

100

Sales & Use Tax Questions for the Business Person

Publication 53-B

Q. My business purchases supplies from an out-of-state vendor who then ships the property to my California business. Are my purchases taxable?

A. Yes. An out-of-state retailer must collect California use tax if they hold a permit or are engaged in business in California. If the seller does not charge tax, you must report your purchase on line two of your sales and use tax return and remit the use tax. Please refer to Regulation 1706, *Drop Shipments*, see back page for contact information.

Q. My customer resells merchandise purchased from my business. Will a copy of her seller's permit support my claimed sale for resale?

A. No. You must obtain a timely resale certificate that is dated and includes required elements such as the seller's permit number, the name, address, and signature of the purchaser, and a description of the property purchased with a statement that the property purchased is for resale. A copy of a seller's permit alone does not contain these elements.

Q. Should I obtain new resale certificates from my customers each year?

A. A valid resale certificate is good until it is revoked in writing. Should you choose to obtain new resale certificates each year, you must retain the old resale certificates, because a resale certificate received today does not support claimed sales for resale you made in prior periods.

Q. I have completed my sales and use tax return. The amount of tax I actually collected is more than what the return indicates is due. Which amount do I pay?

A. It is important to verify that the tax you collected matches the amount due on your return. If you collected tax on transactions that were not subject to tax or collected tax in excess of the amount due, you may either refund the excess tax to your customer or remit the tax to the Board. You may not keep excess tax collected.

Q. I give away inventory items to promote my business. If the selling price is zero, is there any tax due?

A. When you purchase inventory, you do so without tax because it is expected that you will resell the items. Giving away inventory is considered a use of the property and is subject to tax based on your cost. Examples include inventory used for testing, gifts and promotional giveaways. However donations made to qualified charitable organizations may not be taxable. Please contact our Information Center for additional information.

Q. Does tax apply to the sale of my business?

A. Generally, for businesses holding seller's permits, tax applies to the sale of furniture, fixtures, and equipment. The price associated with goodwill is not subject to tax. Assuming the purchaser of your business will resell your inventory, the inventory is considered a nontaxable sale for resale. You should obtain a timely resale certificate from the purchaser for the resale inventory.

- Q. My business is located in Los Angeles. However, we regularly deliver merchandise to customers located in Orange County. Which tax rate applies?
- A. The Orange County tax rate applies and you are responsible for collecting the tax based upon the rate in Orange County. Please refer to publication 44, *Tax Tips for District Taxes*, see back page.

- Q. I claimed a bad debt loss on my return, but the claim does not equal the amount originally paid. Why is there a difference?
- A. You must make sure you claim a deduction based upon the tax rate in effect at the time of the sale, not the period in which you incurred your bad debt loss. To compute this amount, calculate the amount of tax on your bad debt loss using the tax rate in effect at the time of the original sale then divide this amount by the tax rate on your current return.

Q. A tourist purchased merchandise in my store. He provided proof that he will leave the state later in the week. Is this sale exempt as a sale in interstate commerce?

A. No. If the purchaser takes possession in California, the sale is subject to tax unless you ship or deliver the property outside the state of California.

Q. I purchase cleaning supplies for my business. Can I issue a resale certificate to my supplier so that I may pay the lower wholesale price?

A. No. You may only issue a resale certificate for items that you intend to resell during your normal course of business.

More Questions?
Check out the BOE website at
<http://www.boe.ca.gov/sutax/faqscont.htm>
or
Call 800-400-7115

Note: This pamphlet summarizes the law and applicable regulations in effect as of October 2006. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this pamphlet and the law, the latter is controlling.

Board Members (Names Updated 2011)

Kristine Cazadd
Executive Director

Betty T. Yee
First District
San Francisco

Sen. George Runner (RET.)
Second District
Lancaster

Michelle Steel
Third District
Rolling Hills Estates

Jerome E. Horton
Fourth District
Los Angeles

John Chiang
State Controller