

Tax Information Bulletin

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California State Board of Equalization
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What's Inside . . .

- 1 **New Legislation—Electronic funds transfer, tax amnesty, car buyer's bill of rights**
Free E-filing option now available
- 2 **Streamlined Sales Tax Project — No changes in California**
Do you need a seller's permit for your warehouse?
Annual Taxpayers' Bill of Rights hearings
A simple "thank you" is enough
- 3 **Do these revised regulations affect your business?**
Underground storage tank fee to increase
Small Business Fairs
- 4 **Federal law changes regarding diesel fuel sales to farmers**
Your ideas are welcome
Revised Reference Material

New Legislation – Electronic funds transfer, tax amnesty, car buyer's bill of rights

These summaries reflect legislative changes enacted in 2005 affecting the Sales and Use Tax Law administered by the Board. The changes are effective January 1, 2006, unless otherwise indicated. For copies of bills, please write to the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814, or go to www.leginfo.ca.gov/bilinfo.html.

Payments by an electronic funds transfer are required for certain taxpayers. Assembly Bill 1765 (Stats. 2005, ch. 519, operative January 1, 2006) requires taxpayers whose monthly estimated sales and use tax liability averages \$10,000 or more per month, as determined by the Board, to remit amounts due by an electronic funds transfer under specified procedures. Taxpayers who collect use tax on a voluntary basis, however, are not required to pay using electronic funds transfer.

AB 1765 also provides that taxpayers whose monthly estimated sales and use tax liability averages less than \$10,000 and taxpayers who voluntarily collect use tax still may

elect to remit payments by electronic funds transfer voluntarily, but they no longer are obligated to do so for a minimum of one year.

Tax Amnesty Program. Assembly Bill 911 (Stats. 2005, ch. 398, effective September 29, 2005) makes various technical changes to the tax amnesty provisions enacted in 2004. With regard to the sales and use tax amnesty program, this bill deletes the provision that prevented taxpayers from obtaining a refund of the 50% interest penalty after it had been paid.

The Board may relieve you of penalties, including the amnesty penalties, if it determines you failed to make a timely return or payment due to reasonable cause and circumstances beyond your control. If your payment or return filing was late because of failure to exercise ordinary care or because of willful neglect, you will not be granted relief from the penalties. You may use form BOE-735, *Request Relief from Penalty*, to submit your request.

Continued on page 4

Free E-filing option now available

"E-File Now. Ask Us How"

In addition to the current e-filing choices, we have introduced the option of free e-filing. With the free option, called BOE-file, you don't have to do the math. Once return information is entered, the system automatically calculates total and tax due. You save on postage, and no need to worry about lost or late mail.

You can file a return quickly and easily, 24 hours a day (except during scheduled maintenance time Sunday, 5:00 p.m. to Monday, 5:30 a.m., Pacific time). Simply go to www.boe.ca.gov and click on the E-filing Program logo then select



"File Your Sales and Use Tax Return." You can file a return for free by clicking the BOE-file logo.



Who can e-file?

You can e-file if you

- Conduct business at a single location, and

Continued on page 3

BOARD MEMBERS

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Streamlined Sales Tax Project — No changes in California

On October 1, 2005, 13 states, not including California, implemented standardized rules for administering sales and use tax. California has not adopted the standardized rules. Accordingly, you should continue to follow California's sales and use tax laws, regulations and administrative policies when collecting and reporting sales and use tax.

California is one of 42 states (plus the District of Columbia) participating in the Streamlined Sales Tax Project (SSTP), that seeks to simplify and modernize sales and use tax collection and administration. The SSTP was established in March 2000 with the primary purpose of collecting use tax from remote (out-of-state) retailers who are not engaged in business in a member state. However, changes made to a state's sales and use tax

laws and regulations to adopt the standardized rules would also impact in-state retailers.

California is currently analyzing the standardized rules to determine the impact conforming to them would have on the state, local governments and businesses. The analysis is scheduled to be completed in 2007.

For more information on the SSTP go to www.boe.ca.gov/sstp. Should you have any questions relating to the application of sales and use tax, please contact our Information Center at 800-400-7115.



Annual Taxpayers' Bill of Rights hearings

Do you have suggestions for improving our services? Do you want us to look more closely at a tax or fee issue? If you do, come share your ideas and concerns with the elected Members of the Board at the annual Taxpayers' Bill of Rights hearings. You can present your proposal orally or in writing.

The annual business and property taxes hearings for 2006 will be held in Culver City on March 8 and in Sacramento on March 28, both at approximately 1:30 p.m. Although you are not required to make advance arrangements to speak, it would help us to prepare if you contacted the Taxpayers' Rights Advocate Office at 888-324-2798 beforehand to let us know your topic. If your proposal is complex or extensive, we encourage you to submit it in advance and then summarize it in your oral presentation. For more details, please call the Advocate's Office or visit us online at www.boe.ca.gov/tra/tra.htm, where you can also view the office's 2004-05 annual report.

Do you need a seller's permit for your warehouse?

If you are storing resale inventory at a warehouse in California, you may be required to obtain a Seller's Permit for that location.

Recently proposed changes to Regulation 1802, *Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes*, and Regulation 1699, *Permits*, will require permits for warehouse locations when the following conditions apply:

- The retailer has one or more sales offices in this state
- The sale is negotiated out of state
- The order is filled from the retailer's in-state stock of goods at the warehouse.

The changes will require direct allocation of local tax to the warehouse location.

Unless delayed, these regulation changes should be effective by February 2006. They are retroactive and will affect the allocation of local tax from sales occurring prior to February 2006.

We are planning to contact and provide guidance to all businesses that could be affected by these changes. The status of the changes can be found at www.boe.ca.gov/sutax/htm, or you can call our Information Center at 800-400-7115.

A simple "thank you" is enough

During the upcoming holiday season, many businesses offer gifts to their customers, suppliers, and others with whom they do business. We must ask, however, that you not extend your generosity to our employees. A simple "Thank You" or "Happy Holidays" will do, and will be much appreciated. Our policy prevents our employees from accepting gifts of any type.

Free E-filing option

Continued from page 1

- File form BOE-401-EZ, or form BOE-401-A (and use only Schedule A)

You cannot e-file if you are required to make prepayments, or required to pay taxes by electronic funds transfer (EFT).

Where can I get more information?

For an overview of the program, go to www.boe.ca.gov and click on the E-filing Program logo. You can obtain general information and read answers to frequently asked questions.

How does it work?

To e-file your return and payment, you must select either BOE-file, or a service provider listed on our website, and simply follow the instructions. You can e-file through BOE-file for free; other service providers may charge you a fee. This fee is not revenue to the Board.

To make your tax payment, all you need is your bank account number and your financial institution's routing number. After your return and payment information has been accepted for processing, you will receive a confirmation of filing number which you should retain for your records.

What shall I do if there is a technical problem?

If you encounter technical difficulties with filing electronically, online help is available. Or, contact us or the selected service provider by telephone or e-mail. If you are unable to resolve your technical problem, you must still file a paper return and make your payment timely. To avoid penalty and interest, your paper return envelope must be postmarked by the tax due date.

Do these revised regulations affect your business?

To find out, check the following sales and use tax regulations that were revised in the last year. For copies of Board regulations, go to www.boe.ca.gov/sutax/staxregs.htm, or call our Information Center.

Regulation 1588, Seeds, Plants and Fertilizer.

Clarifies that the exemption from tax includes sales of both seeds and plants that will produce either a product that ordinarily would constitute food for human consumption or that will produce a product the purchaser will resell, such as flowers.

Regulation 1589, Containers and Labels.

Operative April 1, 2000, tax does not apply to the sale of, and the storage, use or other consumption of all containers when sold or leased without the contents to persons who place food products for human consumption in the containers for shipment, provided the food products will be sold.

Underground storage tank fee to increase

The Underground Storage Tank Maintenance Fee will increase to \$0.014 cents per gallon effective January 1, 2006. The current rate of \$0.013 per gallon went into effect January 1, 2005. This fee is imposed upon the owner(s) of underground storage tanks. If you operate but do not own an underground storage tank, please let the owner(s) know that they must register with us and pay this fee. For more information please contact the Fuel Taxes Division at 916-322-9669.

For more, see June 2000 Tax Information Bulletin, www.boe.ca.gov/news/pdf/jun00tib.pdf.

Regulation 1619, Foreign Consuls.

Beginning June 1, 2003, the sale or lease of vehicles to foreign consular officers, employees, or members of their families will be exempt from the sales and use tax under certain circumstances. For more on this see the December 2003 Tax Information Bulletin, www.boe.ca.gov/news/pdf/Dec03tib.pdf

Regulation 1603, Taxable Sales of Food Products.

Beginning September 10, 2004, sales of meals and food products furnished or served by any non-profit veteran's organization for purposes of fundraising are exempt from tax. Also see December

Continued on page 4

Small Business Fairs

We invite current and potential business owners to attend one of our upcoming Small Business Fairs, which offer informational workshops on federal, state, and local taxes as well as other government requirements. The fairs are free, but reservations are recommended.

Upcoming Fairs

Riverside, March 24, 2006

Riverside Convention Center
For more information, contact our Riverside Office, 951-680-6705

Oakland, May 12, 2006

Elihu M. Harris State Building
For more information, contact our Oakland Office, 510-622-4055

To check for other upcoming fairs, please visit our website at www.boe.ca.gov/sutax/tpsched.htm.

New laws take effect

Continued from page 1

If you already paid the penalty for which you would like to request relief, you must file a claim for refund with the Board. See our publication 117, *Filing a Claim for Refund*, for information about filing for a refund. The publication includes a form BOE-101, *Claim for Refund*, that you may complete and return to us. Board forms and publications can be found under Written Information & Research Tools on our website at www.boe.ca.gov.

Car Buyer's Bill of Rights. Assembly Bill 68 (Stats. 2005, ch. 128, operative July 1, 2006) among other things, requires car dealers to offer a two-day "cooling off" period on used cars purchased for \$40,000 or less. Dealers may charge a nonreturnable fee for the option of up to \$400 and a return "restocking" fee of up to \$500. The dealer is required to apply the price paid for the option toward the restocking fee. The charge for the option is not subject to sales tax.

Revised regulations

Continued from page 3

2003 TIB, www.boe.ca.gov/news/pdf/Dec03tib.pdf.

Regulation 1620, Interstate and Foreign Commerce

Between October 2, 2004 and June 30, 2006 it will be presumed, unless you show us otherwise, that a vehicle, vessel, or aircraft purchased outside of this state and brought into California within 12 months from the date of purchase is acquired for use in California and is subject to California use tax. Also see the September 2004 Tax Information Bulletin, at www.boe.ca.gov/news/pdf/Sept04TIB.pdf.

Federal law changes regarding diesel fuel sales to farmers

As of October 1, 2005, farmers now must pay federal excise tax on clear diesel fuel purchased from their vendor. For a refund, farmers will have to file a refund claim with the IRS for any fuel that is used in a non-taxable manner. California law remains unchanged. Farmers can still purchase clear diesel fuel from their vendor without payment of the state excise tax by providing the vendor with a Certificate of Farming Use (form BOE-608). Farmers can also buy dyed diesel. If you have any questions, please contact the Fuel Taxes Division at 916-322-9669.

Your ideas are welcome

The State Board of Equalization adopts, amends and repeals regulations to conform to state laws, court cases and policies. The Board's Business Taxes Committee works with interested parties from outside the Board to draft new and revise existing regulations. Proposed regulatory changes are available on our website at www.boe.ca.gov/regs/regscont.htm. The Board welcomes your suggestions and comments regarding these regulations. If you would like to provide input you may call, e-mail, or attend one of our interested parties meetings, which are open to the public. Time and location of the interested parties meetings and public hearings are also posted on our website at www.boe.ca.gov/legdiv/legcont.htm.

Revised Reference Material

Sales and Use Tax Regulation Revisions

No revisions this period.

Translated Publications

- 71 California City and County Sales and Use Tax Rates, Chinese
- 71 California City and County Sales and Use Tax Rates, Spanish
- 50-A Introduction to International Fuel Tax Agreement (IFTA), Spanish

Revised Publications

- 56 Offers in Compromise (April 2005)
- 104 Sales to Residents of Other Countries (May 2005)
- 102 Sales to the U.S. Government (May 2005)

For More Information

All telephone numbers are toll-free

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