



TAX Information

B · U · L · L · E · T · I · N



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New tax rates to take effect April 1, 2010

Voters in two cities in California have approved new transactions (sales) and use taxes (district taxes) that are effective April 1, 2010. The new rates apply only within each city's incorporated limits. The tax rates outside the incorporated city limits will remain the same.

City of Gustine 8.75 percent

The City of Gustine, located in Merced County, approved a 0.50 percent City of Gustine transactions and use tax, (GSTG/224) which will increase the tax rate within city limits to 8.75 percent from 8.25 percent.

City of San Mateo 9.50 percent

The City of San Mateo, located in San Mateo County, approved a 0.25 percent City of San Mateo transactions and use tax (SMTG/226), which will increase the tax rate within city limits to 9.50 percent from 9.25 percent.

Is your address in the city limits or unincorporated county?

You can verify whether your business is located within a city that has a district tax. District boundaries are generally defined by city and county lines. Many California zip codes overlap city and county lines. To determine which district taxes affect your sales, visit www.boe.ca.gov/sutax/cityaddresses.htm for a listing of city links. If you do not find the city you are looking for on our website, you may contact the city directly to determine whether or not your business or your customer is within the city boundaries.

Tax Rate Locator

As an additional resource for obtaining the sales and use tax rate for a specific address, you may want to use the free tax rate locator service on the [Group 1 Software Local Sales and Use Tax Rate Locator](#) website. That site allows any person to determine local tax jurisdictions and tax

rates based on address. However, the geotax site is not maintained by the Board of Equalization (BOE) and the link is provided only as a public service. The BOE is not responsible for the content or accuracy of the information shown on that site.

For more information

For information on district taxes, please see [publication 44, District Taxes](#). For updated tax rates throughout California, see [publication 71, California City and County Sales and Use Tax Rates](#). BOE publications are available at www.boe.ca.gov.

If you are a qualified purchaser, your 2009 use tax return and payment are due by April 15, 2010

Revenue and Taxation Code (RTC) section 6225 now requires a "qualified purchaser" to register with the BOE and report and pay use tax directly to the BOE annually. In general, use tax applies to purchases of merchandise from out-of-state sellers (both foreign and domestic) for storage, use, or other consumption in California. If the out-of-state seller does not collect use tax on your purchase, then you must pay the applicable use tax directly to the BOE. This is true whether the purchases were made in person, over the Internet, by telephone, or by mail order. If an out-of-state seller charges you California tax, you should be sure to obtain a receipt. The use tax rate for any location is the same as the sales tax rate and applies to the purchase price of the property.

A "qualified purchaser," is a person that meets all of the following conditions:

- Receives at least \$100,000 in gross receipts from business operations per calendar year. *Note:* Gross receipts is the total of all receipts from both in-state and out-of-state business operations.

BOARD MEMBERS (Names updated 2010)

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First District
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- Is not required to hold a seller's permit or certificate of registration for use tax.
- Is not a holder of a use tax direct payment permit.
- Is not otherwise registered with the BOE to report use tax.

While the BOE has contacted many qualified purchasers in order to register them, it remains the qualified purchaser's responsibility to register with the BOE. To register for a use tax account complete a [BOE-404-A, Use Tax Registration](#), and submit it to the BOE. A qualified purchaser is also required to file a return, reporting and paying use tax on the total purchase price of tangible merchandise that is subject to use tax during the preceding calendar year, and for which tax was not paid to a retailer required to collect the use tax.

Please note: This does not apply to the purchase of a vehicle, vessel, or aircraft. Registered qualified purchasers can electronically file ([eFile](#)) a use tax return through the BOE's free eFiling system ([BOE-file](#)). The return for 2009, along with payment, is due by April 15, 2010.

For additional information regarding your registration and reporting requirements, please refer to [publication 123, California Businesses: How to Identify California Use Tax Due](#), and special notice, [L-232, New Registration and Reporting Requirements for Certain Purchasers](#) (September 2009). For additional information on eFiling, refer to [publication 159, eFile Guide](#). All BOE forms and publications are available at www.boe.ca.gov.

Certain nonprofit organizations are regarded as consumers, rather than retailers

Effective immediately through January 1, 2015, [Assembly Bill 1486](#) provides that 501(c) membership organizations are consumers and not retailers of certain sales of tangible personal property (merchandise) sold to the organizations' members under specific conditions. The requirements are:

1. The merchandise bears a logo or other identifying mark of the organization and is a promotional item or an item commonly associated with use by a member to demonstrate the member's association with, or membership in, the organization.
2. The selling price of the merchandise to the member of the organization does not exceed the cost by the nonprofit organization to obtain and transfer the merchandise. The costs include any applicable sales or use tax paid by the nonprofit organization.
3. Reasonable steps are taken by the organization to ensure that no member is allowed to acquire more than

30 identical items of this merchandise or to resell the items to another person.

4. The merchandise is not distributed for political campaigning purposes or issue advocacy.

The purpose of this bill is to relieve nonprofit organizations from the burdensome and time-consuming task of maintaining records and filing sales tax returns for their sales of promotional items to members, when the sales prices of those promotional items are no more than the cost to the organization.

Flavored cigarettes banned in U.S.

Effective September 22, 2009, cigarettes that contain certain characterizing flavors are considered adulterated and the manufacture, import, and sale of these products are banned in the United States as authorized by the Family Smoking Prevention and Tobacco Control Act (FSPTCA). The FSPTCA provides the Food and Drug Administration (FDA) with regulatory authority over the manufacture, marketing, and distribution of tobacco products. According to the Act:

"...a cigarette or any of its component parts (including the tobacco, filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavor (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry or coffee, that is a characterizing flavor of the tobacco product or tobacco smoke."

These products can no longer be manufactured, imported, or sold in the United States.

For general information regarding the FDA's Tobacco Program and the ban on flavored cigarettes, please refer to the FDA's website at

www.fda.gov/TobaccoProducts/default.htm.

In compliance with the new federal law, flavored cigarettes banned by the FSPTCA have been removed and may continue to be removed from the California Tobacco Directory by California's Attorney General. Cigarette and Tobacco Products Licensees should refer regularly to the California Tobacco Directory provided at www.ag.ca.gov/tobacco/directory.php for a product list of cigarette manufacturers and brand families that are authorized for sale in California.

It is illegal for distributors to affix a California tax stamp on packages of cigarettes or pay the tax on roll-your-own product unless the manufacturer and the brand family are listed in the California Tobacco Directory. Sales of cigarettes and roll-your-own products that are not listed

in the California Tobacco Directory are prohibited and could be seized by federal, state, or local law enforcement authorities.

Sales of toasted sandwiches are taxable

Sandwich shops, delicatessens, and other retailers that sell sandwiches, beverages and other hot food need to be aware that to-go sales of hot prepared food products are taxable (see exception below for hot bakery items). A food product is considered a hot food product if it is heated to a temperature above room temperature (for example, grilling or toasting a sandwich, dipping a sandwich in hot gravy, or using infrared lights, steam tables, or microwave ovens). Examples of hot prepared food products include hot sandwiches, pizza, barbecued chicken, soup, consommé, bouillon, steak, and so forth.

Food is considered “hot” even if it has cooled by the time of sale since it was intended to be sold as a hot food. If your customer buys a cold food product to go and heats the food product in a microwave oven that is accessible to the public, the sale is not taxable. It is considered a sale of a cold food product to go.

Exception: Sales of hot bakery goods are not taxable when sold to go, unless they are sold as part of a combination package. For example, a combination of hot coffee and a doughnut for a single price is taxable because the combination package includes a hot food or hot beverage. For additional information see [publication 22, Dining and Beverage Industry](#).

Are you familiar with the BOE’s website?

A wealth of information is available on the BOE’s website at www.boe.ca.gov.

On our website you’ll find an overview of the BOE’s organization, the professional history and qualifications of each Board Member, including the State Controller, who is the fifth, ex-officio, Board Member. Sections about the tax programs administered by the BOE are provided as well. These programs include: Sales and Use, Property, Timber, Fuel, and Excise Taxes, and Environmental Fees.

We also offer services to assist you! Our Help Center pages contain answers to frequently asked questions and if you have a question not addressed on the FAQ page, we provide a toll-free number for our Taxpayer Information Section so you can speak with a live person for assistance. On our website, you’ll find instructions and requirements for efilings, along with the methods of making electronic payments via credit card or Electronic Funds Transfer

(EFT). We provide access to tax returns, required forms, and reference materials such as sales and use tax regulations, and BOE publications geared to assist specific business owners (for example, restaurants, jewelers and contractors) in learning the tax requirements that pertain to each industry. Many of our publications have been translated into various foreign languages as well.

There is a section on taxpayers’ rights that includes links to our Taxpayers’ Rights Advocate Office, the Tax Appellate Program, Offer in Compromise, and our Settlement Program. The Tax Appellate Program is the conduit to file appeals as the result of a BOE audit. The Offer in Compromise Program allows you to make a proposal to pay the BOE an amount that is less than the full amount of the tax or fee due on an account. Our Settlement Program provides that while you are pursuing an appeal (such as a petition for redetermination, an administrative protest, or a claim for refund) you may be able to propose a settlement of your case.

You will also find the dates and locations for future Board and Committee meetings. Should your interests focus on current or past legislation, links to these are also available. A yearly index and archived copies of the Tax Information Bulletin are also available for reference.

We are always working to develop new content that will be useful to people doing business in California. We hope you will explore and access the valuable information provided on the BOE’s website.

BOE’s online educational seminars

The BOE announced the expansion of its available online educational products to include the virtual replication of Small Business Fairs and Nonprofit Seminars.

These online products are a cost effective, convenient way for taxpayers to learn about the BOE tax programs and how to comply with California tax laws. The virtual seminars are designed specifically to enhance the in-person attention taxpayers can get through sales and use tax classes offered in BOE offices, and seminars offered throughout the state.

The BOE also offers a total virtual one-stop-shop option for Small Business Fairs and Nonprofit Seminars. The site includes links to our seminar partners: Internal Revenue Service, Franchise Tax Board, Employment Development Department, U.S. Small Business Administration, and other local, state and federal agencies. There you will find contact information, presentations, videos, audio recordings and much more!

The BOE will provide online educational and learning

product training and facilitation guides on how to use the products as a convenient resource. In turn, the other agencies will be capable of assisting their clients in using the BOE online products.

The virtual seminars currently available include:

- Basic Sales and Use Tax
- Nonprofit Organizations
- Small Business Fairs
- eFile
- Retail Sales of Cigarettes and Tobacco Products

Please visit our online tutorials at http://www.boe.ca.gov/info/VirtualSeminars/seminars_online.htm.

Move to the front of the line!

Most business with the BOE can be conducted by mail, phone, fax, or online. However, if you need to visit one of our offices, you can save time by scheduling an appointment online at www.boe.ca.gov/sutax/appointment.htm.

Appointments can be made for any of the services we provide to walk-in customers, including:

- Registering for a permit
- Closing your permit
- Obtaining an escrow clearance
- Reinstating a revoked permit
- Assistance in completing and efilings your return

Appointments are generally available Monday through Friday from 8:00 a.m. to 4:30 p.m. (Pacific time), and can be made up to 30 days in advance.

We're here to help you

As part of the BOE's education and outreach, the Educational Consultation Program is a free taxpayer service where we provide individualized tax education and assistance.

We'll have an experienced staff member come to your business to review your operations and record keeping procedures. This is not an audit. Our objective is to educate and inform you of how the sales and use

tax laws apply to your business transactions in order to avoid potential liabilities should you be audited in the future.

Please contact your local [BOE field office](#) or email us at Education.consultation@boe.ca.gov to request an Educational Consultation. A list of our field offices may be found at www.boe.ca.gov.

Misleading business solicitations

The BOE would like to remind you that it does not charge for its forms and publications. You may have seen recent reports in the news or even received mail from businesses and individuals that are offering filing services (such as property tax reassessments or updating business records) for a fee. In most cases, these services are provided by the relevant government agency department for a nominal charge, or often times no charge at all. These mailed solicitations are frequently designed to look like official state or county forms and should be examined carefully. Be sure to check with the pertinent agency before contracting for a service that is available as part of the normal course of business for your local, county, or state agency.

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 dealing with our staff. Still, we ask that you treat our employees just as you would like to be treated in a business situation. Any statement or gesture made to a BOE employee that seems remotely like a threat—even a statement made in jest—will be referred to our Internal Security and Audit Division for investigation.

For More Information

All telephone numbers are toll-free.

Internet

www.boe.ca.gov
www.taxes.ca.gov

Taxpayer Information Section

800-400-7115
TDD/TTY: 800-735-2929

Requests for Fax Copies

800-400-7115
(Choose automated services)

Seller's Permit Verification

888-225-5263
www.boe.ca.gov

Taxpayers' Rights Advocate

888-324-2798
www.boe.ca.gov

Tax Evasion Hotline

888-334-3300

State Legislation

www.leginfo.ca.gov/bilinfo.html

California State
Board of Equalization
PO Box 942879
Sacramento, CA 94279-0001