



# TAX Information

## B · U · L · L · E · T · I · N



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### New tax rates to take effect October 1, 2010

Voters in five cities in California have approved new transactions (sales) and use taxes (district taxes) that are effective October 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 Calexico 9.25%

The City of Calexico, located in Imperial County, approved a 0.50% City of Calexico transactions and use tax (CXGF/230), which will increase the tax rate within city limits to 9.25% from 8.75%.

#### City of Cathedral City 9.75%

The City of Cathedral City, located in Riverside County, approved a 1.00% City of Cathedral City transactions and use tax (CCGT/232), which will increase the tax rate within city limits to 9.75% from 8.75%.

#### City of Cotati 9.50%

The City of Cotati, located in Sonoma County, approved a 0.50% City of Cotati transactions and use tax (CTGF/228), which will increase the tax rate within city limits to 9.50% from 9.00%.

#### City of Rohnert Park 9.50%

The City of Rohnert Park, located in Sonoma County, approved a 0.50% City of Rohnert Park transactions and use tax (RPGF/234), which will increase the tax rate within city limits to 9.50% from 9.00%.

#### City of Woodland 9.00%

The City of Woodland, located in Yolo County, approved a 0.25% City of Woodland transactions and use tax (WOSF/236), which will increase the tax rate within city limits to 9.00% from 8.75%.

### Do you need assistance determining whether an address is within city limits?

Some cities have developed a database to help you identify addresses located within special taxing jurisdictions. In cooperation with these cities, our website contains links to their address databases ([www.boe.ca.gov/sutax/cityaddresses.htm](http://www.boe.ca.gov/sutax/cityaddresses.htm)). If you have questions about the addresses, you should contact the cities directly.

Our website also includes a link to a free sales and use tax rate locator ([www.geotax.com](http://www.geotax.com)) that allows you to determine a tax rate for any address in the state. We provide the Geo-Tax link only as a public service. We do not maintain the website and are not responsible for the content or accuracy of the information shown on that site.

### 40 percent penalty for failure to pay sales tax or use tax collected from customers on time

A 40 percent penalty can apply to a person who knowingly collects and fails to pay sales tax or use tax to the BOE. We review each application of the penalty to decide reasonable cause or uncontrollable circumstances if you fail to pay your taxes.

The penalty will not be assessed if any of the following apply:

- The unreported tax averages less than \$1,000 each month, or
- The unreported tax is less than 5 percent of the total tax due from that period.
- The failure to file and pay is because of reasonable cause or circumstances beyond your control, such as:
  - A death or serious illness in the immediate family.
  - A natural disaster or catastrophe directly affecting the business.

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- The BOE sent tax returns to a wrong address.
- You fail to make a timely payment only once over a three-year period, or once during the period in which you were engaged in business, whichever time period is shorter.
- You voluntarily correct errors in paying sales tax or use tax collected and pay the liability owed as a result of those errors prior to being contacted by the BOE regarding possible errors or discrepancies.

The penalty applies when you knowingly collect tax and fail to pay the amounts owed to the state on time. Penalized taxpayers can seek relief by proving reasonable cause or circumstances beyond their control that affected reporting tax. You can use a [BOE-735, Request for Relief from Penalty](#), or send the BOE a written request, signed under penalty of perjury, to explain why you did not pay the tax on time.

The law regarding the penalty is found in Revenue and Taxation Code section 6597. For more information, please call our Taxpayer Information Section at 800-400-7115.

## Go completely paperless with eCheck

You can electronically file your return and make payments in one easy, paperless transaction when you choose eCheck as your payment option. Here are some of the benefits when you pay by eCheck.

### It's safe

Only you can initiate the electronic payment. And there is no worry about your check being stolen or lost in the mail.

### It's secure

The latest hardware and software security ensures the safety and security of taxpayer information.

### It's easy

When you efile your return, simply choose eCheck as your payment method. Supply your bank routing number, account number and account type (checking or savings).

### It's convenient

You can file now and pay later by choosing the effective date of your payment by designating any day up to the due date of the return or prepayment.

### It's green

Your transaction is entirely paperless. You don't need to mail anything to BOE when you file and pay electronically.

### And it's free

Paying by eCheck is free and also makes your entire trans-

action worry-free. No need to worry about remembering to send in a separate payment.

Now that you have tried eFiling, give eCheck a try for entirely paperless filing in one, easy transaction!

## Sales of coffee and other hot beverages

Hot beverages, such as coffee, hot chocolate, hot tea, lattes, mochas, and hot chocolate are generally exempt from sales tax if they are sold "to go" and for a separate price. If they are sold for consumption on the premises, they are taxable. If they are sold in combination with a cold food product for a single price, they are subject to sales tax.

*Note:* Hot soup, bouillon, and consommé are not considered hot beverages. They are considered hot prepared food products and their sale is taxable.

Sales of the following beverages are always taxable:

- Carbonated beverages (such as soda or sparkling water)
- Alcoholic beverages

### Combination of hot and cold foods

If you are selling a combination of hot and cold foods for a single price, the total selling price becomes taxable.

*Example:* You sell a combination of hot coffee and a croissant for a single price of \$5.50 or a combination hot pastrami sandwich, chips and iced tea for \$9.50. Because each combination package includes a hot food or hot beverage, the selling price of each package is taxable.

### 80/80 rule

You are required to report and pay tax on your sales of cold food products "to go" if you come under the 80/80 rule (generally, more than 80 percent of your gross receipts are from sales of food products and more than 80 percent of those sales are taxable). If you come under the 80/80 rule, you can, however, elect not to report tax on your sales "to go" of cold food products if you have adequate supporting documentation.

For more information regarding the 80/80 rule and how tax applies to your food sales, see [Regulation 1603, Taxable Sales of Food Products](#), [publication 24, Liquor Stores](#), and [publication 22, Dining and Beverage Industry](#).

### Who is responsible for paying sales tax to the BOE?

As a seller, you owe the sales tax on your taxable sales and are responsible for paying the correct amount to the BOE. If you pay less than the correct amount, you are subject to additional tax charges plus applicable penalties and interest charges.

## Collecting sales tax from my customer

Although you are required to pay and report sales taxes to the BOE, you may be reimbursed by your customer for the amount of tax you owe on a sale. For example, if you are required to pay \$15.75 in sales tax on a sale, you may pass that cost on to your customer, provided it is agreed to as part of the sale.

Please refer to [Regulation 1700, Reimbursement for Sales Tax](#), for additional information regarding sales tax reimbursement.

## Selling merchandise with sales tax included

As a retailer you are liable for paying the sales tax on your taxable retail sales, however, your customers can reimburse you for the tax. Most retailers do not include sales tax on the price tag of taxable merchandise; however, the tax is added and shown on the sales receipt or other proof of sale.

Some businesses, such as bars, catering truck operators, swap meet operators, and some fast food establishments, prefer to set a price of their merchandise with tax included in their selling price. Sales tax is not added separately on the sales receipt. They do this to eliminate possible errors in calculating the sales tax without a cash register or to simplify their business operations. Prices are usually rounded, such as a single item for \$0.75, or \$1.00 or package orders for \$4.75, \$8.00 and so on.

If you choose to sell at a tax-included price, you need to let your customers know that they are paying a price that includes tax. You may:

- Post a notice on your premises visible to purchasers, or
- Include the notice on a price tag, or
- Include the notice in your advertisement.

Your notice should state one of the following:

1. "All prices of taxable items include sales tax reimbursement computed to the nearest mill," or
2. "The price of this item includes sales tax reimbursement computed to the nearest mill."

Please refer to [Regulation 1700, Reimbursement for Sales Tax](#), for additional information regarding sales tax reimbursement.

## The Gas Tax Swap

The Gas Tax Swap is a combination of lowering the sales tax rate on sales of motor vehicle fuel and simultaneously raising the state excise tax on motor vehicle fuel. While the

sales and use tax rate for sales of motor vehicle fuel will be lower, the additional state excise tax on motor vehicle fuel is intended to offset the lowered sales tax rate. Your overall retail selling price of motor vehicle fuel will not necessarily change.

If you sell motor vehicle fuel at wholesale or at retail you will be affected by the tax rate changes. You will need to tax your customers at the new sales tax rate and keep track of motor vehicle fuel sales to report the sales at the new lower rate. If you are a wholesaler, you are responsible for collecting the prepaid sales tax on sales of motor vehicle fuel to other wholesalers or to retailers. Wholesalers and retailers of motor vehicle fuel need to make sure you are using the most up-to-date forms when reporting motor vehicle fuel sales.

Motor vehicle fuel includes gasoline and aviation gasoline; however, aviation gasoline is excluded from the increase and the tax rate remains unchanged. The term *motor vehicle fuel* does not include jet fuel, diesel fuel, kerosene, liquefied petroleum gas, natural gas in liquid or gaseous form, alcohol, or racing fuel.

Effective July 1, 2011, the Gas Tax Swap will include raising the sales tax rate on sales of diesel fuel and simultaneously lowering the state excise diesel fuel tax. It is important to remember that the changes applicable to sales of diesel fuel occur one year after the changes applicable to sales of motor vehicle fuel. The BOE will provide information in 2011 discussing these changes.

For more detailed information and the actual rate changes, please refer to our May 2010 [Special Notice, New Tax Rates for Motor Vehicle Fuel](#), and [Gas Tax Swap - Frequently Asked Questions](#), available from our website at [www.boe.ca.gov](http://www.boe.ca.gov).

## Are you required to be registered to report use tax?

Because of a recent change in the California Sales and Use Tax Law, you may now be required to register with the BOE for purposes of reporting and paying use tax. Although the obligation to report and pay use tax has been in effect since 1935, the registration requirement for certain purchasers is new.

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.

Assembly Bill x4-18 added section 6225 of the Revenue and Taxation Code, which requires “qualified purchasers” to register with the BOE and report and pay the use tax annually. A qualified purchaser is defined as a person who:

- Is not required to hold a seller’s permit,
- Is not required to be registered with BOE under Revenue and Taxation Code section 6226,
- Receives at least \$100,000 in gross receipts from business operations (includes both in-state and out-of-state operations) per calendar year,
- Does not hold a use tax direct payment permit, and
- Is not otherwise registered with the BOE to report use tax.

Section 6225 of the Revenue and Taxation Code does not apply to purchases of vehicles, vessels, or aircraft.

Returns for reporting use tax on purchases made during a calendar year for qualified purchasers are due by April 15 of the following year. Earlier this year, the BOE began contacting potential qualified purchasers for registration. If you are a qualified purchaser and have not been contacted by the BOE, please contact our Taxpayer Information Section at 800-400-7115 and speak with one of our representatives. You may also wish to refer to [publication 126, Mandatory Use Tax Registration for Service Enterprises](#) for additional information.

## Keeping your records in electronic form

Electronic records help insure the accuracy of your tax reporting by allowing easy access and recovery of the electronic data and provide a straightforward way to docu-

ment your sales and purchases. Computer data is considered part of your books and records.

It is important to maintain all records necessary to determine your correct tax liability under the Sales and Use Tax Law and for the proper completion of your sales and use tax return. Such records include:

1. Normal books of account ordinarily maintained by the average prudent businessperson.
2. Bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account.
3. Schedules or working papers used in connection with the preparation of tax returns.

Records in electronic form used to establish your tax compliance must contain acceptable source document information so the details that have been used to create the electronic records can be identified and made available to the BOE upon request.

Your electronic records must be retrievable and allow for the conversion to a standard magnetic record format, for example, Extended Binary Coded Decimal Interchange Code (EBCDIC) or American Standard Code for Information Interchange (ASCII) flat file.

Referred to as “machine-sensible records” electronic records are a collection of related information in electronic format and do not include hardcopy records. For the preparation of tax returns, you are not required to construct machine-sensible records other than those created in the ordinary course of business.

When you use an electronic data interchange (EDI), such as that used to transfer electronic documents from one computer system to another, the level of record detail must be equivalent to that contained in an acceptable paper record.

For additional guidance on the requirements of your business records, see [Regulation 1698, Records](#).

## For More Information

All telephone numbers are toll-free.

### Internet

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

### Taxpayers’ Rights Advocate

888-324-2798  
[www.boe.ca.gov](http://www.boe.ca.gov)

### Tax Evasion Hotline

888-334-3300

### State Legislation

[www.leginfo.ca.gov/bilinfo.html](http://www.leginfo.ca.gov/bilinfo.html)

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