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# CIGARETTE AND TOBACCO PRODUCT INSPECTIONS



## BOARD OF EQUALIZATION

(Names updated 2011)

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## Why are you inspecting my business?

We are conducting a routine inspection of your business to see if you are following state laws that control the sale of cigarettes and tobacco products in California.

## What are you looking for?

We will check to see if:

- You have a Board of Equalization (BOE) license to sell cigarettes and tobacco products, and ask for other business permits or licenses you may be required to have.
- You bought your cigarettes and tobacco products from a BOE licensed cigarette and tobacco products seller (sales between retailers are prohibited) and have supporting purchase invoices for your inventory.
- The cigarettes in your inventory
  - have valid California tax stamps attached to them,
  - do not include flavored cigarettes (menthols are exempt), and
  - are listed on the California Tobacco Directory as legal to sell in California (roll-your-own tobacco must also be listed in the Tobacco Directory).
- The cigarette packs in your inventory comply with the “low ignition propensity” fire safety requirements of California.
- The excise tax on your other tobacco products was paid.

These inspections are authorized by state laws known as the California Cigarette and Tobacco Products Licensing Act of 2003 (Division 8.6 of the California Business and Professions Code), Cigarette and Tobacco Products Tax Law (Part 13, Division 2 of the Revenue and Taxation Code), and the California Cigarette

Fire Safety and Firefighter Protection Act (Division 12 of the California Health and Safety Code).

## What will happen during the inspection?

Our inspectors will enter your business, identify themselves to you or your employees, and show their BOE identification. They will ask you to:

- Show them your personal identification.
- Show them your entire cigarette and tobacco product inventory.
- Provide all of your cigarette and tobacco product purchase and sales invoices (or register tapes) for the last twelve months, which are required to be retained at your business location.
- Let them know the location of your cigarette and tobacco product purchase and sales invoices (or register tapes), which are required to be retained for up to four years.

The inspectors will examine the cigarettes and tobacco products at your business location and in buildings or storage containers where you may keep additional products. They will electronically scan the tax stamps on cigarettes in your inventory and review your purchase and sales invoices to see whether those invoices reconcile with your inventory.

You will also be given a copy of [publication 78](#), *Sales of Cigarettes and Tobacco Products in California*, which provides additional information about this program.

## What happens if the inspectors find products that I can't legally sell?

The inspectors may seize any untaxed, counterfeit, or otherwise illegal cigarette or tobacco products they find. They will:

- Explain the reason for the seizure,

- Give you a detailed receipt, listing the products seized,
- Provide you with their contact information, and may also,
- Issue you a citation.

Any cigarette brands or roll-your-own tobacco products not listed on the Attorney General's California Tobacco Directory may be subject to seizure. Retailers and wholesalers should always check the Tobacco Directory before buying cigarettes and roll-your-own tobacco from BOE licensed distributors. The California Tobacco Directory website is located at [ag.ca.gov/tobacco/directory.php](http://ag.ca.gov/tobacco/directory.php).

*Note:* When cigarettes are removed from the Tobacco Directory, retailers are allowed to possess, transport, and sell tax-stamped cigarettes for 60 days from the effective date of their removal.

### **Can I get seized products back?**

You have the right to ask that your products be returned. If our inspectors seize any products during the inspection, we will mail you a notice listing the products and describing your right to challenge their seizure. We will include a *Petition for Release or Recovery of Property* form with the notice.

Under state law, seized cigarettes or tobacco products can only be returned if we seized them by mistake or illegally. To ask for return of your products, you must submit a completed petition form and explain why the seizure was in error or illegal. We will respond to your petition in writing.

### **What happens if I get a citation?**

If you are issued a civil citation, you will receive a Notice of Violation from the BOE's Special Taxes and Fees Division. The notice will explain

the specific violation(s) you were cited for, any civil penalties or consequences, and your appeal rights.

If you are issued a criminal citation, you will need to appear in court as noted on the citation and may also receive notice from the District Attorney's Office regarding the criminal proceedings. If you fail to appear in court, a bench warrant will be issued against you and your cigarette and tobacco license may be suspended or revoked and penalties imposed.

The Cigarette and Tobacco Products Licensing Act provides for civil penalties to be imposed by the BOE in addition to any other criminal penalties that may be imposed by the courts (see [publication 161](#), *Criminal Citations Include a Civil Administrative Process*). You will receive a Notice of Violation from the Special Taxes and Fees Division that will list all your violations, explain your appeal rights, and provide you with other pertinent information.

### **What happens if my license is suspended or revoked?**

During the period of suspension or revocation, you are prohibited from displaying for sale, selling, or gifting cigarettes or tobacco products. Continued display for sale after receiving a Notice of Suspension or Revocation is subject to a civil penalty of \$1,000 for each offense. Continued sales or gifting after the effective date of suspension or revocation is a misdemeanor and will result in the seizure and forfeiture of all cigarettes and tobacco products in your possession.

With the Notice of Suspension or Revocation mailed by the BOE, retailers will also receive a sign to post at each public entrance, by each cash register, or other point of sale at the

location subject to the suspension or revocation. Failure to post the sign as required, for the entire period indicated on the notice, will result in a \$1,000 penalty for each offense.

### **Do I have any rights related to this inspection?**

Yes, you have specific legal rights as a California taxpayer. Our employees must honor and protect those rights. As explained in our publication 70, *Understanding Your Rights as a California Taxpayer*, you have the right to:

- Courteous and prompt service,
- Fair treatment,
- Confidentiality,
- Information and assistance, and
- Speak to or write your elected Board of Equalization Members.

### **Can I file a complaint if I have concerns about the inspection or the inspector's behavior?**

Yes. If you believe an inspector was unprofessional or violated your rights, you may file a complaint by:

- Calling the Investigations Division at 916-324-0105.
- Writing to:  
Investigations Division, MIC:42  
Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0042
- Using the Internet. See [www.boe.ca.gov/info/icomplaint.htm](http://www.boe.ca.gov/info/icomplaint.htm).

Be sure to explain what the inspector did that you believe was wrong.

Your complaint will be handled by an Investigations Division supervisor or manager, who will contact you. If you are unable to resolve the problem with the supervisor or manager or prefer to have your complaint handled outside the division, you may contact our Taxpayers' Rights Advocate Office.

### **Taxpayers' Rights Advocate Office**

Our Taxpayers' Rights Advocate Office helps taxpayers who have not been able to resolve a matter through routine channels, when they want information about procedures related to a particular situation, or when there appears to be a violation of their rights. You may call the office toll-free at 888-324-2798 or contact them at [www.boe.ca.gov/info/emailtra.htm](http://www.boe.ca.gov/info/emailtra.htm). The office will independently investigate your inspection complaint and respond.

### **For More Information**

If you have any questions about the inspection, you may contact our Investigations Division at 916-324-0105. For more information regarding cigarette and tobacco products licensing, call the Special Taxes and Fees Division at 800-400-7115.

The following related publications are also available from our website, [www.boe.ca.gov](http://www.boe.ca.gov), or call our Taxpayer Information Section at 800-400-7115 (TTY: 711). Some of these publications are also available in the following languages: Arabic, Chinese, Korean, Punjabi, Spanish, and Vietnamese.

**4A** *California Cigarette and Tobacco Products Licensing Act of 2003* (see Volume III of the Business Taxes Law Guide)

**63** *Cigarette Distributor Licensing and Tax Stamp Guide*

- 70 *Understanding Your Rights as a California Taxpayer*
- 78 *Sales of Cigarettes and Tobacco Products in California*
- 93 *Cigarette and Tobacco Products Taxes*
- 152 *Cigarette and Tobacco Product Inspections*
- 161 *Criminal Citations Include a Civil Administrative Process*
- 403 *New California Counterfeit-Resistant Cigarette Tax Stamp*
- 407 *Master Settlement Agreement*
- 429 *Flavored Cigarettes Banned in the United States*
- 438 *Can Retailers Purchase Cigarette and Tobacco Products over the Internet or from an Unlicensed Supplier?*

The BOE also offers a free class regarding its Cigarette and Tobacco Products License program. The class covers licensing requirements, recent law changes, the inspection process, records maintenance, application of penalties, and much more. To see the class schedule, click on the "Free Tax Seminars" link on the BOE's website at [www.boe.ca.gov](http://www.boe.ca.gov) or call 916-322-8536.

### **Tax evasion hurts all of us . . .**

To report suspected tax evasion, call our Tax Evasion Hotline at 888-334-3300 or the Investigations Division at 916-324-0105.

### **To contact your Board Member, see:**

[www.boe.ca.gov/members/board.htm](http://www.boe.ca.gov/members/board.htm)