

Internet Sales

Yours may be among the many businesses taking advantage of changing technology to market products over the Internet. Despite all of the publicity surrounding Internet commerce, one essential fact is often overlooked—there is no general tax exemption for sales made over the Internet. This publication is intended to help you determine if you must pay California’s sales and use taxes on your Internet sales.

Businesses physically located in California

If your business is located in California, your Internet sales of physical products are generally taxable unless they qualify for a specific tax exemption or exclusion (see reverse). For sales tax purposes, Internet sales are treated just like sales you make at retail stores or other outlets, through sales representatives, over the telephone, or by mail order. To obtain a seller’s permit complete and file a [BOE-400-SPA](#), *California Seller’s Permit Application for Individuals/Partnerships/Corporations/Organizations (Regular or Temporary)*, with the Board of Equalization (BOE).

Businesses located outside of California

If your business is located outside of California, your sales of physical products delivered to California locations are generally subject to the state’s use tax. While your customers are responsible for the use tax, you must collect it from them and pay it to us if you:

- Have a permanent or temporary business location in California, including a warehouse, sales room, or office; or you
- Have any kind of representative or agent in the state, even temporarily, who makes sales, takes orders, installs or assembles merchandise, or makes deliveries for you.

If either of the conditions above applies to your operations, you are required to register with the BOE and obtain a Certificate of Registration—Use Tax Account. Please complete and file a [BOE-400-CSC](#), *Certificate of Registration - Use Tax Application*, with the BOE. If you do not register and collect the use tax, your customers must pay the tax directly to us (see “Voluntary collection . . .,” below).

Special case—leases: Even if the criteria above do not apply to your business, generally, you must register, collect, and pay use tax on payments you receive from the lease of merchandise including vehicles, vessels and aircraft, located in California. This is true whether you negotiate the lease over the Internet or by any other means.

The use tax rate is the same as the sales tax rate for any given California location; please see [publication 71](#), *California City and County Sales and Use Tax Rates*. Transactions that are exempt from sales tax are usually exempt from use tax.

Voluntary collection of use tax

As noted above, your customers must pay the use tax to us if you do not collect it from them. You may wish to voluntarily register and collect the use tax as a customer service even if you are not required to do so.

Sales and Use TAX FACTS

Publication 109 • LDA

For additional information you may download regulations, forms and publications from our website or you may call our Taxpayer Information Section to talk to a Board of Equalization representative.

BOE website and Board Member contact information:
www.boe.ca.gov

Taxpayer Information Section
800-400-7115
TDD/TTY 800-735-2929

Taxpayers’ Rights Advocate
888-324-2798



BOARD OF EQUALIZATION MEMBERS (Names Updated 2009)

RAMON J. HIRSIG
Executive Director

BETTY T. YEE
First District
San Francisco

BILL LEONARD
Second District
Ontario/Sacramento

MICHELLE STEEL
Third District
Rolling Hills Estates

JEROME E. HORTON
Fourth District
Los Angeles

JOHN CHIANG
State Controller

Some Internet sales are not taxable

Common exempt transactions

Some of your Internet sales—including sales for resale, sales of cold food products, and sales delivered outside of California—may *not* be subject to California sales or use tax. Common exemptions are described in [publication 73](#), *Your California Seller's Permit*. More detailed information is found in [publication 61](#), *Sales and Use Taxes: Exemptions and Exclusions*. Both publications are available from our website and Taxpayer Information Section.

Products electronically transmitted to customers

Your sale of electronic data products such as software, data, and digital images is generally not taxable when you transmit the data to your customer over the Internet or by modem. However, if as part of the sale you provide your customer with a printed copy of the electronically transferred information or a backup data copy on a *physical storage medium* such as a CD-ROM, your entire sale is usually taxable.

For example, if your company sells canned (noncustom) software programs to customers who download them from a server, those sales are generally not subject to tax. However, if you also provide your customers with a backup copy on a CD-ROM, the entire transaction is taxable. Similarly, if you transmit a stock (noncustom) database to your customer over the Internet and also provide a printed copy of the contents, the entire sale is subject to tax.

For more information regarding the sale of computer programs and data processing services, you may wish to obtain a copy of [Regulation 1502](#), *Computers, Programs, and Data Processing*.

For more information

For publications and regulations relating to this topic, please visit www.boe.ca.gov or call our Taxpayer Information Section at 800-400-7115. Additional regulations and publications that relate to this topic:

Regulations

- 1528 *Photographers, Photocopiers, Photo Finishers, and X-Ray Laboratories*
- 1620 *Interstate and Foreign Commerce*
- 1660 *Leases of Tangible Personal Property-In General*
- 1661 *Leases of Mobile Transportation Equipment*
- 1684 *Collection of Use Tax by Retailers*
- 1685 *Payment of Use Tax by Purchasers*
- 1699 *Permits*
- 1827 *Collection of Use Tax by Retailers (for special district taxes)*

Publications

- 68 *Photographers, Photo Finishers, and Film Processing Laboratories*
- 100 *Shipping and Delivery Charges*
- 101 *Sales Delivered Outside California*
- 103 *Sales for Resale*
- 107 *Do You Need a California Seller's Permit?*
- 177 *Internet Auction Sales and Purchases*

A complete list of BOE publications is found in [publication 51](#), *Guide to Board of Equalization Services*.

Note: This publication summarizes the law and applicable regulations in effect when the publication was written, as noted on the cover. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this publication and the law, decisions will be based on the law and not on this publication.