程
  - 小型商業稅務展覽會
  - 行業講座
  - 稅表準備

- **Taxpayer Educational Consultation Program**
- **Classes and Seminars:**
  - **Basic Sales and Use Tax Class at District Offices**
  - **Small Business Tax Fairs**
  - **Industry Seminars**
  - **Tax Return Preparation**

B E SERVICES

- 保護納稅人權利辦公室

  -- 888-324-2798

  -- 刊物**70**，了解加州納稅人的權利

- **Taxpayers' Rights Advocate**
  - **888-324-2798**
  - **Publication 70, *Understanding Your Rights as a California Taxpayer***

B E SERVICES

- 書面咨詢
  - 向地區分局去函詢問。
  - 註明您的身份和銷售許可證或其他帳號號碼。
  - 詳細描述要詢問的事宜和有關交易的情況。

- **Get It In Writing**
  - **Send a request to a local Board office.**
  - **Identify yourself and permit or account number.**
  - **Fully describe the facts and circumstances of the transaction.**

小測試

問題 #1

- 免費員工餐包括熱的三文治和汽水。這個交易是免稅的。

對 或 錯

- An employee eats a hot sandwich and a soda for free. This transaction is not taxable.
  TRUE or FALSE

答案

- 錯。

(因爲汽水應徵稅。)

FALSE

(Tax is due on the carbonated soda)

問題 #2

哪些費用需要徵稅呢？

a) 堂食冷的三文治。

b) 對10人的就餐徵收18%強制性服務費。

c) 外賣熱咖啡和烤麵包圈(以單一價格出售)。

d) 以上所有都要徵稅。

Which of the following charges are subject to tax?

- **a) A sale of a cold sandwich consumed on the business premises.**
- **b) A mandatory 18% service charge for a party of 10.**
- **c) A sale of hot coffee and a toasted bagel to go for a single price.**
- **d) All of the above.**

答案

d) 以上所有都要徵稅。

d) All of the above.

問題 #3

顧客給你買2付1優惠券。第一份餐的價值$20，第二份餐的價值$17。你收顧客$20。那應徵稅的金額是多少？

A customer gives you a 2-for-1 coupon.
The value of one meal is for $20.00 and the second meal is valued $17.00.
You charged the customer $20.00.
What is the amount subject to tax?

答案

$20.00

加州物稅局董事

馬世雲(Fiona Ma)

多謝大家來到我們的講座！