

# Tax Information Bulletin

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California State Board of Equalization  
P.O. Box 942879, Sacramento, CA 94279-0001

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## New Legislation Takes Effect—Tax Amnesty and E-Waste Recycling Fee

The following summaries reflect legislative changes enacted in 2004 affecting some of the tax programs administered by the Board. The changes are effective January 1, 2005, unless otherwise indicated. For copies of bills, please write to the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814, or log on to <http://www.leginfo.ca.gov/bilinfo.html>.

### ■ Sales and Use Taxes

#### Tax Penalty Amnesty Program.

Senate Bill 1100 (Stats. 2004, Ch. 226, effective August 16, 2004) requires the Board to administer a sales and use tax penalty amnesty program for the period beginning on February 1, 2005 and ending March 31, 2005. The amnesty program applies to sales and use tax liabilities due and payable for tax reporting periods before January 1, 2003.

#### Vehicles, Vessels and Aircraft Purchased Outside California.

Senate Bill 1100 (Stats. 2004, Ch. 226, effective August 16, 2004) provides that, for the period October 1, 2004 through July 1, 2006, it shall be presumed, unless proven otherwise, that, a vehicle, vessel,

or aircraft purchased outside this state and brought into California within 12 months from the date of purchase is purchased for use in California and is subject to California use tax, if any of the following occur:

- The vehicle, vessel, or aircraft was purchased by a California resident.
- The vehicle was subject to California registration or the vessel or aircraft was subject to property tax in this state at any time during the first 12 months of ownership.
- The vehicle, vessel, or aircraft was used or stored in this state more than one-half of the time during the first 12 months of ownership.

See the September 2004 *Tax Information Bulletin* for a related article.

### ■ Special Taxes

#### California Tire Fee Increase.

Assembly Bill 923 (Stats. 2004, Ch. 707) increases the California tire fee on January 1, 2005, from \$1.00 to \$1.75 per tire, until December 31, 2006, and decreases the fee after that date to \$1.50 per tire. Beginning January 1, 2015, the fee will decrease to \$0.75 per

tire. In addition, a retail seller's reimbursement for any costs associated with the collection of the fee will decrease on January 1, 2005, from 3 percent to 1.5 percent, until December 31, 2014.

#### Board to Collect Covered Electronic Waste Recycling Fee.

In 2003, Senate Bill 20 (Stats. 2003, Ch. 526) established the Electronic Waste Recycling Act of 2003, which, in part, imposes a covered e-waste recycling fee. Senate Bill 50 (Stats. 2004, Ch. 863) makes a number of clarifying changes to that Act, such as requiring the Board to administer and collect the covered e-waste recycling fee, revising the start date for the e-waste fee to

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Be sure to read the inserts.

### Tax Amnesty E-Waste Recycling Fee

We have included inserts with your tax return mailing that explain more about tax amnesty and the new e-waste recycling fee.

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## Checks are clearing faster—don't count on float time!

On October 28, 2004, the new federal Check Clearing for the 21st Century Act (Check 21) became effective. Designed to allow banks to handle more checks electronically, the new law makes check processing faster. Check 21 effectively eliminates “float” time—the period between the time a check is given and the time the funds are actually removed from the check writer's account.

## What happens if the check I sent with my return “bounces” for insufficient funds?

If replacement funds are not sent before the due date of the return, you will be liable for a 10 percent late payment penalty and interest on the unpaid tax amount. Of course, your financial institution may also charge you fees for returned checks.

*Example:* Your tax liability is \$2,500 due on or before January 31, 2005. You timely mail your return and a check for the full amount of tax on January 24, 2005; however, the check is returned for non-sufficient funds. Unless you send replacement funds on or before January 31st, you will owe an additional \$264.58 [\$250 in penalty (\$2,500 x 10%) + \$14.58 in interest (\$2,500 x .00583 current 7% adjusted interest rate)].

To avoid bouncing checks, always make sure you have enough money in your account to cover the checks you write at the time that you write them. For more information about Check 21 visit the Federal Reserve Board website at [www.federalreserve.gov](http://www.federalreserve.gov).

## Sales and use tax rates to increase in the cities of Fort Bragg and Sonora

Voters have approved new taxes in the cities of Fort Bragg and Sonora. Beginning January 1, 2005, the new sales and use tax rates are

### City of Fort Bragg: 7.75%

Increases the tax rate within the city limits from 7.25% to 7.75%. The tax rate in Mendocino County outside the city of Fort Bragg (and the cities of Willits and Point Arena, which also have a 7.75% tax rate) will remain 7.25%.

### City of Sonora: 7.75%

Increases the tax rate within the city limits from 7.25% to 7.75%. The tax rate in Tuolumne County outside the city of Sonora will remain 7.25%.

## Who must collect tax at the new rate?

You must apply the new tax rate if you

- Are a retailer in the city of Fort Bragg or Sonora and your merchandise is sold and delivered within the city.
- Engage in business in the city and you sell merchandise for use in the city. You are considered to be engaged in business in the city if you (1) have any type of business location there, (2) deliver into the city using your own vehicles, or (3) have an agent or representative in the city for the purpose of taking orders, delivering, installing, selling, or assembling.
- Are a dealer of vehicles, vessels, or aircraft and sell those items to persons who will register or license them to an address located in the city of Fort Bragg or Sonora.
- Collect tax on lease payments you receive for leased property used by the lessee in the city of Fort Bragg or Sonora.

## Is there an exemption from the tax rate increase?

In general, fixed-price contracts and fixed-price lease agreements entered into prior to January 1, 2005, are subject to the tax rates in effect at the time you and your customer entered into the contract or lease agreement. To qualify as “fixed-price,” neither party can have the unconditional right to adjust the price for an increase in costs or terminate the contract or lease [Revenue and Taxation Code sections 7261(g) or 7262(f)]. In addition, the tax amount or rate must be specifically stated in the contract or lease agreement. If the contract or lease qualifies as fixed-price, you should continue to report and remit the specified tax rate—that is, the rate in effect at the time you entered into the contract.

## Civil behavior in trying times

Some observers have noted that civility is decreasing in our society as our lives become more complex. We know that you may find yourself frustrated with the difficulties of the tax law or pressed for time when you're dealing with our staff. Still, we ask that you treat our employees just as you would like to be treated in a business situation. If a statement made to a Board employee seems like a threat—even if made in jest—it will be referred to our Internal Security and Audit Division for investigation.

## California to introduce a new and improved cigarette tax stamp with state-of-the-art anti-counterfeiting features

Cigarette tax evasion is a national problem. Recognizing this problem in California, the State Legislature passed Senate Bill 1701 (Stats. 2002, Ch. 881), which requires the Board of Equalization to replace the current cigarette tax stamp with a high-tech counterfeit-resistant stamp by January 1, 2005.

The new stamp will look very different from the stamps used in the past. To enhance the security of the stamps, they will be produced on tamper-evident label stock and will contain new secure features, which can only be authenticated by authorized scanning devices. Cigarette retailers will be able to purchase a

scanner to authenticate the new stamp.

California will be the first state to use cigarette tax stamps with these technologically advanced features, and the Board is looking forward to putting these stamps to the test to combat cigarette tax evasion.

You should begin seeing the new tax stamps on the bottom of cigarette packs by January 1, 2005. We encourage you to sell your old product as quickly as possible, since the current stamp may be phased out in the near future.

If you have questions, please call the Excise Taxes and Fees Division at 800-400-7115 (TDD/

TTY: 800-735-2929). Select the "Timber, Property Tax and Other Taxes" option, and then "Cigarette and Alcohol Taxes." Staff are available to help you weekdays from 8:00 a.m. to 5:00 p.m., except state holidays. You may also visit our website at [www.boe.ca.gov](http://www.boe.ca.gov).

In addition, if you have questions about purchasing scanning devices, you may call Mr. Stephen Wass, SICPA Project Management Director, at 703-440-7766.

### New legislation...

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January 1, 2005, and clarifying the imposition of the fee.

Specifically, the bill requires a consumer to pay, on and after January 1, 2005, a covered electronic waste recycling fee upon the purchase of new or refurbished covered electronic devices (such as television sets and computer monitors). A retailer selling a covered electronic device to a consumer is required to collect a covered e-waste recycling fee from the consumer, unless otherwise specified. A covered electronic device is defined to mean, in part, a video display device containing a screen greater than four inches, measured diagonally, that is identified in the regulations adopted by the Department of Toxic Substances Control. Depending on the screen size, the fee ranges from \$6 to \$10 per device.

### Small Business Fairs

We invite current and potential business owners to attend one of our upcoming Small Business Fairs, which offer informative workshops on federal, state, and local tax and business requirements. These fairs are free, but reservations are recommended.

#### Upcoming Fairs

##### San Francisco, May 13, 2005

Hiram Johnson State Building

For more information call our San Francisco Office  
415-356-6113

##### Riverside, June 17, 2005

Riverside Convention Center

For more information call our Riverside Office  
951-680-6705

To check for other upcoming fairs, please visit our website at [www.boe.ca.gov/sutax/tpsched.htm](http://www.boe.ca.gov/sutax/tpsched.htm).

## Vehicle dealers—when can you accept a farm equipment exemption?

Occasionally you may have customers request the partial tax exemption for farm equipment and machinery when they purchase an on-road vehicle such as a car or truck. Please note that you may **not** give this exemption unless the Department of Motor Vehicles, Special Processing Unit (SPU) classifies the vehicle being purchased as an implement of husbandry. To apply for this classification, you or your customer must file a request with the SPU and provide any documentation requested.

Until an on-road vehicle is classified as an implement of husbandry, you must collect and report the full rate of tax on the selling price. If the SPU determines the vehicle qualifies as an implement of husbandry, you may refund the state portion of the sales and use tax to your customer, provided the customer gives you a completed and signed farm equipment partial exemption certificate.

For more information, download a copy of publication 66, *Tax Tips for the Agricultural Industry*, from our website at <http://www.boe.ca.gov/pdf/pub66.pdf> or call our Information Center for a copy.

## Are your warranty charges taxable?

Many products—appliances, vehicles, computers, and so forth—are sold with warranties. Sometimes the warranty is always sold with the product (a “mandatory” warranty) and sometimes the customer has the choice to purchase a warranty separately (an “optional” warranty). In general, if the sale of the product is taxable, then the related mandatory warranty is also taxable. If the

warranty is optional, the warranty charges are generally not taxable.

For more information about how tax applies to warranties, or to learn how tax applies to parts sold or used on warranty repair work please see publication 119, *Sales Tax and Warranties*. To get your copy of this publication, visit our website at [www.boe.ca.gov/pdf/pub119.pdf](http://www.boe.ca.gov/pdf/pub119.pdf), or call our Information Center.

## New or revised reference material

### Sales and Use Tax Publications

- 100 Shipping and Delivery Charges (8-04)
- 110 California Use Tax Basics (8-04)
- 116 Sales and Use Tax Records (8-04)

### Special Taxes

- 50-A Introduction to the International Fuel Tax Agreement (IFTA) (8-04)
- 88 Underground Storage Tank Maintenance Fee (7-04)

### Sales and Use Tax Regulation Revisions

- 1525.7 Rural Investment Tax Exemption (effective August 19, 2004)
- 1533.1 Farm Equipment and Machinery (effective August 19, 2004)
- 1533.2 Diesel Fuel Used in Farming Activities or Food Processing (effective August 17, 2004)
- 1534 Timber Harvesting Equipment and Machinery (effective August 18, 2004)
- 1535 Racehorse Breeding Stock (effective August 18, 2004)
- 1584 Membership Fees (effective August 26, 2004)

### Translated Publications

- 109-S Are Your Internet Sales Taxable? (May 2004) Spanish

### For More Information

All telephone numbers are toll-free

<b>Internet</b>	www.boe.ca.gov ■ www.taxes.ca.gov
<b>Information Center</b>	800-400-7115 ■ TDD/TTY: 800-735-2929
<b>Requests for Fax Copies</b>	800-400-7115 (Choose automated services)
<b>Seller's Permit Verification</b>	888-225-5263 ■ www.boe.ca.gov
<b>Taxpayers' Rights Advocate</b>	888-324-2798 ■ www.boe.ca.gov
<b>Tax Evasion Hotline</b>	888-334-3300
<b>State Legislation</b>	www.leginfo.ca.gov/bilinfo.html