

# Drug Stores



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## PREFACE

This publication is designed for persons who are responsible for drug store sales and purchases. It provides information on the taxability of common drug store transactions, such as sales of prescription drugs and sales of magazines, beauty supplies, food products, and so forth.

If you have questions that are not answered in this publication, please visit [www.boe.ca.gov](http://www.boe.ca.gov) or call our Customer Service Center at 1-800-400-7115 (TTY:711). Customer service representatives are available to answer your questions weekdays between 8:00 a.m. and 5:00 p.m. (Pacific time), except state holidays. This publication complements , [publication 73](#), *Your California Seller's Permit*, which includes general information about obtaining a permit; using a resale certificate; collecting and reporting sales and use taxes; buying, selling, or discontinuing a business; and keeping records. Please also refer to [www.boe.ca.gov](http://www.boe.ca.gov) or the [For More Information](#) section for California State Board of Equalization (BOE) information and all regulations and publications referenced in this publication.

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*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, the law is controlling.

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# SALES OF MEDICINES, MEDICAL SUPPLIES, AND MEDICAL APPLIANCES

*This chapter provides information on the taxability of sales of medicines made by drug stores. Please refer to [www.boe.ca.gov](http://www.boe.ca.gov) or the [For More Information](#) section for BOE information and all regulations and publications referenced in this publication.*

## Introduction

In general, you are not required to report tax on retail sales of medicine that are:

- Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, including a licensed physician, podiatrist, or dentist, and dispensed by a registered pharmacist in accordance with law (see [Registered pharmacist defined](#)), or
- Sold to a licensed physician, dentist, podiatrist, or health facility (see [Health facility defined](#)) for the treatment of a human being, or
- Sold to the State of California or any political subdivision or municipal corporation thereof for use in the treatment of a human being by a medical facility or clinic maintained by the state or any political subdivision (such as a city or county, or hospital district) or municipal corporation thereof.

To be exempt from tax, the item sold must qualify as a medicine and be sold as described above, or its sale must be specifically exempted under the Sales and Use Tax Law. Otherwise, the sale is generally subject to tax.

**Medicines defined:** In general, as provided in [Regulation 1591, Medicines and Medical Devices](#), medicines means:

- Any product fully implanted or injected in the human body, or any drug or any biologic, when such are approved by the U.S. Food and Drug Administration (FDA) to diagnose, cure, mitigate, treat or prevent any disease, illness or medical condition regardless of ultimate use, or
- Any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for that use.

The term medicines also includes certain articles, devices, and appliances as described in [Regulation 1591, Medicines and Medical Devices](#), subdivision (b). However, certain items are specifically excluded from the definition of medicines. Please refer to [Regulation 1591, subdivision \(c\)](#) for a detailed explanation. The application of tax to sales of medical products can be complicated. Even when a product meets the definition of “medicines” certain requirements must be met for the sale to be exempt from tax. For more information about how tax applies to medicines, please see [Regulation 1591](#).

If questions arise about other products, BOE staff may need to evaluate whether the product qualifies as a medicine and research the correct sales and use tax application. It is best to get tax advice in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction and the product being sold. Please see the [For More Information](#) section for instructions on how to obtain written advice.

For FDA approval information, check their website at [www.fda.gov](http://www.fda.gov) and click on the links to the FDA sites for drugs, biologics, or devices. Each of these sites can be searched for specific product names.

As explained in the following pages, certain supplies, devices, and appliances are specifically included within the definition of medicines, while others are specifically excluded.

### ***Taxability of medicines and medical devices***

The following information explains the taxability of medicines and other medical devices. For the purpose of this explanation, it is presumed the items being sold will be used to treat a human being rather than a pet or other animal. For information on how tax applies to medicines and other medical items for pets or other animals, please refer to [publication 36, Veterinarians](#).

#### ***Prescribed medicines***

You are not generally required to report and remit tax on sales of prescribed drugs and other preparations or substances approved by the FDA used to treat, diagnose, cure, mitigate, or prevent disease. To qualify for exemption, the drug or preparation must be prescribed by a person authorized to prescribe the medicines such as a licensed physician, dentist, or podiatrist, and the prescription must be filled by a registered pharmacist.

#### ***Over-the-counter medicines***

Sales of over-the-counter medicines are taxable unless prescribed by a person authorized to prescribe the medicines such as a licensed physician, dentist, or podiatrist, and filled by a pharmacist. Examples of over-the-counter medicines include aspirin, cough syrups, cough drops, throat lozenges, and so forth. If you have a prescription for an over-the-counter medicine written by a doctor, and you purchase the medicine from a pharmacist, it is not taxable; however, if the same over-the-counter medicine is sold without a prescription the sale is taxable.

#### ***Diabetic supplies***

**Tax does not apply** to the sale or use of insulin and insulin syringes, glucose test strips, or skin puncture lancets furnished by a pharmacist, as directed by a physician, to a diabetic patient for the patient's use in treating diabetes. To qualify for this exemption from tax, glucose test strips and skin puncture lancets must be furnished by a pharmacist for the patient's own use in determining his or her blood sugar level (since these items are not regarded as medicines). The sale of glucose test strips or skin puncture lancets for use by a person other than the diabetic patient or the furnishing of such items by other than a pharmacist is subject to tax. This is true even if the items are furnished by a health facility or administered by hospital personnel.

**Tax does apply** to the sale or use of test kits and equipment used to analyze, monitor, or test samples of cells, tissue, organs and blood, saliva, or other bodily fluids. For example, sales of electric blood monitors are taxable even though they are used in connection with the treatment of diabetes.

#### ***Hemodialysis products***

Sales of hemodialysis products supplied on order of a licensed physician to a patient by a registered pharmacist are not subject to tax.

#### ***Medical supplies that are not considered medicines***

Some medical supplies are not considered medicines and their sale is subject to tax—even when the supplies are prescribed by a physician. The following are examples of medical supplies that are not considered medicines:

- Thermometers and hypodermic needles. (For information on sales of insulin syringes, see Diabetic supplies above.)
- Articles that are in the nature of bandages, splints, pads, compresses, supports, and dressings.
- Articles that are in the nature of instruments, apparatus, contrivances, appliances, devices or other mechanical, electronic, optical or physical equipment or articles or their component parts and accessories. Please see the following sections on prosthetic and orthotic devices.
- Arch supports, cervical pillows, exercise weights (boots or belts), hospital beds, orthopedic shoes and supportive devices (unless an integral part of a leg brace or artificial leg), plastazote inserts, plastazote shoes, plastic shoes (custom or ready-made), sacro-ease seats, shoe modifications, spenco inserts, traction units (unless they qualify as medicines because of how they are worn), and thermophore pads. Also see [Note](#) on the following page.

*Note:* Prosthetic and orthotic devices may be considered medicines depending on how they are worn on the user—please see the following sections for more information.

### ***Prosthetic devices***

Certain prosthetic devices and their replacement parts are considered medicines and their sale is not subject to tax when furnished according to a written prescription from a physician or podiatrist.

Prosthetic devices are devices that are designed to be worn on or in the body to replace or assist the functioning of a natural part of the body. To qualify for the exemption, the device must be capable of being worn fully on or in the body.

Prosthetic devices and their replacement parts are not required to be furnished by a pharmacist to be considered dispensed on prescription. However, the devices must be furnished following a written order of a physician or podiatrist.

Prosthetic devices that are *not* considered medicines include but are not limited to: auditory, ophthalmic and ocular devices or appliances, or dental prosthetic materials and devices. Sales of these items are generally subject to tax.

### ***Mammary prostheses and ostomy appliances and supplies***

Sales tax does not apply to the sale of mammary prostheses or to ostomy appliances and related supplies that are necessary as the result of any surgical procedure that creates an artificial opening in the body for the elimination of natural waste.

Mammary prostheses and ostomy appliances and related supplies do not need to be furnished by a pharmacist to be considered dispensed by prescription as long as they are furnished pursuant to a written order of a person authorized to prescribe such as a physician or podiatrist.

Examples of qualifying mammary prostheses and ostomy appliances and supplies include:

- Adhesive spray and remover
- Antacid used externally as a skin ointment belt
- Bras to hold a mammary prosthesis in place
- Catheters used as a result of an artificial opening created in the human body
- Closed stoma bags
- Colostomy bags
- Deodorant used on the prostheses or ostomy patient
- Drainable stoma bags
- Endotracheal, tracheotomy, and tracheostomy tubes used for evacuation of metabolic waste when used postoperatively or for home care
- Filler pads
- Karaya rings
- Loop ostomy supplies and tubing
- Lymphedema arm sleeves
- Nonallergic paper tape and gauze
- Skin bond cement
- Skin gel
- Tincture of benzoin applied topically as a protective
- Urinary drainage appliances

### ***Orthotic devices***

Certain orthotic devices and their replacement parts are considered medicines and are not subject to tax when sold as described in the Introduction.

Orthotic devices are devices that are designed to be worn as a brace, support, or correction for the body structure. To qualify for the exemption, the device must be worn on the user. (See [Orthopedic shoes and supportive devices for the foot.](#))

Orthotic devices and their replacement parts do not need to be furnished by a pharmacist to be considered dispensed by prescription provided the devices are furnished pursuant to a written order of a physician or podiatrist. Orthotic devices furnished, pursuant to a written order by a physician or podiatrist, by medical device retailers, clinics, physical therapists, device suppliers, intermediate care facilities, or other such persons, are deemed to be dispensed on prescription.

The following are examples of prescribed devices the sale of which are not taxable when the devices are used as described above:

- Abdominal binders and supports
- Ace bandages
- Ankle braces
- Anti-embolism stockings
- Athletic supporters (only for patients recovering from rectal or genital surgery)
- Casts and cast components
- Cervical supports
- Cervical traction devices
- Clavicular splints
- Elbow supports
- Head halters
- Legging orthoses
- Neck collars
- Pelvic traction devices
- Postsurgical corsets
- Postoperative knee immobilizers and braces
- Rib belts and immobilizers
- Rupture holders
- Sacral belts
- Sacrolumbar back braces
- Shoulder immobilizers
- Slings
- Sternum supports
- Stump shrinkers
- Support hose (and garter belts used to hold them in place)
- Thumb and finger splints
- Trusses
- Wrist and arm braces

### ***Orthopedic shoes and supportive devices for the foot***

Sales of orthopedic shoes and supportive devices for the foot are not exempt from tax unless they are an integral part of a leg brace or artificial leg or are custom-made biomechanical foot orthoses. If you sell biomechanical foot orthoses, please see [Regulation 1591](#), *Medicines and Medical Devices*, for more information regarding the taxability of their sale.

Please refer to [Medical supplies that are not considered medicines](#), for information on items such as cervical pillows, arch supports, and splints, sales of which are generally subject to tax.

### ***Other medical items***

Although the items listed below are not typically sold by drug stores, their sales are generally exempt from tax when furnished according to a written prescription. Such items include:

- Artificial limbs
- Artificial eyes
- Crutches
- Canes (including white canes used by the legally blind)
- Ear implants including the ear implant's interdependent internal and external components that operate together as one device in and on the person in whom the device is implanted
- Intraocular lenses
- Quad canes
- Walkers
- Wheelchairs

If you sell any of these items, please see Regulation 1591, *Medicines and Medical Devices*, and [Regulation 1591.2](#), *Wheelchairs, Crutches, Canes, and Walkers*.

### ***Registered pharmacist defined***

A "registered pharmacist" is a person to whom a certificate has been issued by the Board of Pharmacy under section 4200 of the [Business and Professions Code](#), except as provided otherwise in Pharmacy Law (section 4000, of Division 2 of the Business and Professions Code).

### ***Health facility defined***

Sales of medicine to health facilities are generally not taxable. For purposes of the Sales and Use Tax Law, a health facility means:

- Any facility that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer ([Health and Safety Code](#) section 1250).
- An organized outpatient health facility which provides direct medical, surgical, dental, optometric, podiatric, or psychological advice, services, or treatment to patients who remain less than 24 hours, and which may also provide diagnostic or therapeutic services to patients in the home as an incident to care provided at the clinic facility ([Health and Safety Code](#) sections 1200 and 1200.1).

### ***Reporting sales paid by Medi-Cal***

All sales of prescriptions, *including those paid by Medi-Cal*, must be reported on your sales and use tax return (gross sales). Sales of items that are not exempt prescription medicines do not qualify as exempt sales when paid by Medi-Cal and you must report and pay tax on the transaction.



### ***Medicare payments***

*Part A payments.* Tax does not apply to the sale of property if payment for the property is made under Part A of the Medicare Act. The sale qualifies as an exempt sale to the U.S. Government. The billing for the property must be separately stated. Normally, the billing received by the patient will be used to determine whether charges are separately stated. However, if no billing is issued to the patient, the billing issued to Medicare will be used.

If the property being sold is already exempt (such as medicines), a second deduction is not allowed for sales to the U.S. Government.

Since Medicare reimburses for reasonable cost, only amounts actually received from the government are allowable under this deduction.

*Part B payments.* Sales made under Part B of the Medicare Act do not qualify as exempt sales to the U.S. Government. Unless the sale is exempt for another reason (such as the sale of an exempt medicine), you must report and pay tax on the transaction.

## OTHER DRUG STORE SALES

As a drug store operator, you most likely sell items in addition to medicines and medical supplies. This chapter explains how tax applies to those other sales. Please refer to [www.boe.ca.gov](http://www.boe.ca.gov) or the [For More Information](#) section for BOE information and all regulations and publications referenced in this publication.

### Taxable and nontaxable sales—an overview

#### **Taxable sales**

The following are examples of drug store sales that are generally subject to tax:

- Alcoholic beverages
- Books, newspapers, periodicals
- Cameras and film
- Carbonated and effervescent water, including sparkling mineral water
- Carbonated soft drinks and mixes
- Clothing
- Cosmetics
- Dietary supplements
- Hot prepared food products, and food sold for consumption on your premises (for more information, see [publication 31, Grocery Stores](#))
- Ice
- Medicated gum (for example, Nicorette and Aspergum)
- Medical supplies such as bandages, thermometers, and hypodermic needles (see [Medical supplies that are not considered medicines](#))
- Over-the-counter medicines (see [Over-the-counter medicines](#))
- Pet food, pet medicines, and supplies
- Soaps or detergents
- Sporting goods
- Tobacco products
- Toys, hardware, and household goods

#### **Nontaxable sales**

The following are examples of drug store sales that are generally not subject to tax:

- Food products (unless sold for consumption at your place of business or sold as hot prepared foods). This includes baby food, artificial sweeteners, candy, gum, ice cream, ice cream novelties, popsicles, fruit and vegetable juices, olives, onions, and maraschino cherries. Food products also include beverages and cocktail mixes that are neither alcoholic nor carbonated. The exemption applies whether the beverage or mix is sold in liquid or frozen form.
- Water, including bottled noncarbonated, noneffervescent drinking water.
- Sparkling cider and other “naturally carbonated” products (see [Note regarding carbonated fruit juices](#) under Food product sales).
- Baby formulas.
- Noncarbonated sports drinks (see [Dietary supplements provided by physicians](#)).
- Granola bars, candy bars, and food bars.

Please refer to [www.boe.ca.gov](http://www.boe.ca.gov) or the [For More Information](#) section for BOE information and all regulations and publications referenced in this publication.

### ***Food product sales***

Food products sold for human consumption (food items that people eat) are generally not subject to tax. If an item does not qualify as a food product, it is generally subject to tax. Please refer to [Regulation 1602](#), *Food Products*, and [Regulation 1603](#), *Taxable Sales of Food Products*.

For example, the following items are not considered food products and, as a result, are subject to tax:

- Alcoholic beverages
- Carbonated beverages and mixes (see *Note* below)
- Coloring extracts
- Dietary supplements (see Regulation 1602)
- Ice
- Tobacco products

*Note: carbonated fruit juices.* Carbonated products that qualify as 100 percent natural fruit juice are not subject to tax. If the fruit juice includes a preservative, such as sodium benzoate, or any other additive, it is not considered a natural fruit juice and is subject to tax.

### ***Sales of hot prepared foods/food operation sales***

If you sell hot prepared food products (such as hot sandwiches), or if you operate a food service (such as a soda fountain), see [publication 31](#), *Grocery Stores*, or [publication 22](#), *Dining and Beverage Industry*. Please refer to [www.boe.ca.gov](http://www.boe.ca.gov) or the [For More Information](#) section for BOE information and all regulations and publications referenced in this publication.

### ***Combination packages (packages that include a combination of food products and nonfood products)***

If you sell a combination package that includes exempt food products and nonfood products, please see Regulation 1602, *Food Products*, and [publication 106](#), *Combination Packages and Gift-Wrapping*, for an explanation of the correct application of tax to sales of combination packages.

### ***Food or dietary supplements or adjuncts (additives)***

Sales tax generally applies to preparations in liquid, powdered, granular, tablet, capsule, lozenge and pill form sold as food supplements, dietary supplements, food additives or dietary additives. Supplements or additives are not included in the definition of exempt food products. If an item is sold in one of these specified forms, the following methods may be used to determine its taxability:

- If an item is described on its label or package as a food supplement, food additive, dietary supplement, or dietary additive, its sale would be subject to the sales tax.
- If an item is prescribed or designed to remedy specific dietary deficiencies or to increase or decrease generally those areas of human nutrition dealing with vitamins, proteins, minerals or calories, its sale would be subject to the sales tax.
- If an item is in one of the specified forms, it may be taxable if it is generally recognized as a dietary supplement, even though it is not described as such on its package and does not emphasize its vitamin, protein, mineral or calorie content. Examples include cod liver oil, wheat germ oil, and halibut liver oil.

### ***Dietary supplements provided by physicians***

Generally if a supplement does not qualify as a complete dietary food under Regulation 1602, *Food Products*, it is subject to tax. However, Regulation 1602 and [Regulation 1591](#), *Medicines and Medical Devices*, clarify that dietary

supplements can, in limited circumstances, be considered “medicines.” This applies when supplements (provided by a physician to his or her own patient) are part of a medically supervised weight loss program to treat obesity.

### ***Herbal products***

For purposes of the food products exemption a product’s labeling does not determine that it is a medicine and may be disqualified from the food products exemption. If a product does not meet the definition of medicine, as provided in [Regulation 1591, Medicines and Medical Devices](#), it may still be considered a food product for human consumption (food items that people eat). This is true even if medicinal claims are made on the product’s label or product brochures.

If an herb is sold in cut leaf form the herb cannot be considered a supplement or additive, regardless of what is written on the label because it is not in one of the forms listed in [Regulation 1602, Food Products](#). Only a dried herb that is ground or crushed into fine particles should be considered a powder. For such an herb to be considered sold as a supplement or additive, it must either be:

- Labeled as a supplement or additive, or
- Prescribed or designed to meet specific dietary deficiencies or increase or decrease vitamins, proteins, minerals, or caloric intake.

So, if the herb is not described on its package or label as a food supplement, food additive, dietary supplement, or dietary additive, the herb is a food product, the sale of which is exempt from tax.

### ***Snack foods, candy, and confectionery***

Sales of snack foods, candy, and confectionery are not subject to tax.

### ***Water***

#### ***Bottled water***

Sales of carbonated, effervescent bottled water are taxable. Sales of noncarbonated, noneffervescent *drinking* water are not taxable. However, bottled *distilled* water is generally used for purposes other than drinking—for example, filling steam irons and car batteries. When bottled water is not sold for human consumption, the sale of the water is taxable.

***Read the label.*** To determine whether your sale of distilled water is subject to tax, you must examine the bottle’s label. If the label includes a reference that the distilled water is intended for human consumption (drinking), the sale of the water qualifies for exemption as a food product. If the distilled water label does not reference intended use, or is labeled *only* for nonfood uses, the sale of the water is taxable.

#### ***Purified water sold through dispensers***

Sales of purified drinking water dispensed through vending machines are exempt provided the water enters the vending machine through local supply lines and is dispensed into the customer’s own container.

#### ***Vitamin enhanced water***

Noncarbonated, vitamin enhanced water beverages and sport drinks that come in packages similar in size and volume to nonenhanced bottled water are generally considered food products. Your sales of these products on a to-go basis are not subject to tax. Noncarbonated bottled water is specifically considered a food item. The compounding of nutritional elements, such as vitamins, in an item traditionally accepted as food, such as vitamin enriched bread, does not alone render the product taxable nor does including the word “vitamin” in a food product name, description, or product advertising. For additional information, please see [Regulation 1602, Food Products](#).

**California redemption value**

<b>California Redemption Value (CRV) Table</b>	
<b>Beverages subject to the CRV when sold in glass, plastic, aluminum, and certain other metal containers if in liquid, ready-to-drink form and intended for people to eat (for human consumption)</b>	<b>Not subject to the CRV, regardless of the container type</b>
Water (carbonated and noncarbonated)	Milk
Coffee and tea drinks	Medical food (such as amino acid-free food)
Soft drinks, sport drinks, and fruit drinks (carbonated and noncarbonated)	Infant formula
Beer and other malt beverages	Wine, including nonalcoholic and sparkling
Wine and distilled spirit coolers containing 7 percent or less alcohol	Distilled spirits with more than 7 percent alcohol
Vegetable juice in containers of 16 ounces or less	Vegetable juice in containers more than 16 ounces
100 percent fruit juice in containers of less than 46 ounces	100 percent fruit juice in containers of 46 ounces or more

If the sale of the beverage is subject to tax (for example, beer and soda), the redemption value is also subject to tax. Tax applies to the amount received from the sale of a beverage *and* its container *and* the amount charged for the redemption value of the container. The redemption value is not considered a deposit under the Sales and Use Tax Law and may not be deducted from total taxable sales on your tax return. If the sale of the beverage is exempt from tax, so is the redemption value.

*Please note:* The CRV program is administered by the California Department of Conservation, Division of Recycling. If you have questions regarding the recycling fee rate or what products are covered by the fee, please contact the Department of Conservation (see the state government section of your telephone directory or go to [www.calrecycle.ca.gov](http://www.calrecycle.ca.gov)).

**Film processing**

Tax generally applies to all charges involved in processing film except for the following:

- Charges for tinting or coloring photographs that are furnished by the customer.
- Separately stated charges for developing color or black and white negatives. This is to be distinguished from charges for developing film by the reverse process method, which is subject to tax. (The reverse process method consists of developing the film to a negative and reversing it into a positive, usually in the form of a slide or a home movie film.)

**Point-of-sales fees (fees for the use of debit cards)**

Tax does not apply to debit card fees if all of the following conditions apply:

- The fee is separately stated,
- The customer would not incur the charge if he or she did not use the card,
- The fee is not calculated as a percentage of the amount of the purchase, and
- The fee is reasonably related to the cost of the transaction.

### **Prepaid telephone debit cards**

In general, sales of prepaid telephone debit cards are not subject to sales or use tax (see exception below). You are considered to be selling a future telephone service rather than selling physical products.

*Exception:* If you sell a prepaid telephone card for its value as a collectible item rather than for future telephone service, the sale is subject to tax. For example, if you sell an expired card with a picture of a famous person or “classic” automobile, you are selling a collectible item, and the sale is subject to tax.

However, sales of prepaid *wireless* telephone debit cards are subject to the prepaid Mobile Telephony Services surcharge when sold in a retail transaction in California (see information below).

### **Prepaid Mobile Telephony Services Surcharge**

Beginning January 1, 2017, certain small sellers of prepaid mobile telephony services (MTS) will no longer be required to collect the surcharge from their customers and report and pay those amounts to the California State Board of Equalization (BOE). A small seller of prepaid MTS is a seller (*other than a telecommunications service supplier*) that sold less than \$15,000 in prepaid MTS sales during the previous calendar year. The annual sales threshold is based on the total of all retail locations operated by the seller and is subject to annual adjustment. However, because consumers are still responsible for the surcharge, as a courtesy to their customers, small sellers may voluntarily continue to charge and collect the prepaid MTS surcharge and report the amounts to the BOE.

For more information about this program, please read our guide, [Prepaid Mobile Telephony Services \(MTS\) Surcharge](#).

### **Lottery**

California lottery sales are not taxable and should not be included as part of your total taxable sales on your sales and use tax return. You should segregate lottery receipts from other sales in your records. If you do not adequately document lottery receipts, such sales could be confused with taxable sales.

### **Newspapers, periodicals, magazines, and books**

Sales of newspapers, books, magazines and periodicals are generally taxable. Tax also applies to sales of such items as catalogs, maps, and books. You should include these items as part of your reported taxable sales.

### **Rentals**

#### **Videotapes and equipment**

Rentals of videotapes or DVDs for private noncommercial use are subject to tax.

*Note:* Tax applies to such rentals even if you paid sales tax to your vendor or reported use tax on the purchase price of the tape or disc.

If you rent video equipment and videocassette tapes or DVDs together for a *lump-sum rental charge*, tax applies either to the entire charge or to a portion as described below.

*If you did not pay tax on your purchase of the video equipment* (for example, you purchased the equipment using a resale certificate) tax applies to the entire rental charge to your customer.

*If you paid sales or use tax on your purchase of the video equipment*, you should charge your customer tax only for the portion of the rental charge attributable to the videocassette tapes or DVDs (tax does not apply to the portion attributable to the video equipment). The amount of tax due is based on the ratio of the fair rental value of the cassette tapes or DVDs and equipment compared to the lump-sum rental charge.

#### **Carpet cleaners**

Your charges for renting carpet cleaning equipment are taxable unless:

- You paid an amount for California sales tax or use tax to your supplier when you purchased the equipment, or
- You reported the purchase of the equipment on your sales and use tax return and paid use tax on that amount

no later than the reporting period in which you first began renting the equipment.

You also owe tax on separate charges for soap and cleansers. When you charge tax on soap and cleansers, you can buy them using a resale certificate.

### ***Sales of capital assets***

Sales tax applies to retail sales of capital assets such as showcases, gondolas, and cash registers that have been used in your business. This holds true whether the assets are sold intermittently or are included with the sale of your business.

### ***Vending machines***

Commissions received from vending machine operators who have placed vending machines on your premises are not subject to tax. Some retailers, however, sell their own merchandise through vending machines. *Vending Machine Food Sales*, [publication 118](#), explains the application of tax to sales through vending machines.

### ***Discounts, coupons, rebates, and incentive programs***

If you participate in rebate or incentive programs offered by manufacturers, vendors, or other “third parties” to promote sales of specific products, you should be aware of how tax applies to the payments you receive.

In general, third parties offer incentive programs to reduce the selling price of their specific products. The third party will compensate you directly for the selling price reduction given to your customers when these products are sold at the reduced rates. There are also incentive programs in which you enter into a third party agreement to reduce the retail selling price in exchange for a purchase discount on your cost of the product.

### ***When is the rebate or incentive payment taxable?***

Payments received through a third party rebate or incentive program are taxable when all three of the following conditions exist:

1. The third party must *require* you to reduce the sales price of particular products in order to receive payment from the third party.
2. Conditions for receipt of payment must be *certain*, not dependent on other factors outside your control. The term “certain” means conditions in the agreement that you have control over. For example, you will receive payment from the third party if you place product signs in your store. An example of a factor outside your control would be that you receive payment only if you meet a sales quota for the discounted products within a specific time period.
3. The payment must be for a *like* amount on a transaction-by-transaction basis (payment must be tied to the specific sale of the particular product in the agreement). The third party reimburses you for the specified price reduction in the agreement.

If all of these conditions exist as part of the incentive program, the third party payment is part of your total taxable sales. When reporting your sales, you must include the total amount you receive from your sales of the particular products—this includes the amount paid by the customer and the amount that will be paid by the third party as reimbursement for the price reduction.

Here are two examples where the value of a buy-down rebate program and a manufacturer coupon are part of your total taxable sales (or sales price if subject to use tax) from the sale of the product:

1. You purchase bottle openers directly from the manufacturer and you enter into a buy-down rebate program with them. Assume you normally sell the bottle openers for \$5.00, but under a buy-down rebate plan, agree to sell the bottle openers for \$4.50 and receive \$0.50 from the manufacturer. The tax amount due is based on your “total taxable sales” for the sale—which includes both the rebate amount and the amount paid by your customer; therefore, tax is due based on the \$5.00 you receive for the entire sale.
2. A customer clips a coupon out of a newspaper and presents it to you at the time of sale

to receive a discounted price on the product purchased. The coupon indicates “Manufacturer Coupon.” Since the manufacturer will compensate you for the amount of the price reduction and the customer presents a manufacturer coupon to you, the value of the coupon is included in your total taxable sales. Tax is based on the full retail selling price of the product—that is, the amount paid by your customer and the amount of the manufacturer’s coupon.

### ***Promotional programs offered by third parties***

When you participate in a promotional program, the payments you receive from a person other than your customer are presumed taxable until you can present documentation to establish the payments as being nontaxable. Please see [Regulation 1671.1, Discounts, Coupons, Rebates, and Other Incentives](#), for examples of documentation that would be used to accomplish this.

Also, when you collect sales tax, or if you are required to collect use tax, you must let the customer know the amount on which they are paying tax. This includes the amount of any taxable discounts, rebates, or incentives offered or paid to you by third parties. In other words, even though the customer buys an item at a discounted price, you collect tax for the full retail (prediscounted) price. You may itemize this amount on the customer’s receipt, sales invoice, or other proof of sale.

When applicable, you may also post a notice in a location visible to your customer, or in advertisements, flyers, or brochures sent to customers. The notice should indicate that “tax” will be added to the sales price of all items and that the tax includes the amount of any taxable discounts or rebates.

*Note:* Sellers of cigarettes and tobacco products at retail must have a separate California Cigarette and Tobacco Products Retailer’s License for each retail location. This is true even if you have a seller’s permit or other permits or licenses issued by the BOE. For more information, see [publication 78, Sales of Cigarettes and Tobacco Products in California](#).

### ***Discount club cards***

If you offer price discounts to customers through the use of “discount club cards,” that are provided at no charge, the discount amount is not subject to tax. The price reductions associated with the club card are not part of your total taxable sales if you are not receiving compensation from a third party. Amounts paid by a third party such as a manufacturer to reimburse you for the club card discount are subject to tax. Some stores also offer “club rewards”—such as discount coupons or “reward bucks”—based on a customer’s purchases during a particular time period. These “reward” discounts are also not taxable because they are considered retailer cash discounts.

For additional information and examples of the programs that are commonly offered to you by third parties please see [Regulation 1671.1, Discounts, Coupons, Rebates, and Other Incentives](#), and [publication 119, Warranties and Maintenance Agreements](#).

### ***Federal food stamps***

Sales tax does not apply to items sold in exchange for federal food stamp coupons. This is true even if the item would normally be subject to tax if purchased without a food stamp coupon (for example, purchases of nonalcoholic carbonated beverages, carbonated or effervescent bottled water, ice, and food coloring extract), but if they are paid for with federal food stamps, their sale is exempt.

*Bookkeeping Requirements.* If you make sales in exchange for food stamps, you must account for the sales of normally taxable items purchased with food stamps in order to properly report your sales and use tax liability. Rather than separately accounting for those sales, you can use one of the following two approved methods for computing the allowable deduction for redeemed food stamp coupons:



### *Method 1*

You may take a deduction on your sales and use tax return of two percent of the total amount of food stamp coupons redeemed in the period for which the return is filed.

### *Method 2*

You may deduct more than the two percent allowed in Method 1 if, using the calculation shown below, the result is higher than two percent.

*Formula.* Total purchases of normally taxable items eligible to be purchased with food stamps divided by total purchases of normally taxable items eligible to be purchased with food stamps plus total purchases of normally exempt food products.

This example illustrates how to calculate the percentage under Method 2.

(a) Items that are normally taxable and may be purchased with food stamps: \$5,000

(b) Exempt food products: \$130,000

(c) Total (a+b): \$135,000

The allowable percentage to be applied to your total food stamp coupons redeemed is computed as follows:

$$(a) \$5,000 \div (c) \$135,000 = 3.7\%$$

*Note:* Customers may not use food stamps to buy items such as alcoholic beverages, tobacco products, pet food, soaps, paper products, vitamins, food that will be eaten in the store, or hot foods. If you are using this method, make sure that these items are not included in your total for *"Items that are normally taxable and may be purchased with food stamps."*

### ***Bad debt deductions***

If a check you accepted for a taxable sale is returned unpaid by the bank (nonsufficient funds) and you find it to be uncollectible and write it off for income tax purposes, you may claim a bad debt deduction for the amount of the taxable sale. Please refer to [Regulation 1642, Bad Debts](#), to assist you in calculating the taxable portion of your bad debt losses. You must claim the deduction on the sales and use tax return for the reporting period in which you found the check worthless and wrote it off. Enter the amount under *"Bad Debt Losses on Taxable Sales."* Otherwise, you must submit a claim for refund on the amount found to be worthless. You can take the bad debt deduction only if you had previously reported tax on the sale on a previous return.

If you later collect the money due for a bad debt (for example, worthless checks), any amount you previously claimed as a deduction must be reported as a taxable sale. You cannot deduct amounts you paid to collect the funds due.

***Credit sales.*** You can also claim a bad debt deduction on uncollectible credit sales, subject to certain adjustments. Please see [Regulation 1642, Bad Debts](#).

***Tax rate changes.*** If the tax rate has changed since you made the sale, you must make an adjustment in the deduction you claim. Current tax rates are available on our website, see [California City and County Sales and Use Tax Rates](#). Please call our Customer Service Center for assistance at 1-800-400-7115.

### ***Robbery, theft, or shoplifting***

You are required to pay tax on all your taxable sales despite any loss of the proceeds (cash, check, or credit card). As a result, you may not take a taxable sales deduction for a loss due to robbery, theft, or shoplifting.

Although you cannot deduct such losses on your sales and use tax return, you must document them in your records. In the event you are audited, you must be able to account for all your income and inventory. Acceptable forms of documentation of inventory loss due to robbery, theft, or shoplifting include police reports, insurance claims, reports from private investigating agencies, and so forth.***Sales Suppression Software Programs and Devices***

It is a crime for anyone to knowingly, sell, purchase, install, transfer, or possess software programs or devices that are used to hide or remove sales and to falsify records.

Using these devices gives an unfair competitive advantage over business owners who comply with the law and pay their fair share of taxes and fees. Violators could face up to three years in county jail, fines of up to \$10,000, and will be required to pay all illegally withheld taxes, plus penalties including applicable interest and fees.

## TAXABILITY OF PURCHASES

*Under certain circumstances, you are required to pay tax to the BOE on your purchases. This chapter describes typical situations in which tax may apply to purchases made by your business. Please refer to [www.boe.ca.gov](http://www.boe.ca.gov) or the [For More Information](#) section for BOE information and all regulations and publications referenced in this publication.*

### Use tax

If you purchase taxable merchandise for resale (without paying sales tax) and divert the merchandise to some other use, you must report use tax based on your purchase price for the merchandise. The cost of such merchandise should be reported on your tax return under *"Purchases Subject to Use Tax."*

The rate for use tax is the same as the sales tax rate effective for your location.

The sections below describe typical situations in which use tax applies to purchases made by retailers.

#### ***Merchandise purchased for resale***

Generally, when you purchase merchandise you intend to resell, you do not pay sales or use tax at the time of purchase. Sales tax applies to your subsequent retail sale of the merchandise.

However, if you purchase taxable merchandise for resale but use it for other business or personal purposes, you must report use tax to the BOE. Examples of such use include cigarettes, soap, and other taxable items taken home by an owner; given to friends, associates or employees; or donated to certain organizations.

*Note—donations to organizations:* You are not required to report use tax if you donate property from your resale inventory to a *qualified* organization, as defined in [Regulation 1669, Demonstration, Display, and Use of Property Held for Resale—General](#). Donations to organizations that do not qualify under this regulation are subject to tax.

If you paid sales tax to your supplier for items you purchased for business or personal use, but resell the items first, you can take a deduction on your tax return when you report the sale. You may deduct the amount you paid before sales or use tax was added, under *"Cost of Tax-Paid Purchases Resold Prior to Use"* on your return.

#### ***Items used for demonstration and display***

Merchandise you use exclusively for demonstration and display while it is held for sale is not subject to use tax. Sales tax applies when the item is sold.

If you use a demonstration or display item for any additional purpose, including personal use, the purchase price must be reported under *"Purchases Subject to Use Tax"* on your return. Again, sales tax applies to the subsequent retail sale of the merchandise. For more information, see [Regulation 1669, Demonstration, Display, and Use of Property Held for Resale—General](#).

#### ***Items purchased from out-of-state retailers***

In general, if you purchase taxable merchandise from an out-of-state retailer (without paying California tax) and use the merchandise for a purpose other than for resale, the purchase is subject to use tax and must be reported on your return.

#### ***Credit for payment of another state's tax***

If you paid another state's sales tax on the purchase, you may receive credit for that payment by:

- Reporting the amount of the purchase on your return under *"Purchases Subject to Use Tax,"* and
- Deducting the amount of tax paid to the other state. Enter the amount under *"Taxes Imposed by Other States"* on your return. You can only claim a credit up to the amount of California tax due.

Some out-of-state retailers are authorized to collect and pay California use tax. If your sales receipt indicates that the correct amount of California use tax has been collected on your purchase, you do not need to report that purchase on your return.

*Note:* You cannot receive credit for sales tax paid to another state if the tax should not have been collected (it was improperly assessed).

### ***Use tax resources***

For further information on use tax, please refer to the following publications:

[Publication 77](#), *Out-of-State Sellers: Do You Need to Register with California?*

[Publication 110](#), *California Use Tax Basics*

[Publication 123](#), *California Businesses: How to Identify California Use Tax Due*

### ***Business supplies and equipment***

Purchases of items used in your business—such as, display fixtures, equipment, price tags, advertising, bookkeeping, maintenance materials, and so forth—are subject to sales or use tax. If bought from an out-of-state seller who does not charge California use tax, the purchase must be reported on your return, under “*Purchases Subject to Use Tax.*” If you later sell any of these items (for example, you sell a used fixture), the sale would be taxable.

### ***Packaging supplies***

You may use a resale certificate to purchase packaging supplies such as paper bags that you will use to package merchandise you sell, provided:

- You supply these items with your sales; and
- You do not require your customers to return them to you.

You are not required to charge separately for these items or report tax to the BOE when included with the sale of your merchandise. For more information, please see [Regulation 1589](#), *Containers and Labels*, or, [publication 106](#), *Combination Packages and Gift-Wrapping*.

## FOR MORE INFORMATION

For additional information or assistance with how the Sales and Use Tax Law applies to your business operations, please take advantage of the resources listed below.

### CUSTOMER SERVICE CENTER

**1-800-400-7115**

**TTY:711**

Customer service representatives are available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays. In addition to English, assistance is available in other languages.

### FIELD OFFICES

City	Area Code	Number
Bakersfield	1-661	395-2880
Culver City	1-310	342-1000
El Centro	1-760	352-3431
Fairfield	1-707	427-4800
Fresno	1-559	440-5330
Glendale	1-818	543-4900
Irvine	1-949	440-3473
Norwalk	1-562	466-1694
Oakland	1-510	622-4100
Rancho Cucamonga	1-909	257-2900
Rancho Mirage	1-760	770-4828
Redding	1-530	224-4729
Riverside	1-951	680-6400
Sacramento	1-916	227-6700
Salinas	1-831	443-3003
San Diego	1-858	385-4700
San Francisco	1-415	356-6600
San Jose	1-408	277-1231
Santa Clarita	1-661	222-6000
Santa Rosa	1-707	576-2100
Ventura	1-805	677-2700
West Covina	1-626	480-7200

### Out-of-State Field Offices

Chicago, IL	1-312	201-5300
Houston, TX	1-281	531-3450
New York, NY	1-212	697-4680
Sacramento, CA	1-916	227-6600

### INTERNET

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

You can log onto our website for additional information—such as laws, regulations, forms, publications, industry guides, and policy manuals—that will help you understand how the law applies to your business.

You can also verify seller's permit numbers on the BOE website (look for "[Verify a Permit/License](#)") or call our toll-free automated verification service at 1-888-225-5263.

Multilingual versions of publications are available on our [website](#) at [www.boe.ca.gov](http://www.boe.ca.gov).

Another good resource—especially for starting businesses—is the California Tax Service Center at [www.taxes.ca.gov](http://www.taxes.ca.gov).

### TAX INFORMATION BULLETIN

The quarterly Tax Information Bulletin (TIB) includes articles on the application of law to specific types of transactions, announcements about new and revised publications, and other articles of interest. You can find current and archived TIBs on our website at [www.boe.ca.gov/news/tibcont.htm](http://www.boe.ca.gov/news/tibcont.htm). Sign up for our BOE updates email list and receive notification when the latest issue of the TIB has been posted to our website.

### FREE CLASSES AND SEMINARS

Most of our statewide field offices offer free basic sales and use tax classes with some classes offered in other languages. Check the Sales and Use Tax Section on our website at [www.boe.ca.gov](http://www.boe.ca.gov) for a [listing of classes and locations](#). You can also call your local field office for class information. We also offer [online seminars](#) including the Basic Sales and Use Tax tutorial and how to file your tax return that you can access on our website at any time. Some online seminars are also offered in other languages.

### WRITTEN TAX ADVICE

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges that are due on a transaction if we determine that we gave you incorrect written advice regarding the transaction and that you reasonably relied on that advice in failing to pay the proper amount of tax. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction.

Please visit our website at: [www.boe.ca.gov/email/](http://www.boe.ca.gov/email/) to email your request. You may also send your request in a letter to: Audit and Information Section, MIC:44, State Board of Equalization, P.O. Box 942879, Sacramento, CA 94279-0044.

### TAXPAYERS' RIGHTS ADVOCATE

If you would like to know more about your rights as a taxpayer or if you have not been able to resolve a problem through normal channels (for example, by speaking to a supervisor), please see *Understanding Your Rights as a California Taxpayer*, [publication 70](#), or contact the [Taxpayers' Rights Advocate Office](#) for help at 1-916-324-2798 (or toll-free, 1-888-324-2798). Their fax number is 1-916-323-3319.

If you prefer, you can write to: Taxpayers' Rights Advocate, MIC:70; State Board of Equalization; P.O. Box 942879; Sacramento, CA 94279-0070.

## Regulations, forms, and publications

### *Lists vary by publication*

Selected regulations, forms, and publications that may interest you are listed below. A complete listing of sales and use tax [regulations](#), [forms](#), and [publications](#) appears on our [website](#). Multilingual versions of our publications and other multilingual outreach materials are also available at [www.boe.ca.gov/languages/menu.htm](http://www.boe.ca.gov/languages/menu.htm).

### **Regulations**

- 1528 *Photographers, Photocopiers, Photo Finishers and X-Ray Laboratories*
- 1574 *Vending Machine Operators*
- 1589 *Containers and Labels*
- 1590 *Newspapers and Periodicals*
- 1591 *Medicines and Medical Devices*
- 1591.1 *Specific Medical Devices, Appliances, and Related Supplies*
- 1591.2 *Wheelchairs, Crutches, Canes, and Walkers*
- 1602 *Food Products*
- 1603 *Taxable Sales of Food Products*
- 1642 *Bad Debts*
- 1660 *Leases of Tangible Personal Property—in General*
- 1669 *Demonstration, Display, and Use of Property Held for Resale—General*
- 1671 *Trading Stamps and Related Promotional Plans*
- 1671.1 *Discounts, Coupons, Rebates, and Other Incentives*
- 1698 *Records*
- 1700 *Reimbursement for Sales Tax*
- 1821 *Foreword—Transactions (Sales) and Use Taxes*
- 1823 *Application of Transactions (Sales) Tax and Use Tax*

### **Publications**

- 17 *Appeals Procedures Sales and Use Taxes and Special Taxes*
- 22 *Dining and Beverage Industry*
- 31 *Grocery Stores*
- 36 *Veterinarians*
- 44 *District Taxes (Sales and Use Taxes)*
- 46 *Leasing Tangible Personal Property*
- 51 *Resource Guide to Free Tax Products and Services for Small Businesses*
- 70 *Understanding Your Rights as a California Taxpayer*
- 73 *Your California Seller's Permit*
- 74 *Closing Out Your Seller's Permit*
- 75 *Interest, Penalties, and Fees*
- 76 *Audits*
- 78 *Sales of Cigarettes and Tobacco Products in California License Requirement for Retailers*
- 106 *Combination Packages and Gift-Wrapping*
- 110 *California Use Tax Basics*
- 116 *Sales and Use Tax Records*
- 118 *Vending Machine Food Sales*
- 119 *Warranties and Maintenance Agreements*

Publicaciones disponibles en su idioma  
以您的母語出版的出版物  
**Các Ấn Phẩm Có Sẵn Trong Ngôn Ngữ Của Quý Vị**  
귀하의 언어로 된 간행물이 있습니다

