



# Special Notice

STATE BOARD  
OF EQUALIZATION

450 N STREET  
SACRAMENTO, CA 95814

## Implementation of New Requirement for Certain Out-of-State Retailers to Collect Tax Has Been Postponed

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[www.boe.ca.gov](http://www.boe.ca.gov)

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800-400-7115  
TTY  
711



On September 23, 2011, Governor Edmund G. Brown, Jr. signed Assembly Bill 155 (AB 155) which retroactively repealed the provisions of ABx1 28. ABx1 28, which was enacted on June 28, 2011, expanded the types of out-of-state retailers that are required to register with the Board of Equalization (BOE) to collect and report use tax on sales of tangible personal property to their California customers. AB 155 also re-enacted the provisions of ABx1 28 (with one change discussed below) but provides that the provisions will not become operative until either September 15, 2012, or January 1, 2013, depending on the status of federal and state legislation (discussed below). In other words, the provisions in ABx1 28 have effectively been delayed until either September 15, 2012, or January 1, 2013.

ABx1 28 and AB 155 both incorporated the registration requirements for out-of-state retailers as they existed prior to June 28, 2011, and those requirements apply after the enactment of both ABx1 28 and AB 155, and they will continue to apply after all of the provisions of AB 155 are operative. In other words, if you were required to be registered to collect use tax on June 27, 2011, there has been and will be no change in your reporting obligations as a result of the recent legislative activity. **If you currently have a California Certificate of Registration—Use Tax, you are required to continue collecting the use tax from your California customers and remitting the tax to the BOE until you are no longer engaged in business in California as defined in Revenue and Taxation Code section 6203 and you request that the BOE close out your certificate.**

If a federal law governing the imposition of use tax collection obligations is not enacted on or before July 31, 2012, then the provisions of AB 155 that expand the types of out-of-state retailers that are required to register with the BOE to collect California use tax will be operative September 15, 2012. If such federal law is enacted by July 31, 2012, and California does not elect to implement that law by enacting conforming state legislation on or before September 14, 2012, then the provisions of AB 155 that expand the types of out-of-state retailers that are required to register with the BOE will be operative January 1, 2013.

The provisions of ABx1 28 that were retroactively repealed and the provisions of AB 155 that will be operative on September 15, 2012, or January 1, 2013, provide that a retailer is engaged in business in California and required to register with the BOE to collect use tax if the retailer has a specified agreement or agreements with a California affiliate or affiliates that is otherwise sufficient to create a use tax collection obligation and the retailer, within the preceding 12 months, has total cumulative sales of tangible personal property to customers in California in excess of a specified dollar amount or threshold. The threshold amount provided by ABx1 28 was \$500,000, and AB 155 provides that the threshold amount will be \$1,000,000, instead of \$500,000. This is the only change made to the provisions of ABx1 28, when those provisions were re-enacted by AB 155.

When out-of-state retailers do not collect California tax, California consumers remain responsible for payment of use tax on their purchases. Use tax generally applies to the same types of items that are subject to sales tax. If you are a consumer that is not required to have a seller's permit or a use tax account, the easiest way to report and pay your use tax is on your California state income tax return. You may also register with the BOE as a use tax payer and report and pay your use tax directly to the BOE.

**Where can I go for more information?** You can get more information regarding use tax registration requirements, including information on AB 155 and ABx1 28, from our website at [www.boe.ca.gov](http://www.boe.ca.gov) or by calling our Taxpayer Information Section at 800-400-7115 (TTY:711), Monday through Friday 8:00 a.m. to 5:00 p.m., Pacific time, excluding state holidays.

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