



State Board of Equalization

News Release

Chairman Jerome E. Horton

4th District – Los Angeles

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Board of Equalization Approves Plan for New Use Tax Nexus Law

ABx1 28 May Create Nexus for Many Out-Of-State Online Retailers

Jerome E. Horton, Chairman of the California State Board of Equalization (BOE), announced that the Board agreed today to commence a process to discuss with interested parties the implementation of the provisions of ABx1 28 (Stats. 2011, Ch. 7), the measure that imposes use tax collection obligations on out-of-state retailers who meet certain criteria. The Board also directed staff to obtain an opinion from the Attorney General related to how the referendum process may affect the effectiveness of ABx1 28.

“We have a constitutional and fiduciary responsibility to enforce the law until a higher authority indicates otherwise,” Horton said. “California consumers should be able to rely on all retailers, including Amazon, to comply with the law and protect them from audit liabilities, penalties and interest associated therewith.”

The changes made by ABx1 28 expand the use tax registration requirements so that they apply to some out-of-state retailers that were previously not required to collect use tax on sales to California customers. Transactions subject to use tax are generally conducted either through mail order, telephone orders or via the Internet.

ABx1 28 provides that large out-of-state retailers that pay in-state affiliates commissions for sales completed after clicking through a link on the affiliate’s website must collect California use tax.

This measure also makes it clear that out-of-state retailers have to start collecting tax if they receive the benefit of services in California through certain related companies that enable the retailers to establish and maintain a market for selling tangible personal property in California. The Board will be identifying further examples through its public process.

ABx1 28 was signed into law by Governor Edmund G. Brown Jr. on June 28, 2011. The Board will now initiate a public process to consider amending Sales and Use Tax Regulation 1684, *Collection of California Use Tax by Retailers*. The first interested parties meeting will be likely be held some time in October, following the development of an initial discussion paper.

The public meeting process offers interested parties the opportunity to provide input regarding formulation or amendment of rules and regulations administered by the Board. Interested parties may subscribe to receive notices and agendas for proposed rules and regulations announcements by signing up for email notifications at www.boe.ca.gov/meetings/boardcomm.htm.

California and non-California retailers with questions regarding their registration requirements or California nexus are encouraged to contact the Board of Equalization's Out-of-State Field Office in Sacramento at 916-227-6600.

Elected in 2010, Chairman Jerome E. Horton is the Fourth District Member of the California State Board of Equalization, representing more than 8.5 million residents in Los Angeles County. He is also the Board of Equalization Legislative Committee chairman. He is the first to serve on the Board of Equalization with over 21 years of experience at the BOE. Horton previously served as an Assembly Member of the California State Assembly from 2000-2006.

The five-member California State Board of Equalization is a publicly elected tax board. The Board of Equalization collects more than \$48 billion annually in taxes and fees supporting state and local government services. It hears business tax appeals, acts as the appellate body for franchise and personal income tax appeals, and serves a significant role in the assessment and administration of property taxes. For more information on other taxes and fees in California, visit www.taxes.ca.gov.

Visit www.boe.ca.gov for the Special Notice on the [New Registration Requirements for Out-of-State Retailers](#) and related [California Use Tax Information](#).

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