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Consumer Sales and Use Tax Questions

Publication 53-A

Q. *I purchased property on the Internet and was charged tax. Isn't the Internet exempt from tax?*

A. There are many proposals to keep the Internet free from taxation. However, they are not referring to sales tax. Rather, they are referring to taxes on fees charged by Internet service providers, much like the taxes and fees imposed on your telephone bill. When tangible personal property is purchased on the Internet, it is subject to either sales or use tax.

Q. *Why must I pay tax on my “free” cellular phone?*

A. “Free” cellular phones are taxable when the retailer requires you to purchase a service agreement in order to get the phone. Tax is based on the fair retail selling price of the phone, that is, the price at which the retailer would sell the phone without the service agreement.

Q. *Are tips subject to tax?*

A. When a tip is optional, it is not subject to tax. If the tip is mandatory (required to be paid by the customer) it is taxable.

Q. *Are shipping and handling charges taxable?*

A. Shipping or delivery charges are not taxable when all of these conditions are met: Shipped *directly* to the purchaser by common, or contract carrier, or US Mail; the invoice separately states charges for delivery, shipping, or freight; and the charge is not higher than the actual cost for delivery. Records must be maintained by the retailer showing the actual cost of individual deliveries.

Handling charges are “a service related to the sale” and subject to tax.

Q. *Is CRV taxable?*

A. The charge for California Redemption Value (CRV) is not a deposit, but a fee imposed on the distributor of the beverage. The fee is passed along to the retailer and to you as the consumer. Although separately stated, the fee is subject to tax as part of the taxable selling price of the beverage.

Q. *When is labor taxable?*

A. There are three types of labor: fabrication, installation and repair. The creation or fabrication of new property is subject to tax. However, installation and repair labor are generally excluded from tax.

Q. *I bought a sweater and paid the store extra to gift-wrap it. Why was the gift-wrapping charge taxed? Isn't that a service?*

A. Charges for services are taxable when they are considered part of a taxable sale. When a store sells you a taxable item, its charges for gift-wrapping that item are also taxable.

Q. *Is there a use tax exemption for items purchased in a foreign country?*

A. Yes, effective January 1, 2008, the first \$800 of tangible personal property that you *both purchased from a retailer in a foreign country and you personally hand-carried it into this state* from a foreign country within any 30-day period is exempt from use tax. This exemption does not apply to property sent or shipped to this state.

Each family member is entitled to the \$800 exemption.

Q. *I am a California resident. If I purchase a car out of state for personal use and bring it into California, will I have to pay tax?*

A. Yes, unless the vehicle is used outside of California for a specific period of time. For more information, please see publication 52, *Vehicles and Vessels: How to Request a Use Tax Clearance for DMV Registration*, and Regulation 1620, *Interstate and Foreign Commerce* (see back cover).

Q. The grocery store sells laundry soap for \$12. I used a \$2 manufacturer's coupon and paid \$10. I was charged tax on \$12 — is that right?

A. Yes. The store owes tax on the total amount it receives for the sale — the \$10 you paid and the \$2 it will get from the manufacturer. If you had used a coupon issued by the grocery store or the grocery store's discount "club card," tax would have been due on \$10.

More Questions?

Regulations and publications are available from our website at *www.boe.ca.gov*, or by calling our Taxpayer Information Section at 800-400-7115.

Note: This publication summarizes the law and applicable regulations in effect as of October, 2008. 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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