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STREAMLINED SALES TAX PROJECT SSUT AGREEMENT SECTION ANALYSIS

STATE OF CALIFORNIA BOARD OF GOVERNANCE

Section: 310 (Exhibit I provides the complete language of Section 310 of the Streamlined Sales and Use Tax Agreement)

Title: General Sourcing Rules

Summary

California is primarily an origin-based sourcing state. Retail sales are generally sourced to the business location of the retailer where the sale originates. Conforming to Section 310 would require California to change to destination-based sourcing and source retail sales principally to the location where the purchaser receives the property. This change will require California to revise most, if not all of the Sections and Regulations identified in this analysis. Although the change will generally not reduce the amount of taxes due, it will result in revenue shifts for local taxing jurisdictions. However, the full impact of this change has not yet been determined. A study will be completed to quantify the impact on the state, local jurisdictions and businesses.

Description

Sourcing determines the place of sale, and therefore, which jurisdiction is entitled to the local and district taxes generated from a particular transaction. The Streamlined Sales and Use Tax Agreement (SSUT Agreement) adopts a destination-based sourcing method where the location the consumer takes delivery of the goods or service is generally the place of sale. This allows businesses to have a single set of rules for their in-store, catalog, and online sales. Each member state must agree to require sellers to source the retail sale of a product in accordance with Section 310 regardless of the characterization of the product, unless specifically excluded in SSUT Agreement Section 309.

SSUT Agreement Section 310 provides in pertinent part:

- A. Retail sales, excluding leases or rentals, of a product shall be sourced as follows:
1. When the product is received by the purchaser at the seller's business location, the sale is sourced to that business location.
 2. When the product is not received by the purchaser at the seller's business location, the sale is sourced to the location where receipt by the purchaser occurs, including the location indicated by delivery instructions known to the seller.

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3. When (1) and (2) do not apply, the sale is sourced to the location indicated by the address for the purchaser that is available in the seller's records.
 4. When (1), (2) and (3) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of the purchaser's payment instrument, if no other address is available.
 5. When none of the previous rules apply, including the circumstance where the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which the product was shipped.
- B. The lease or rental of tangible personal property, other than property identified in Section 310(C) and (D), shall be sourced as follows:
1. Recurring periodic payments. The first periodic payment is sourced the same as a retail sale in subsection (A). Subsequent periodic payments are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address provided by the lessee that is available to the lessor from its records. The primary property location shall not be altered by intermittent use at different locations, such as accompanying employees on business trips and service calls.
 2. No recurring periodic payments. The payment is sourced the same as a retail sale in subsection (A).
 3. This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.
- C. The lease or rental of motor vehicles, trailers, semi-trailers or aircraft that do not qualify as transportation equipment, as defined in subsection (D), shall be sourced as follows:
1. Recurring periodic payments. Each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records. This location shall not be altered by intermittent use at different locations.
 2. No recurring periodic payments. The payment is sourced the same as a retail sale in subsection (A).
 3. This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

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- D. The retail sale, including lease and rental, of transportation equipment shall be sourced the same as retail sales in subsection (A). “Transportation equipment” means any of the following:
1. Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.
 2. Trucks and truck-tractors with a Gross Vehicle Weight Rating (GVWR) of 10,001 pounds or greater, trailers, semi-trailers or passenger buses that are:
 - a. Registered through the International Registration Plan; and
 - b. Operated under the authority of a carrier authorized and certified by the U.S. Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.
 3. Aircraft that are operated by air carriers authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.
 4. Containers designed for use on and component parts attached or secured on the items set forth in subsections (D)(1) through (D)(3).

Related SSUT Agreement Sections

Section 309: Application of General Sourcing Rules and Exclusions from the Rules

Section 311: General Sourcing Definitions

Section 313: Direct Mail Sourcing

Section 314: Telecommunication Sourcing Rules

Section 315: Telecommunication Sourcing Definitions

Related California Revenue and Taxation Code Sections and Regulations

Section 6010.5	Place of sale
Section 6012.6	Factory built-school building
Section 6022	Vehicle; motor vehicle
Section 6023	Mobile transportation equipment
Section 6024	One-way rental trucks
Section 6077	Retail Florists
Section 6272	Vehicle
Section 6273	Vessel

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Section 6274	Aircraft
Section 7204.03	Place of sale: sales of jet fuel
Section 7205	Place of sale
Section 7205.1	Place of sale: leases of motor vehicles
Section 7263	Place of sale
Regulation 1571	Florists
Regulation 1610	Vehicles, vessels, and aircraft
Regulation 1610.2	Mobilehomes and commercial coaches
Regulation 1661	Leases of mobile transportation equipment
Regulation 1802	Place of sale and use for purposes of Bradley-Burns Uniform Local Sales and Use Taxes
Regulation 1802.5	Long-term leases of motor vehicles
Regulation 1806	Construction Contractors
Regulation 1822	Place of sale for purposes of Transactions (Sales) and Use Taxes
Regulation 1823.5	Place of delivery of certain vehicles, aircraft and undocumented vessels
Regulation 1826	Construction Contractors
Regulation 1827	Collection of Use Tax by Retailers

Summary of California’s Tax Rules

The sales and use tax rate in California is comprised of three separate components, California Sales and Use Tax (State), Bradley-Burns Uniform Local Sales and Use Tax (Local), and Transactions and Use Tax (District).

Type	Rate	Code Section
State	6.25%	
State (General Fund)	4.75%	6051, 6201
State (Fiscal Recovery Fund)	0.25%	*6051.5, 6201.5
State (Local Revenue Fund)	0.50%	6051.2, 6201.2
State (General Fund)	0.25%	6051.3, 6201.3
State (Local Public Safety Fund)	0.50%	§35 Art. XIII CA Constitution
Local	1.00%	
County Transportation Funds	0.25%	*7203.1
City and County Operations	0.75%	*7203.1
District	0.125 - 0.50%	Various

* Effective 7/1/04 (AB 7X The California Fiscal Recovery Financing Act)

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General Rules – Retail Sales

- **State Tax**

The place of sale or purchase of tangible personal property is the place where the property is physically located at the time the act constituting the sale or purchase takes place.

Reference: Section 6010.5

- **Local Tax**

The local sales and use tax is applicable in all of the state's 58 counties and 477 cities. The place of sale is generally sourced to the local jurisdiction of the retailer's place of business, unless the property is delivered by the retailer or his or her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination.

If title to the tangible property sold passes to the purchaser in California, it is immaterial that title passes to the purchaser at a place outside of the local taxing jurisdiction in which the retailer's place of business is located, or that the property is never within the local taxing jurisdiction in which the retailer's place of business is located.

When a business registers with the Board to obtain a seller's permit, an area code is assigned to identify the business location by city or county. Generally, the sales tax is allocated to the assigned area code of the taxpayer's registered place of business. When a sale cannot be identified within a permanent place of business in the state, the sale is sourced to the local jurisdiction through countywide or statewide pools.

Local use tax is generally reported to the local jurisdiction where the property is first functionally used. Since use tax is generally not identified with a specific registered place of business in this state, the tax is usually allocated to the local jurisdiction in the county of first use through a countywide pool.

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When the purchaser sends an order for property directly to the retailer at an out-of-state location and the property is shipped directly to the purchaser in this state from a point outside this state, the transaction is subject to use tax in the jurisdiction where the first functional use is made.

However, if a business purchases property without tax for their own use, the purchase price of the property should be reported on line 2 of the business's sales and use tax return. In turn, the local use tax will be reported according to the area code for the local jurisdiction where the business is located and the use occurs.

Reference: Section 7205(a), Regulations 1802(a)(3), 1802(c)(1)

- **District Tax**

District taxes are additional transactions (sales) and use taxes imposed by special tax districts pursuant to the Transactions and Use Tax Law of the Revenue and Taxation Code. District taxes are imposed through voter approval, ordinances adopted by the districts' governing boards or enabling legislation from the state legislature.

As of July 2004, there were 45 special taxing jurisdictions (district taxes) in effect. On January 1, 2005, there will be 48 district taxes in effect and on April 1, 2005, there will be 64 district taxes in effect. District sales taxes are generally reported to the local jurisdiction of the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. However, a retailer "engaged in business" in a district is required to collect the district use tax revenue on sales made to customers in that district if the retailer ships or delivers the property into the district, or participates within the district in making the sale.

A retailer is considered to be engaged in business in a special tax district and must collect and pay the district use tax if the retailer ships or delivers to a location inside a special tax district and the retailer:

- Has any kind of permanent or temporary business location in the district, including a warehouse, salesroom, or office;

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- Has any kind of representative or agent in the district, even temporarily, who makes sales, takes orders, or makes deliveries;
- Uses its own delivery vehicle to regularly deliver merchandise into or within the district; or
- Receives rental income from the lease of merchandise located in the district.

If the retailer is not engaged in business in a special tax district, the retailer is not required to collect the district use tax on items shipped or delivered into the district. However, the customer is liable for the district use tax due on the sale and must report and remit the tax.

References: Sections 7262, 7263, Regulations 1823, 1827, Publication 105, District Taxes and Delivered Sales

Exceptions to the General Rule – Retail Sales

Sections and Regulations provide for a number of exceptions to the general rules. However, most of the exceptions apply only to local and district taxes.

- **Retailer has more than one place of business**

Local and District Tax

If a retailer has more than one place of business in this state, but only one place of business participates in the sale, the sale occurs at that place of business. If a retailer has more than one place of business in this state which participates in the sale, the sale occurs at the place of business where the principal negotiations are carried on. If this place of business is where the order is taken, it is immaterial that the order must be forwarded elsewhere for acceptance, approval of credit, shipment, or billing.

Reference: Sections 7205(b)(1), 7263, Regulations 1802(a)(2), 1822(a)(2)

- **Retailers under Section 6015**

A business that uses salespersons, representatives, peddlers, canvassers, agents, or other persons who operate under the direction of, or obtain property from the business may be treated as the

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retailer under Section 6015(b). As a section 6015 retailer, the business is responsible for reporting tax on any sales made by these persons.

Local Tax

The place of sale shall be deemed:

- (A) The business location of the retailer if the retailer has only one place of business in this state, exclusive of any door-to-door solicitations of orders, or
- (B) The business location of the retailer where the principal negotiations are carried on, exclusive of any door-to-door solicitations of orders, if more than one in-state place of business of the retailer participates in the sale.

Reference: Regulation 1802(b)(3)

District Tax

The place of sale is the location from which the salesperson, representatives, peddlers, canvassers, or agents operate. Sales made by persons located in districts are generally subject to the district sales tax unless the property is delivered to the purchaser outside the district, for use outside the district. Sales made by persons located outside districts are generally exempt from district sales tax but may be subject to district use tax if the person solicits the sale in a district and ships or delivers the property to the purchaser in the district.

Reference: Regulation 1822(b)(3)

- **Itinerant merchants**

Itinerant merchants are defined as retailers with no permanent place of business and include door to door salespersons selling for their own account.

Local Tax

The place of sale is the permanent address shown on the seller's permit issued to the merchant.

Reference: Regulation 1802(b)(2)

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District Tax

The place of sale is the permanent address shown on the seller's permit issued to the merchant. If the merchant's permanent business address is located in a district, the merchant is generally liable for the district sales tax on the sale unless the property is shipped or delivered to the purchaser outside the district for use outside the district. If the merchant's permanent address is outside a district, the sales are generally exempt from district sales tax, but the seller may be responsible for collecting the district use tax if the merchant solicits the sale in a district and ships or delivers the property to the purchaser in the district.

Reference: Regulation 1822(b)(2)

- **Vending machine operators**

Local and District Tax

The place of sale is the place where the vending machine is located. If an operator purchases property under a resale certificate or from an out-of-state or out-of-district seller without payment of tax and the operator is the consumer of the property, for purposes of the use tax, the use occurs at the place where the vending machine is located.

Reference: Regulations 1802(b)(1), 1822(b)(1)

- **Auctioneers**

Local Tax

The place of sale by an auctioneer is the place where the auction is held except for auctions that result in taxable sales in an aggregate of \$500,000 or more. When the taxable sales are less than \$500,000 in aggregate, the local sales tax is reported for distribution to the countywide pool. If taxable sales are more than \$500,000 in aggregate, the auctioneer must report the local sales tax revenue to the participating jurisdiction in which the sale takes place instead of the countywide pool.

Reference: Regulation 1802(b)(4)

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The place of sale by an auctioneer is the place where the auction is held.

Reference: Regulation 1822(b)(4)

- **Out-of-state retailers who maintain a stock of tangible personal property in California**

Local and District Tax

The place of sale is the location of the property from which delivery or shipment is made.

Reference: Regulations 1802(b)(5), 1822(b)(5)

- **Construction contractors**

Local Tax

The jobsite is regarded as the place of business of a construction contractor or subcontractor and is the place of sale for “fixtures” and the place of use for “materials,” purchased ex-tax, furnished and installed by the contractor or subcontractor. For the purposes of sourcing the local tax, the following procedures have been provided:

- If the contractor reports local tax of \$600 or less per year, the sale or purchase is sourced to the countywide pool for the county where the contractor’s place of business is located.
- If the contractor reports local tax of more than \$600 per year, the sale or purchase is sourced using the countywide pool for the county of the jobsite. Over-the-counter sales are, however, sourced to the specific jurisdiction of the contractor’s place of business instead of the countywide pool.
- For contracts or subcontracts for \$5,000,000 or more, the contractor may elect to obtain a sub-permit for the jobsite. Tax would then be sourced to the specific jurisdiction of the specific jobsite.

Reference: Regulation 1806(b), Audit Manual, Chapter 12, Construction Contractors, Section 1207.25

District Tax

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The jobsite is generally regarded as the place of business of a construction contractor.

Construction contractors other than contractors performing construction contracts for the United States Government, are:

- Consumers of materials furnished and installed in the performance of a construction contract to improve real property and must pay tax when purchasing these items or, if purchased without the payment of tax, report use tax when the materials are received or when they are withdrawn from resale inventory for use. If tax is paid when the property is purchased, the tax is sourced in accordance with the general rules.
- Retailers of fixtures furnished and installed in the performance of a construction contract to improve real property and are liable for tax on the sale of the fixtures or, if installing the fixtures under a lump-sum contract, liable for sales or use tax on the cost of the fixtures.

When a lump-sum contract is involved, the place of sale or place of first use determines whether or where district tax applies to the use of the tangible personal property. For purchases by construction contractors:

- District sales tax applies at the time of the sale when a contractor purchases materials or fixtures in a district even if the contractor intends to install it at a jobsite located outside the district, unless a resale certificate is provided. The sale is generally sourced to the business location of the retailer.
- District use tax applies when materials or fixtures are installed at a jobsite in a tax district and they have been purchased without tax or at a lower rate of tax. Generally, the contractor is responsible for reporting and paying any additional use tax. The sale is sourced to the location of the jobsite.
- District tax will not apply if the sale occurs in a district, but the supplier ships the property to a non-district location where it is installed.

The law allows contractors a credit for district taxes paid on the purchase of fixtures that are subsequently installed at a non-district location.

Reference: Regulations 1826(b)(1), 1826(b)(2), Publication 44, Tax Tips for District Taxes

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- **United States construction contractors**

Local Tax

United States construction contractors are consumers of both materials and fixtures, and the place of use of both is the jobsite. However, if the property is purchased and sales tax reimbursement paid to a retailer in a local jurisdiction other than where the jobsite is located, the sale is correctly sourced to the local jurisdiction of purchase.

Reference: Regulation 1806(c)

District Tax

United States construction contractors are consumers of both materials and fixtures and the place of use is the jobsite. Accordingly, if the jobsite is in a district having state-administered district sales and use taxes, the district use tax applies to the use of the materials and fixtures. The contractor is entitled to a credit against their district use tax liability for district sales tax reimbursement paid to the retailer of the materials or fixtures located in another district.

Reference: Regulation 1826(c)

- **Factory-built school buildings**

Local Tax

The place of sale or purchase of factory-built school buildings is the place of business of the retailer regardless of whether the sale includes installation or whether the building is placed upon a permanent foundation.

Reference: Regulations 1802(b)(6), 1806(b)

District Tax

The place of sale or purchase of a factory-built school building is the place of business of the retailer regardless of whether the sale of the building includes installation or whether the building is placed upon a permanent foundation.

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However, the purchaser may owe additional district use tax if the location where the building is installed has a tax rate greater than that of the place of business of the retailer.

Reference: Regulations 1822(b)(6), 1826(b)(3)

- **Vehicles (except commercial vehicles), aircraft, and undocumented vessels**

District Tax

If the vehicle (except a commercial vehicle), aircraft, or undocumented vessel is licensed or registered in any district imposing a district tax, the retailer is considered to be engaged in business in that district and is required to collect the district use tax and pay it to the state.

Reference: Regulation 1823.5

- **Jet fuel – In general**

Local Tax

In general, the sale of jet fuel is sourced to the point of delivery to the aircraft if the principal negotiations for the sale are conducted in this state and the retailer has more than one place of business in the state. If the retailer only has one place of business in the state, the sale is sourced to the retailer's business location.

Reference: Section 7205(b)(2), Regulation 1802(b)(7)

- **Jet fuel – Multi-jurisdictional airports**

A "multi-jurisdictional airport" is an airport that is owned or operated by a city, county, or city and county that imposes a local sales tax, and is different from the city, county, or city and county in which the airport is located.

Local Tax

The 1.00% local tax derived from the sale of jet fuel at multi-jurisdictional airports, except for San Francisco International Airport and Ontario International Airport, shall be reported as follows:

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- In the case of the 0.25% local tax imposed by counties under Section 7202(a), half is reported to the county that owns or operates the airport (or in which the city which owns or operates the airport is located) and half is reported to the county in which the airport is located.
- In the case of the remaining 0.75% local tax imposed by counties under Section 7202(a) and in the case of local tax imposed by cities at a rate up to 0.75% and offset against the local sales tax of the county in which the city is located under Section 7202(h), half is reported to the city which owns or operates the airport and half to the city in which the airport is located. If the airport is either owned or operated by a county or is located in the unincorporated area of a county or the unincorporated area of a different county, the local tax revenue which would have been reported to a city will be reported to the corresponding county.

The 1.00% local tax from the retail sale of jet fuel delivered to aircraft at San Francisco International Airport is reported half to the City and County of San Francisco, and half to the County of San Mateo.

The 1.00% local tax from the retail sale of jet fuel delivered to aircraft at Ontario International Airport is reported to the City of Ontario in the amount imposed by the city and to the County of San Bernardino in the amount imposed by the county.

Reference: Section 7204.03, Regulation 1802(b)(7)(C)

- **Use tax on transactions of \$500,000 or more**

Local Tax

A seller who is registered to collect use tax or a person who is required to report and pay use tax directly to the Board shall report the local use tax directly to the participating jurisdiction where the first functional use of the property is made instead of the countywide or statewide pools.

Reference: Regulation 1802(c)

- **Retail florists**

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A retail florist is a person selling any flowers, potted ornamental plants, floral arrangements, floral bouquets, wreaths, or any similar products at retail, but does not include any flower or ornamental plant grower who sells his or her own products.

Reference: Section 6077

State, Local and District Taxes

Tax applies to amounts charged by the florist who makes the sale whether the delivery occurs in-state or out-of-state. Tax does not apply to amounts received by California florists who make deliveries in this state pursuant to instructions received from the in-state or out-of-state florist who made the sale.

Reference: Regulation 1571

- **Direct payment permits**

Direct payment permits will be analyzed with Section 326, Direct Payment Permits.

General Rules – Leases or Rentals

California Sales and Use Tax Law distinguishes between leases of:

- Tangible personal property in general.
- Tangible personal property which qualify as mobile transportation equipment.

- **Leases or rentals of tangible personal property – In general**

Most leases are treated as continuing sales and purchases. Generally, the tax that applies is a use tax on the rentals payable under the lease (rentals) which is imposed on the lessee. If the use tax does not apply (in the case of insurance companies for example), the rentals payable are subject to sales tax. Even though the tax is imposed on the lessee, the lessor is usually required to collect the use tax and report it in the period during which he or she received the rental payments.

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As an alternative, the law allows the lessor to pay tax on the purchase price of the leased property instead of reporting and collecting tax on the rental payments. This choice is an irrevocable election and can be taken only if both of the following conditions are met:

- The lessor leases the property in substantially the same form as acquired, and
- The lessor pays the applicable tax to the vendor at the time of purchase or reports and pays the tax directly to the Board. When the lessor reports and remits the tax directly to the Board, the lessor must make the election during the first quarterly reporting period in which the property is first rented.

These general rules apply whether the lessor purchases the property specifically for leasing or purchases it for resale and then decides to lease it.

If the lessor elects to pay the applicable tax on the purchase price of the leased property and the property is leased in substantially the same form as acquired; the general rules for retail sales apply. No tax applies to the rental payments.

State Tax

Leases of tangible personal property in general are not subject to tax if the property is located outside of California. Tax only applies to the period of time the property is leased and situated within California.

Reference: Regulation 1660(b) and (c)

Local Tax

Where the lease is long term (more than 30 days) and the location of the leased property is readily identifiable in the lessor's records, the place of use for local tax purposes is the countywide area in which the property is located during the term of the lease. The local use tax on such leases is distributed indirectly to the local jurisdictions by means of the countywide pools.

Where the lease is either a short-term (30 days or less) lease or where the actual place of use cannot be determined from the lessor's records, the lessor's California place of business at which the principal negotiations occurred is considered the place of use. If none of the lessor's

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California locations participated in the negotiations, the local use tax is sourced to the countywide pool of the county corresponding to the lessee's address.

Reference: Regulation 1803(d), Publication 46, Tax Tips for Leasing of Tangible Personal Property in California.

District Tax

Payments on most leases are subject to the district tax if:

- The property is used in a district, and
- The payments are subject to the statewide use tax.

Generally, the district use tax applies only while the property is used in the district. Leased property that is moved from a district is no longer subject to that district's tax. If moved into another district, the property would be subject to the district tax imposed at the new location; if moved to a non-district location, no district tax would apply. Similarly, leased property that is first used outside a district and then moved into a district becomes subject to that district's tax.

It is the lessor's responsibility to report the district tax when the leased property is located in the district. Lessors deriving rentals from a lease of tangible personal property situated in a district are considered engaged in business in the district and required to collect and report the district taxes due.

Lessors who elect to pay tax on the purchase price of property may also be liable for the applicable district tax if both the following conditions apply:

- The property is first leased in a district.
- The lessor paid no tax or paid tax at a rate less than that imposed in that district.

Reference: Regulation 1823, Publication 44, Tax Tips for District Taxes

- **Leases or rentals of mobile transportation equipment**

Mobile transportation equipment defined

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“Mobile transportation equipment” is defined as equipment such as railcars and locomotives, buses, trucks (except “one-way rental trucks”), truck tractors, truck trailers, dollies, bogies, chassis, reusable cargo shipping containers, aircraft and ships, and tangible personal property which is a component part of such equipment. “Mobile transportation equipment” does not include passenger vehicles, trailers and baggage containers designed for hauling by passenger vehicles or “one-way rental trucks.”

Reference: Section 6023

State and Local Tax

Lessors of mobile transportation equipment are considered to be consumers of the equipment. Consequently, the sale of the equipment to the lessor or its use in the state is generally subject to tax. When a lessor pays tax or tax reimbursement on the purchase of mobile transportation equipment, the application of tax follows the same rules as any other sale of tangible personal property.

As an alternative, lessors may purchase the equipment without paying tax or tax reimbursement and elect to report tax on the fair rental value of the equipment. If lessors make this election,

- The election must be made on or before the due date of the lessor’s return for either the period during which the equipment is first leased (usually the calendar quarter) or the period in which the equipment first enters California.
- The tax rate that applies to the fair rental value is the rate imposed at the location where the equipment is first used. Even when the lessee moves the equipment outside the state, the original tax rate still applies.

Reference: Regulation 1661, 1803(d)

District Tax

Lessors of mobile transportation equipment are considered to be consumers of the equipment. Consequently, the sale of the equipment to the lessor or its use in the state is generally subject to tax.

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When a lessor pays tax or tax reimbursement on the purchase of mobile transportation equipment, the application of tax follows the same rules as any other sale of tangible personal property. District tax is due on the sale if the property is either delivered or first used in a tax district.

If a lessor elects to pay tax measured by the fair rental value of the equipment, tax applies if the first taxable use of the equipment is in a tax district. If the equipment is part of an ex-tax resale inventory that is located in a taxing district, the lease is generally subject to tax at the time the equipment is withdrawn from inventory for lease. However, tax will not apply if:

- The only use of the equipment in the district is its transport to a lessee located outside a district, and
- The equipment is thereafter used solely outside any district.

Lessors whose inventories are located outside districts are not subject to district tax on their leases if the equipment is not used within any taxing district for more than 90 days.

Reference: Regulation 1823, Publication 44, Tax Tips for District Taxes

Exceptions to the general rules – Leases or rentals

Local Tax

- **Long-term leases of motor vehicles**

The term “motor vehicle” means a passenger vehicle (designed to carry no more than 10 persons, including the driver), such as an automobile, minivan, or sports-utility vehicle. The term also includes light-duty pickup trucks rated less than one (1) ton.

A long-term lease is defined as a lease of a motor vehicle for a term exceeding four months.

The local tax is reported to the place of use of the vehicle and shall be determined as follows:

- (A) If the lessor is a California new motor vehicle dealer or leasing company, the place of use of the vehicle is deemed to be the participating jurisdiction of the lessor’s place of business where the lease is negotiated.

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- (B) If the lessor is not a California new motor vehicle dealer or leasing company but purchases the vehicle from a California new motor vehicle dealer or leasing company, the place of use of the vehicle is deemed to be the jurisdiction of the place of business of the participating new motor vehicle dealer or leasing company from which the lessor purchased the vehicle.
- (C) If a lessor is not a California new motor vehicle dealer or leasing company and does not purchase the vehicle from a California new motor vehicle dealer, the place of use is deemed to be the jurisdiction in which the lessee resides and shall be distributed to that jurisdiction through the countywide pool.

The place of use as determined by subdivisions (A), (B) and (C) shall be the place of use for the duration of the lease contract, notwithstanding the fact that the lessor may sell the vehicle and assign the lease contract to a third party or the lessee may change his or her place of residence.

Reference: Regulation 1803.5

Evaluation

This part of the analysis provides a generalized summary of California's current method of sourcing retail sales and purchases for specific property or transactions, followed by a statement identifying the effect of conforming to SSUT Agreement Section 310.

- **General Rules – Retail Sales**

State Tax

The place of sale or purchase of tangible personal property is the place where the property is physically located at the time the act constituting the sale or purchase takes place.

Conforming to Section 310 would not affect the current amount of state tax collected or its distribution.

Local Tax

California is primarily an origin based sourcing state. Retail sales are generally sourced to the local jurisdiction of the retailer's place of business. The SSUT Agreement requires states to adopt destination-based sourcing. Section 310 provides that retail sales be sourced to the location where the

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purchaser receives the property, if this information is available to the retailer at the time of sale. If this information is not available to the retailer, Section 310 provides alternate methods to source the tax. These alternative methods include, in hierarchical order, sourcing the sale to the location:

- Indicated by delivery instructions known to the seller,
- Indicated by the address of the purchaser available in the seller's records,
- Of the purchaser's payment instrument, or
- From which the property is shipped.

Conforming to SSUT Agreement Section 310 will not reduce the amount of local tax collected. However, it will create revenue shifts between local jurisdictions. When the retailer ships or delivers the property sold to locations outside the local jurisdiction of the retailer's place of business, a shift in revenue would occur.

Cities and counties that are comprised of a large number of retailers that routinely sell property that is shipped or delivered to purchasers outside their local jurisdiction may see a reduction in tax revenues. Whereas, cities and counties that are comprised of businesses with a significant amount of over-the-counter sales and residences that receive property from outside their local jurisdiction, may see an increase in local revenues.

Additionally, California currently permits certain retailers to report the local tax utilizing statewide and countywide pools that would not be allowed under SSUT Agreement Section 310. The use of statewide and countywide pools is authorized when it is difficult for certain retailers to report tax to specific jurisdictions. For countywide pools, the tax is distributed to local taxing jurisdictions in the county using ratios reflected by the distribution of all sales and use taxes directly allocated by all other taxpayers in that county. For statewide pools, the tax is distributed to all local taxing jurisdictions in California using ratios reflecting the distribution of sales and use taxes reported by all other taxpayers. The elimination of the statewide and countywide pools would also result in revenue shifts from one local taxing jurisdiction to another.

District Tax

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Retail sales are generally sourced to the location of the retailer's place of business unless the property is delivered by the retailer or his or her agent to an out-of-state or out of district destination or to a common carrier for delivery to an out-of-state or out of district destination. However, if the retailer is engaged in business in a district where the property is shipped for use, the retailer is required to collect the district use tax from their customers in that district.

Conforming to SSUT Agreement Section 310 will result in revenue shifts. The primary cause of the revenue shift will result from the sale of property being shipped or delivered to other taxing districts when the retailer is not engaged in business in that district.

- **Exceptions to the general rule – Retail Sales**
 - **Retailer with more than one place of business**

Local and District Tax

Currently, if a retailer has more than one place of business, the sale is sourced to the place of business where the principal negotiations take place.

Conforming to Section 310 will result in revenue shifts when:

- The property is shipped or delivered to the purchaser in another taxing jurisdiction.
- The customer receives the property at a retailer's business location other than where the principal negotiations took place.

- **Retailers under 6015**

Local Tax

6015 retailers currently report the local tax to the place of business where the principal negotiations took place.

Conforming to Section 310 will result in revenue shifts when:

- The property is shipped or delivered to the purchaser in another taxing jurisdiction.
- The purchaser receives the property at a retailer's business location other than where the principal negotiations took place.

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District Tax

Retail sales are sourced to the location from which the salesperson, representatives, peddlers, canvassers, or agents operate. Sales made by persons located in districts are generally subject to district sales tax unless the property is shipped or delivered to the purchaser outside the district for use outside the district. However, if the person solicits the sale in the district, the sale may be subject to district tax if the property is shipped or delivered to the purchaser in the district.

Conforming to Section 310 will result in revenue shifts when the property is shipped or delivered to another district and the retailer does not solicit the sale in that district.

- **Itinerant merchants**

Local Tax

Retail sales are sourced to the permanent address shown on the seller's permit issued to the merchant.

Conforming to Section 310 will result in revenue shifts when the property is shipped or delivered to the purchaser in another jurisdiction.

District Tax

Retail sales are sourced to the permanent address shown on the seller's permit issued to the merchant unless the property is shipped or delivered to the purchaser or its representative for use outside the district. However, the retailer may be responsible for collecting the district use tax if it solicits the sale in the district where the property is being shipped.

Conforming to Section 310 will result in revenue shifts when the property is shipped or delivered to another district and the retailer does not solicit the sale in that district.

- **Vending machine operators**

SSUT Agreement Section 105 provides that the Agreement does not apply to vending machine sales.

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- **Auctioneers**

Local Tax

Retail sales are sourced to the countywide pool of the county in which the auction is held except for auctions that result in taxable sales in an aggregate of \$500,000 or more. If this threshold is met, the sale is sourced to the specific participating jurisdiction where the auction was held.

Conforming to Section 310 will result in revenue shifts for jurisdictions receiving revenues from the countywide pool on sales in an aggregate of less than \$500,000 and on sales in an aggregate of \$500,000 or more when the purchaser receives the property at a location other than where the auction was held.

District Tax

Retail sales are sourced to the district in which the auction is held.

Conforming to Section 310 will result in revenue shifts when the purchaser receives the property at a location other than where the auction is held.

- **Out of state retailers who maintain a stock of tangible personal property in California**

Local and District Tax

Retail sales are sourced to the location of the property from which the delivery or shipment is made.

Conforming to Section 310 will result in revenue shifts if subsection (A) 1, 2, 3 or 4 are utilized. If the sale were sourced using subsection (A) 5, no revenue shifts would result.

- **Construction contractors**

Local Tax

For the purpose of local tax:

- If the contractor reports local tax of \$600 or less per year, the sale or purchase is sourced using the countywide pool for the county of the contractor's place of business.

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- If the contractor reports local tax of more than \$600 per year, the sale or purchase is sourced using the countywide pool for the county of the jobsite. Over-the-counter sales are, however, sourced to the specific jurisdiction of the contractor's place of business instead of the countywide pool.
- If the contract is \$5,000,000 or more, the contractor may elect to source the sale or purchase to the specific jurisdiction of the jobsite instead of the countywide pool.

Conforming to Section 310 will result in revenue shifts except on contracts of \$5,000,000 or more when the contractor has elected to source the sale or purchase to the specific jurisdiction of the jobsite.

District Tax

When a construction contractor purchases materials and fixtures without the issuance of a resale certificate, the purchase is sourced pursuant to the general rules for retail sales. If a resale certificate is issued, the purchase is generally sourced to the jobsite where the property is first used or sold.

Conforming to Section 310 will result in revenue shifts when materials and fixtures are purchased tax paid and the property is received by the purchaser at a location other than the retailer's business location.

- **United States construction contractors**

Local Tax

United States construction contractors are consumers of both materials and fixtures and the purchase is sourced to the jobsite. However, if the property is purchased tax paid in a jurisdiction other than where the jobsite is located, the purchase is correctly sourced to that county.

Conforming to Section 310 will result in revenue shifts when the materials and fixtures are purchased tax paid and the property is received by the purchaser at a location other than the retailer's business location.

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District Tax

United States construction contractors are consumers of both materials and fixtures and the purchase is sourced to the jobsite. However, the contractor is entitled to a credit against the district use tax liability for sales tax paid a retailer in another district.

Conforming to Section 310 will result in revenue shifts when materials and fixtures are purchased tax paid and the property is received by the purchaser at a location other than the location of the jobsite.

- **Factory-built school buildings**

Local Tax

Retail sales are sourced to the place of business of the retailer.

Conforming to Section 310 will result in revenue shifts from the business location of the retailer to the location where the purchaser receives the building.

District Tax

Retail sales are sourced to the place of business of the retailer. However, the purchaser may owe additional district use tax if the location where the building is installed has a rate of district tax greater than that of the place of business of the retailer.

Conforming to Section 310 will result in revenue shifts from the business location of the retailer to the location where the purchaser receives the building.

- **Vehicles (except commercial vehicles), aircraft, and undocumented vessels**

District Tax

A retailer is engaged in business in districts where vehicles, aircraft, and undocumented vessels are registered. The retailer is required to collect the district use tax and report the tax to the district where the property is registered.

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Conforming to Section 310 will result in revenue shifts. The district tax will shift from the location where the property is registered to the location where the purchaser receives the property, which would generally be the retailer's place of business.

- **Jet fuel – In general**

Local Tax

The sale of jet fuel is sourced to the point of delivery to the aircraft if the principal negotiations for the sale are conducted in the state and the retailer has more than one place of business in the state.

Conforming to Section 310 will result in revenue shifts when a retailer has only one place of business in the state.

- **Jet fuel – Multi-jurisdictional airports**

Local Tax

Except for San Francisco International Airport and Ontario International Airport, in the case of the 0.25% local sales tax, the tax revenue derived from the sale of jet fuel is sourced equally between the county that owns or operates the airport (or in which the city that owns or operates the airport is located) and the county where the airport is located. In the case of the remaining 0.75% local sales tax revenue, half of the revenue is sourced to the city that owns or operates the airport and half to the city in which the airport is located. When the airport is owned or operated by a county rather than a city, or is located in the unincorporated area of the county or the unincorporated area of a different county, the local tax revenue derived from the sale of the jet fuel is sourced to the corresponding county.

For San Francisco International Airport the sales are sourced equally between the City and County of San Francisco and the County of San Mateo. For Ontario International Airport, the sales are sourced to both the City of Ontario and the County of San Bernardino based on the amount imposed by each.

Conforming to Section 310 will result in revenue shift. The sale will be sourced to the location the purchaser receives the jet fuel. This location could be at the point the jet fuel is delivered to the aircraft or to holding tanks owned or operated by the purchaser.

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Although Section 310 dictates how the retailer sources the sale, the SSUT Agreement does not preclude a state from distributing the tax revenue in a different manner. California could reallocate the tax revenues in a different manner after it has been paid to the state.

- **Use tax on transactions of \$500,000 or more**

Local Tax

A seller who is registered to collect use tax or a person who is required to report and pay use tax directly to the Board, sources the sale or purchase directly to the participating jurisdiction where the first functional use is made.

Conforming to Section 310 will result in revenue shifts when the property is received by the purchaser at a location other than where the property is first functionally used.

- **Retail florist**

State, Local and District Tax

Tax applies to amounts charged by the florist who makes the sale whether delivery occurs in-state or out-of-state. Tax does not apply to amounts received by California florists who make deliveries in this state pursuant to instructions received from another florist.

SSUT Agreement Section 309 provides that florist sales shall be sourced according to the requirements of each member state until December 31, 2005.

- **General Rules – Leases or rentals**

- **Leases or rentals of tangible personal property, in general**

Local Tax

For long-term leases, when the location of the property is readily identifiable, the lease payments are sourced to the countywide pool of the location of the property during the term of the lease.

Conforming to Section 310 will result in revenue shifts. Lease payments will shift from the countywide pools to the specific location of the property during the term of the lease.

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For short-term leases or when the actual location of the property cannot be determined, the lease payments are sourced to the lessor's California place of business where the principal negotiations took place. If the principal negotiations didn't take place in California, the lease payments are sourced to the countywide pool of the lessee's address.

Conforming to Section 310 will result in revenue shifts. Lease payments other than the first payment will be sourced to the primary location of the property for each payment period.

- **Leases of motor vehicles, trailers, semi-trailers or aircraft that do not qualify as transportation equipment**

California does not have separate sourcing rules for the above referenced property.

Conforming to Section 310 will result in revenue shifts similar to those identified in the previous section.

- **Leases or rentals of mobile transportation equipment**

Definition

The term "mobile transportation equipment" is similar to the term "transportation equipment" found in Section 310(D). However, there are differences between the definitions. Property absent from the definition of "transportation equipment" in Section 310(D) include, dollies, bogies, chassis and ships. Additionally, Section 310(D) requires that the property be registered with the International Registration Plan and operate under the authority of the U.S. Department of Transportation or other federal authority.

Conforming to the term "transportation equipment" in Section 310(D) will result in revenue shifts. Property previously defined as "mobile transportation equipment" will be defined as tangible personal property pursuant to Section 310. This change in classification will also change how the lease payments are sourced.

Local and District Tax

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If a lessor elects to pay tax on the fair rental value of the equipment, the lease payments are sourced to the location where the equipment is first used. Subsequent lease payments are also sourced to this location even if the equipment is moved to another location in the state or outside the state.

Conforming to Section 310 will result in revenue shifts when the lessee receives the equipment at a location other than where the equipment is first used.

- **Exceptions to the general sourcing rules – Leases or rentals**
 - **Long-term leases of motor vehicles**

Local Tax

Sourcing of long-term leases of motor vehicles depends on whether:

- A. The lessor is a new motor vehicle dealer or leasing company located in California.
- B. The lessor is not a new motor vehicle dealer or leasing company located in California, but purchases the vehicle from one.
- C. The lessor is not a new motor vehicle dealer or leasing company located in California and doesn't purchases the vehicle from one.

Conforming to Section 310 will result in revenue shifts when the vehicle is either leased by or purchased from a new motor vehicle dealer or leasing company located in California.

Revisions required to conform to the SSUT Agreement

Conforming to Section 310 will require revisions to most if not all of the Sections and Regulations listed above.

Impact

Conforming to Section 310 will result in revenue shifts for both local and district taxing jurisdictions. The magnitude of these revenue shifts and the identity of the effected jurisdictions are yet to be determined. Conforming to Section 310 could also impact the reporting requirements for businesses in California.

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A study will be completed to quantify the impact on the state, local jurisdictions and businesses. The study will include a survey of California businesses to obtain information on their sales activities. With the cooperation of local governments and businesses, the study will attempt to quantify revenue shifts, identify local jurisdictions that would experience increases or decreases in tax revenue, identify issues or concerns businesses may have, and any impact on the state.

Section 310: GENERAL SOURCING RULES

- A. The retail sale, excluding lease or rental, of a product shall be sourced as follows:
1. When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.
 2. When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser (or the purchaser's donee, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery to the purchaser (or donee), known to the seller.
 3. When subsections (A)(1) and (A)(2) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.
 4. When subsections (A)(1), (A)(2), and (A)(3) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.
 5. When none of the previous rules of subsections (A)(1), (A)(2), (A)(3), or (A)(4) apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided (disregarding for these purposes any location that merely provided the digital transfer of the product sold).
- B. The lease or rental of tangible personal property, other than property identified in subsection (C) or subsection (D), shall be sourced as follows:
1. For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsection (A). Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records

maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

2. For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (A).
 3. This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.
- C. The lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (D), shall be sourced as follows:
1. For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations.
 2. For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (A).
 3. This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.
- D. The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subsection (A), notwithstanding the exclusion of lease or rental in subsection (A). “Transportation equipment” means any of the following:
1. Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.
 2. Trucks and truck-tractors with a Gross Vehicle Weight Rating (GVWR) of 10,001 pounds or greater, trailers, semi-trailers, or passenger buses that are:
 - a. Registered through the International Registration Plan; and
 - b. Operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

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Exhibit I

3. Aircraft that are operated by air carriers authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.
4. Containers designed for use on and component parts attached or secured on the items set forth in subsections (D)(1) through (D)(3).

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Place of Sale and Collection Requirements

Exhibit II

GENERAL RULES

State Sales and Use Tax Law

Section 6010.5. Place of sale. The place of sale or purchase of tangible personal property is the place where the property is physically located at the time the act constituting the sale or purchase, as defined takes place.

Section 6006. “Sale.” “Sale” generally means and includes any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. “Transfer of possession” includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.

Regulation 1660(b)(2). The granting of possession by the lessor to the lessee, or to another person at the direction of the lessee, is a continuing sale in this state by the lessor, and the possession of the property by a lessee, or by another person at the direction of the lessee, is a continuing purchase for use in this state by the lessee, as respects any period of time the leased property is situated in this state, irrespective of the time or place of delivery of the property to the lessee or such other persons.

Bradley-Burns Uniform Local Sales and Use Tax Law

Section 7205(a). Place of sale. All retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination.

Regulation 1802(a)(3). Place of passage of title immaterial. If title to tangible personal property sold passes to the purchaser in California, it is immaterial that title passes to the purchaser at a place outside of the local taxing jurisdiction in which the retailer’s place of business is located, or that the property sold is never within the local taxing jurisdiction in which the retailer’s place of business is located.

Regulation 1802(c)(1). Application of use tax generally. When the order for property is sent by the purchaser directly to the retailer at an out-of-state location and the property is shipped directly to the purchaser in this state from a point outside this state, the transaction is subject to local use tax in the jurisdiction where the first functional use is made.

District Transaction Sales and Use Tax Law

Section 7263. Place of sale. All retail transactions are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination.

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Exhibit II

Section 7262(a)(1). Required provisions of use tax. A retailer engaged in business in the district shall not be required to collect use tax from the purchaser of the tangible personal property, unless the retailer ships or delivers the property into the district or participates within the district in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the district or through any representative, agent, canvasser, solicitor, subsidiary, or person in the district under the authority of the retailer.

Regulation 1822(a)(3). Place of passage of title immaterial. If title to tangible personal property sold passes to the purchaser in California, it is immaterial that title passes to the purchaser outside the taxing jurisdiction in which the retailer’s place of business is located.

EXCEPTIONS TO THE GENERAL RULE

Property/Retailer	State Tax	Local Tax	District Tax
Retailers having more than one place of business		<p>Section 7205(b)(1). In the event that a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of sales tax imposed by an ordinance adopted pursuant to this part shall, be determined under rules and regulations to be prescribed and adopted by the board.</p> <p>Regulation 1802(a)(2).</p> <p>A) If a retailer has more than one place of business in this state but only one place of business participates in the sale, the sale occurs at that place of business.</p> <p>B) If a retailer has more than one place of business in this state which participates in the sale, the sale occurs at the place of business where the principal negotiations are carried</p>	<p>Regulation 1822(a)(2). If a retailer has more than one place of business in this state which participate in the sale, the sale occurs at the place of business where the principal negotiations are carried on. If this place is the place where the order is taken, it is immaterial that the order must be forwarded elsewhere for acceptance, approval of credit, shipment, or billing. For the purposes of this regulation, an employee’s activities will be attributed to the place of business out of which he or she works.</p>

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Property/Retailer	State Tax	Local Tax	District Tax
		<p>on. If this place is the place where the order is taken, it is immaterial that the order must be forwarded elsewhere for acceptance, approval of credit, shipment, or billing. For the purposes of this regulation, an employee's activities will be attributed to the place of business out of which he or she works.</p>	
<p>Retailers under section 6015</p>		<p>Regulation 1802(b)(3). Persons regarded by the Board as retailers under Section 6015(b) of the Revenue and Taxation Code are regarded as selling tangible personal property through salespersons, representatives, peddlers, canvassers or agents who operate under or obtain the property from them. The place of sale shall be deemed to be:</p> <p>A) The business location of the retailer if the retailer has only one place of business in this state, exclusive of any door-to-door solicitations of orders, or</p> <p>B) The business location of the retailer where the principal negotiations are carried on, exclusive of any door-to-door solicitations of orders, if more than one instate place of business of the retailer participates in the sale.</p>	<p>Regulation 1822(b)(3). Persons regarded as retailers under Section 6015(b) are regarded as selling tangible personal property through salespersons, representatives, peddlers, canvassers, or agents who operate under or obtain property from them. The place of sale is the place from which the salesperson, representative, peddler, canvasser, or agent who makes the sale operates. If this place is in a district imposing transactions taxes, the district transaction tax applies to all retail sales unless otherwise exempt. If this place is outside such a district, but if any salesperson or representative solicits orders in a district imposing transaction taxes, the district use tax applies and must be collected with respect to property sold and delivered or shipped to customers in the district.</p>
<p>Itinerant merchants</p>		<p>Regulation 1802(b)(2). The place of sale for sellers who have no permanent place of business and who sell door to door for their own account shall be deemed to be in the county in which is located the seller's permanent address. If the address is in a county imposing sales and use tax, sales tax applies with respect to all sales</p>	<p>Regulation 1822(b)(2). The place of sale for sellers who have no permanent place of business and who sell from door to door for their own account shall be deemed to be at the location of the seller's permanent address. If the address is in a district imposing transactions taxes, the district transactions tax applies</p>

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Property/Retailer	State Tax	Local Tax	District Tax
		unless otherwise exempt. If the address is not in a county imposing sales and use taxes, he or she must collect the use tax with respect to the property sold and delivered or shipped to customers located in a county imposing sales and use taxes.	with respect to all sales unless otherwise exempt. If the address is outside such district but the merchant solicits orders in a district imposing transactions taxes, he or she must collect the district use tax with respect to property sold and delivered or shipped to customers in the district.
Vending machine operators		Regulation 1802(b)(1). The place of sale is the place at which the vending machine is located.	Regulation 1822(b)(1). The place of sale is the place at which the vending machine is located.
Auctioneers		Regulation 1802(b)(4). The place of sale is the place at which the auction is held. With respect to auction events which result in taxable sales in an aggregate amount of \$500,000 or more, the auctioneers shall report local sales tax revenue to the participating jurisdiction in which the sales take place.	Regulation 1822(b)(4). The place of sale is the place at which the auction is held.
Out-of-state retailers who maintain a stock of tangible personal property in California		Regulation 1802(b)(5). If an out-of-state retailer does not have a permanent place of business in this state other than a stock of tangible personal property, the place of sale is the city, county, or city and county from which delivery or shipment is made.	Regulation 1822(b)(5). If an out-of state retailer does not have a place of business in this state other than a stock of tangible personal property, the place of sale is the location of the stock of property from which delivery or shipment is made.
Construction contractors		Regulation 1806(b). The jobsite is regarded as the place of business of a construction contractor or subcontractor and is the place of sale for “fixtures” and the place of use of “materials” furnished and installed by the contractor or subcontractors.	Regulation 1826(b)(1). The jobsite is regarded as the place of business of a construction contractor and is the place of sale of “fixtures” and the place of use of “materials” furnished and installed by a contractor.
United States construction contractors		Regulation 1806(c). Are consumers of both materials and fixtures and the place of use of both is the jobsite.	Regulation 1826(c). Are consumers of both materials and fixtures and the place of use of both is the jobsite.

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Property/Retailer	State Tax	Local Tax	District Tax
Factory-built school buildings	Section 6012.6(c). The place of sale or purchase is the place of business of the retailer as provided in section 7205, regardless of whether sale of the building includes installation or whether the building is placed upon a permanent foundation.	<p>Regulation 1802(b)(6). The place of sale or purchase is the place of business of the retailer regardless of whether the sale includes installation or whether the building is placed on a permanent foundation.</p> <p>Regulation 1806(b). The place of sale or purchase of a factory-built school building is the place of business of the retailer of the factory-built school building regardless of whether sale of the building includes installation or whether the building is placed upon a permanent foundation.</p>	<p>Regulation 1822(b)(6). The place of sale or purchase is the place of business of the retailer regardless of whether sale of the building includes installation or whether the building is placed upon a permanent foundation.</p> <p>Regulation 1826(b)(3). The place of sale or purchase of a factory-built school building is the place of business of the retailer regardless of whether sale of the building includes installation or whether the building is placed upon a permanent foundation.</p> <p>The district use tax of the district (or districts) where the building is installed or placed will apply, if the rate of tax (or combined rate) is greater than the rate of tax in the district of sale, or if the place of sale is not in a district.</p>
Vehicles (except commercial vehicles), aircraft and undocumented vessels			Regulation 1823.5. If a vehicle, aircraft or undocumented vessel is licensed or registered in any district imposing the tax, the retailer is considered as engaged in business in that district and is required to collect and pay the use tax for that district.
Motor Vehicles – Leases		<p>Section 7205.1.</p> <p>(a) In connection with any use tax imposed pursuant to this part with respect to the lease of a new or used motor vehicle by a dealer or leasing company located inside California, the place of use for the reporting and transmittal of the use tax shall be determined as follows:</p> <p>1) If the lessor is a California new</p>	

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Property/Retailer	State Tax	Local Tax	District Tax
		<p>motor vehicle dealer or leasing company, the place of use of the leased vehicle shall be deemed to be the city in which the lessor's place of business is located.</p> <p>2) If the lessor, who is not a person described in paragraph (1), purchases the vehicle from a person as so described, the place of use of the leased vehicle shall be deemed to be the city in which the place of business of the person from whom the lessor purchases the vehicle is located.</p> <p>3) The place of use as determined by this subdivision shall be the place of use for the duration of the lease contract, notwithstanding the fact that the lessor may sell the vehicle and assign the lease contract to a third party.</p> <p>(e) If the lessor is not a dealer described in paragraph (1) of subdivision (a), or a person who is described in paragraph (2) of subdivision (a) as purchasing from a dealer, the use tax shall be reported to and distributed through the countywide pool of the county in which the lessee resides.</p>	
<p>Jet Fuel – In general</p>		<p>Section 7205(b)(2). The retail sale of jet fuel is consummated at the point of delivery of that jet fuel to the aircraft, if both the following conditions are met:</p> <p>A) The principal negotiations for the sale are conducted in this state.</p> <p>B) The retailer has more than one place of business in the state.</p>	

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Place of Sale and Collection Requirements

Exhibit II

Property/Retailer	State Tax	Local Tax	District Tax
		<p>Regulation 1802(b)(7)(A). The place of sale is the city, county, or city and county where the fuel is delivered to the aircraft, if both of the following conditions are met:</p> <ol style="list-style-type: none"> 1. The principal negotiations for the sale are conducted at the retailer's place of business in this state; and 2. The retailer has more than one place of business in the state. <p>The local sales or use tax derived from the sale or purchase of jet fuel shall be transmitted by the Board to the city, county, or city and county where the airport is located at which delivery occurs.</p>	
<p>Jet Fuel – Multi-Jurisdictional Airport</p>		<p>Section 7204.03. If delivery of jet fuel is to an aircraft at a multijurisdictional airport, an airport owned or operated by a city, county, or city and county, that is located in a different city, county, or city and county, the sales tax collected by the board shall be transmitted by the board to local jurisdictions in accordance with the provisions of this section.</p> <p>Regulation 1802(b)(7)(C). The 1.00% local tax shall be transmitted by the Board as follows:</p> <ol style="list-style-type: none"> 1. In the case of the 0.25% local sales tax imposed by counties under Section 7202(a), half of the revenue to the county which owns or operates the airport (or in which the city which owns or operates the airport is located) and half to the county in 	

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Place of Sale and Collection Requirements

Exhibit II

Property/Retailer	State Tax	Local Tax	District Tax
		<p>which the airport is located.</p> <p>2. In the case of the 0.75% local sales tax imposed by counties under Section 7202(a) and in the case of the 0.75% local tax imposed by cities at a rate up to 0.75% and offset against the local sales tax of the county in which the city is located under Section 7202(h), half to the city which owns or operates the airport and half to the city in which the airport is located. If the airport is either owned or operated by a county or is located in the unincorporated area of a county, or is owned or operated by a county and is located in the unincorporated area of a different county, the local sales tax which would have been transmitted to the city shall be transmitted to the corresponding county.</p> <p>Notwithstanding the general rules above, special allocation rules have been established for San Francisco International Airport and Ontario International Airport.</p>	
<p>Use tax for transactions of \$500,000 or more</p>		<p>Regulation 1802(c).</p> <p>(1) For transactions of \$500,000 or more, except with respect to persons who register with the Board to collect use tax, the seller shall report the local use tax revenue derived therefrom directly to such participating jurisdiction.</p> <p>(2) Persons required to report and pay use tax directly to the Board for a purchase in the amount of \$500,000 or more, shall report the local use tax revenues derived</p>	

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		therefrom to the participating jurisdiction in which the first functional use of the property is made.	
Florists	<p>Regulation 1571. Tax applies to amounts charged by a florist for the delivery of flowers, wreaths, etc., to points within and outside of California even though the florist instructs another florist to make the delivery.</p> <p>Tax does not apply to amounts received by California florists who make deliveries in this state pursuant to instructions received from another florist.</p>		