

Internet Auction Sales and Purchases

There is no general tax exemption for sales made over the Internet. Thus, Internet sales of tangible personal property are generally taxable in California. Sales and use tax applies to Internet sales in the same way as sales made at retail stores or other outlets, through sales representatives, over the telephone, or by mail order. Please see [publication 109, Internet Sales](#). “Tangible personal property” (merchandise) means personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses.

California permit requirements

Generally, a person in California who makes three or more sales of merchandise in a 12-month period is considered a *retailer* and required to hold a seller’s permit. This is true regardless of whether the sales are at retail or for resale or delivered outside California, unless you make no sales in this state. When you sell merchandise in California, even temporarily, you are generally required to register with the Board of Equalization (BOE), and to pay sales tax on your taxable sales. Please see [publication 107, Do You Need a California Seller’s Permit?](#)

If, through Internet auction houses you list your merchandise to sell, seek bids, accept a bid from the highest bidder, and transfer the merchandise to the purchaser, you are generally considered the retailer in your transactions. This is true whether you receive the funds or have another party, such as PayPal, collect the funds on your behalf.

Sales by retailers made through Internet auction houses, such as eBay and uBid, or sites that offer online classified advertisements (online advertisers) such as Craigslist and Amazon, are generally subject to California sales tax. Internet auction houses differ from most online companies by offering a service to other retailers allowing them to post their merchandise for sale on its site. Businesses like eBay, uBid or Craigslist are generally not considered retailers and are not responsible for collecting tax on those transactions. These businesses aid sellers and sales are the responsibility of the holder of the property.

District taxes-sellers

If you are an Internet seller “engaged in business” (see [publication 107, Do You Need a California Seller’s Permit?](#)) in a district tax area, you must report and pay district taxes on sales made in that district. However, if you are not engaged in business in the district, you are not required to collect district tax and you must report and pay the statewide rate (8.25 percent as of the date of this publication). Generally, if you are not engaged in business in a tax district area and you ship by common carrier into the district, your customer is liable for the district use tax. *As a courtesy to your customer*, you may choose to collect the district use tax from them. If you do, it should be shown on the customer’s invoice and you must report it on your return and pay it to us.

Sales and Use TAX FACTS

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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
TTY: 711

Taxpayers’ Rights Advocate
888-324-2798



BOARD MEMBERS (Names updated 2011)

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District taxes-purchaser

When making purchases, be sure to verify the tax rate applied to your purchase. If you are in a district tax area and the seller charged you a rate lower than your district's tax rate, you are liable for use tax at the full rate in effect at the California location where you first store, use or otherwise consume the merchandise.*

Tax applies to vehicles purchased over the Internet in the same manner as those purchased from a vehicle dealer or private party. Please refer to [Regulation 1610](#), *Vehicles, Vessels and Aircraft*, and [publication 34](#), *Motor Vehicle Dealers*.

For district tax requirements on sales and purchases see [publication 44](#), *District Taxes*, [publication 105](#), *District Taxes and Delivered Sales*, and [publication 112](#), *Purchases from Out-of-State Vendors*. For tax rates, see [publication 71](#), *California City and County Sales and Use Tax Rates*. Please refer to www.boe.ca.gov or our "For more information" section for BOE information and all regulations and publications referenced in this publication.

**Note:* If you do not hold a California seller's permit, you can report and pay use tax on your California income tax return. You may also download a BOE-401-DS, *Use Tax Return*, included in [publication 79B](#), *California Use Tax*. If you have a California sales or use tax permit, use the return included in publication 79B only to report personal purchases not related to your business.

If you are a business that holds a seller's permit, you can report and pay use tax when submitting your return under "Purchases subject to use tax."

District tax example

You purchase merchandise from an online seller who charges sales tax at the statewide rate (8.25 percent). The seller ships the merchandise to you in Los Angeles County that has a tax rate of 9.25 percent. You (the purchaser) are liable for the additional 1.00 percent district tax in Los Angeles County.

Use tax on out-of-state purchases

When you purchase merchandise from an out-of-state retailer, you are liable for the use tax due on your out-of-state purchases. The use tax rate is the same as the sales tax rate for any given California location.

Whether the seller charges a lump-sum price or itemizes the merchandise price and other charges, tax is due on the entire purchase price. Any service fees related to a taxable sale are generally taxable, however, shipping and delivery charges *may* not be taxable (see "Shipping and delivery charges").

Generally, if you purchase merchandise from a *private party* located out-of-state and he or she makes fewer than three sales in a 12-month period, the purchase would not be subject to use tax since the sale is considered an occasional sale. However, if the private party makes three or more sales in a year, the purchase would be subject to use tax.

Most Internet auction houses provide a sales history of the vendor, which may be useful in deciding whether the transaction qualifies as an occasional sale. To determine or obtain proof that a private party's sale to you is an occasional sale, you may have to contact the individual to find out if he or she has made three or more sales in a 12-month period. If so, you would have to report the use tax.

Shipping and delivery charges

Tax does not apply to *separately stated* charges for delivery of property from the retailer's place of business or other point from which shipment is made *directly to the purchaser*, provided the delivery is by other than the facilities of the retailer (by United States mail, independent contract or common

carrier). Handling charges are a service related to the sale and are subject to tax when related to a taxable sale. Please see [publication 100](#), *Shipping and Delivery Charges*.

A retailer selling merchandise for an artificially low price and then charging an excessive amount for “shipping” without payment of tax on the excessive shipping charge would be understating taxable sales. Since the law provides that only the actual cost of shipment is exempt from tax, the difference between the actual cost of shipment and the amount charged for shipping would be subject to tax.

Sales delivered outside California

Sales tax generally does not apply to your transaction when you sell a product to a nonresident of this state, and under an agreement with the purchaser, ship it directly to the purchaser at an out-of-state location, for use outside California. Please see [publication 101](#), *Sales Delivered Outside California*.

For more information

BOE regulations, publications and additional information are available at www.boe.ca.gov or by calling our Taxpayer Information Section at 800-400-7115.

Regulations

- 1595 *Occasional Sales—Sale of a Business—Business Reorganization*
- 1610 *Vehicles, Vessels and Aircraft*
- 1620 *Interstate and Foreign Commerce*
- 1684 *Collection of Use Tax by Retailers*
- 1685 *Payment of Tax by Purchasers*
- 1686 *Receipts for Tax Paid to Retailers*
- 1699 *Permits*
- 1700 *Reimbursement for Sales Tax*
- 1823 *Application of Transactions (Sales) and Use Tax*
- 1827 *Collection of Use Tax by Retailers (for special district taxes)*

Publications

- 34 *Motor Vehicle Dealers*
- 44 *District Taxes*
- 71 *California City and County Sales and Use Tax Rates*
- 79B *California Use Tax*
- 100 *Shipping and Delivery Charges*
- 101 *Sales Delivered Outside California*
- 105 *District Taxes and Delivered Sales*
- 107 *Do You Need a California Seller’s Permit?*
- 109 *Internet Sales*
- 112 *Purchases From Out-of-State Vendors*

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.