

Cell Phones and Other Wireless Telecommunication Devices

Ever wonder why you are charged for sales tax on the full sales price of a cell phone when purchased at a discounted price, even when the phone is free? This fact sheet explains how tax applies to purchases of cell phones. The application of tax is the same for pagers and other wireless telecommunication devices.

Sales and Use TAX FACTS

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You may download forms and publications from our website including Regulation 1585, *Cellular Telephones, Pagers, and Other Wireless Telecommunication Devices*, place orders for certain forms and publications, or find Board Member information at www.boe.ca.gov. You may also call our Information Center for assistance and to request forms and publications: 800-400-7115 TTY: 711



When will tax be charged on the full sales price?

If you purchase a cell phone at a discount and also are required to purchase a service contract, you may be charged for tax on the full sales price of the phone, not the discounted price you paid. Even if the phone is free, you may still be charged for tax on what the phone's sales price would have been without the service contract.

If you buy the phone by itself, without a service contract, you can be charged tax on the actual sales price charged by the retailer, the same as in most other purchases.

How is the tax determined?

When the sale of a phone is made together with a required service contract, it is called a "bundled" transaction. If a phone is sold by itself, the sale is called an "unbundled" transaction.

Bundled transaction

Most cell phones are sold at a discounted sales price, or given away at no cost. However, in order to receive the discount or free cell phone, the customer is required to purchase a service contract of greater than one month (typically one or two years) with a particular service provider. Regulation 1585, *Cellular Telephones, Pagers, and Other Wireless Telecommunication Devices*, describes these types of sales as bundled transactions.

Unbundled transaction

A retailer may sell a cell phone without the requirement that a customer purchase a service contract. These sales are unbundled transactions and the actual sales price charged by the retailer to the customer is referred to in Regulation 1585 as the "unbundled sales price."

How tax applies

When the sale is a bundled transaction, the retailer must report and pay tax based on the unbundled sales price of the cell phone whether or not the price of the phone is itemized on the invoice. The retailer is allowed to collect tax

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from the customer based on the unbundled sales price, and then pay that amount to the state. The unbundled sales price is either

- The sales price the retailer typically charges for the cell phone without requiring the purchase of a service contract, or
- The fair retail selling price (if the above cannot be established by the seller's records).

Example

Excellent Cell Phones advertises a cell phone for \$29.99 but requires you to activate the phone with a specific service provider for a two-year contract period. The retailer typically sells this phone for \$179.99 without a service contract. The retailer is responsible for reporting and paying sales tax based on the unbundled sales price of \$179.99 (tax of \$14.85 assuming an 8.25 % tax rate).

Even if Excellent Cell Phones offers the same cell phone for free, the tax would be the same, \$14.85, as it is based on the \$179.99 unbundled sales price.

When the sale is an unbundled transaction, the retailer must report and pay tax based on the actual sales price charged to the customer.

Are fees for activating the cell phone taxable?

Fees for one-time activation and charges for wireless service are generally not taxable.

For more information

If you have questions regarding how tax applies to bundled and unbundled sales of cell phones, pagers, and other wireless telecommunication devices, please contact our Information Center at 800-400-7115.

Note: The statements in this fact sheet are general and are current as of July 2007. The sales and use tax law and regulations are complex and subject to change. If there is a conflict between this publication and the law or regulations, decisions will be based on the law and regulations.