Jewelry Stores

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PREFACE

This publication is designed to help you understand California's Sales and Use Tax Law as it applies to jewelry stores.

For general information about sales and use taxes, your obligations as a seller's permit holder, and how to file tax returns, see publication 73, *Your California Seller's Permit*. For more information on how to efile, see publication 159, *Efile Guide*. This publication includes information on obtaining a permit; using a resale certificate; collecting and reporting sales and use taxes; buying, selling, or discontinuing a business; and keeping records. If you do not already have a copy of this booklet, you may download one from our website at *www.boe.ca.gov* or request one from our Taxpayer Information Section.

We welcome your suggestions for improving this or any other publication. You may write to:

State Board of Equalization
Audit and Information Section, MIC:44
PO Box 942879
Sacramento, CA 94279-0044

If you cannot find the information you are looking for in this publication, please visit our website at *www.boe.ca.gov* or contact our Taxpayer Information Section at 1-800-400-7115. Staff will be glad to answer your questions.

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.

To contact your Board Member, see *www.boe.ca.gov/members/board.htm.*

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TAXABILITY OF SALES AND LABOR CHARGES

This chapter provides general information regarding the application of sales and use tax in your jewelry business. It covers how and when sales and use tax applies to sales of merchandise and to labor charges. It also covers repair parts, sales to out-of-state and foreign customers, discounts, trade-ins, credit sales, and the exemption for sales in bulk of monetized bullion, nonmonetized gold or silver bullion, and numismatic coins.

Sales of merchandise

The sale of merchandise in your jewelry store is generally subject to sales tax. Under the Sales and Use Tax Law, tax applies to retail sales of merchandise and other *tangible personal property* (your business *purchases* may also be subject to tax—see page 4). Barters and exchanges are also considered taxable sales.

Sales of the following items are generally taxable:

- New and used jewelry, watches, and clocks,
- Watch bands, chains, metal bands, and
- Custom-made jewelry or other fabricated items.

Charges for labor and materials

Fabrication labor

Labor charges to *create or produce* items for customers are taxable, whether the materials are supplied by you or provided by the customer. Labor charges for individual steps in a creative process, such as engraving and sizing jewelry you sell, are also subject to tax. Some examples of *fabrication labor* include:

- Manufacturing custom-made jewelry
- Engraving on jewelry
- Sizing rings

Note: Engraving and sizing of *customers'* used jewelry is not taxable.

For more information, see Regulation 1526, *Producing, Fabricating and Processing Property Furnished by Consumers—General Rules* (see page 11).

Repair labor and parts

Repair Labor

Labor charges to *repair* or *recondition* an item to restore its original use are not taxable.

Examples: The labor charge to reset a stone in a customer's ring is not taxable, since you are restoring the ring to its original use. On the other hand, the labor charges to create a *different* piece of jewelry, such as another ring or a pendant, from the materials in the ring are subject to tax.

Parts

Generally, you are the consumer of the jewelry repair parts, such as findings, that are used in your repair services. Therefore, you are required to pay tax at the time you purchase the repair parts and your charges for repair parts are not taxable, unless:

- You charge separately for the parts, or
- The retail value of the parts is more than 10 percent of the total repair charge. In this instance, you must separate charges for parts and materials from any labor charges on your invoice.

For more information, see page 5. Additional details are found in Regulation 1553, *Miscellaneous Repair Operations,* and Regulation 1546, *Installing, Repairing, Reconditioning in General* (see page 11).

Gift wrapping labor and materials

Charges for labor and materials to gift wrap an item for a customer are taxable. For more information, you may wish to obtain our publication 106, *Gift-Wrapping Charges* (see page 11).

Sales to out-of-state and foreign customers

A sale is generally not taxable when the purchaser does not intend to use the merchandise in this state *and* the item, as stated in the contract of sale, is delivered to an out-of-state or foreign destination. You must ship the item directly, using your own business vehicle, the U.S. mail, or a common carrier; or you must deliver it to a freight forwarder, customs broker, or similar export shipping agent.

To claim an exemption for interstate and foreign commerce sales, you must retain records of delivery or shipment, such as shipping invoices, bills of lading, postage receipts, parcel post log books, and so forth. It is also recommended that you obtain a written statement declaring the property was purchased for use outside the state, and evidence of the customer's out-of-state or foreign address. You should also keep proof of shipping insurance as further documentation to show the merchandise was actually shipped outside the state.

Note: If you deliver property outside of California to a customer you know is a resident of California, the property is regarded as having been purchased for use in California and is subject to tax unless you obtain a written statement from the customer that the property was purchased for use outside of California.

For more information, see Regulation 1620, *Interstate and Foreign Commerce* (see page 11).

Discounts and trade-ins

Discounts

A discount is not subject to sales tax.

> *Example:* You sell a ring for $1,000 less a 10% discount ($100). The taxable price of the ring is $900 ($1,000–$100 = $900). You should clearly list the amount of discount, amount subject to tax, and the amount of tax on your sales receipts.

For more information, see Regulation 1671.1, *Discounts, Coupons, Rebates, and Other Incentives* (see page 11).

Returned merchandise used as a trade-in

If you require a customer to purchase other property of greater value to obtain a full refund credit for a returned item, the credit received will be considered as a *trade-in*. The value of the trade-in cannot be deducted from the taxable selling price of the new merchandise when you calculate sales tax due, and you cannot take it as a deduction on your tax return.

> *Example:* Your customer returns a diamond previously purchased for $5,000 and purchases a new gem priced at $10,000. If you allow full credit for the trade-in, tax on the new purchase would still be based on the full $10,000 selling price. Your invoice should separately state the $10,000 selling price and the $5,000 trade-in allowance.

However, if you refund the full purchase price of a returned item without requiring the customer to purchase more expensive merchandise, different rules will apply (see page 7).

Credit sales

Tax for an item sold on credit is due with the tax return for the reporting period in which you make the sale, even though you may not receive full payment until a later date. Tax is due on the full selling price.

> *Example:* You sell a $2,000 watch on credit in April and allow the customer to take possession of it immediately with a $500 partial payment. You would report the sale as taking place in April, even though you did not receive full payment in that month. Sales tax would be due on the entire $2,000 selling price.

You may exclude amounts for insurance, interest, finance, and carrying charges from the taxable selling price. You must keep adequate and complete records itemizing these separate charges.

Layaway sales

Layaway sales generally are reported when the purchaser takes possession of the item sold. The initial payment is usually considered a deposit, not a sale. When you make the sale and transfer the item to the purchaser, you must include any layaway fee charged in the total amount subject to tax. If the sale is cancelled and the layaway fee forfeited, the fee is not taxable since no sale occurred.

> *Example:* You sell a $1,500 watch to a customer on a layaway basis in June, accepting a deposit of $300 plus a $50 layaway fee. The customer returns in July, pays the balance due, and takes possession of the watch. You would report the sale as taking place in July, with a taxable selling price of $1,550.

Credit card sales

Tax applies to sales paid for with a credit card in the same way it applies to other sales. Tax is due on the full taxable selling price of the merchandise, regardless of any credit card organization service charges you may be required to pay.

Monetized and nonmonetized bullion and numismatic coins

Sales in bulk of monetized bullion, nonmonetized gold or silver bullion, and numismatic coins with a market value of $1,000 or more are exempt from tax when those sales are substantially equivalent to transactions in securities or commodities.

As mandated by law, the Board of Equalization (BOE) is required to index the coins and bullion bulk sale exemption threshold for inflation by September 1st each year. Therefore, by statute, the coins and bullion bulk sale exemption threshold increased to $1,500 effective January 1, 2009.

TAXABILITY OF PURCHASES

As a jewelry store owner, you frequently purchase merchandise to resell, supplies for repairs, and other materials to use in the operation of your business. This chapter provides you with general information on the application of sales and use tax to your business purchases.

Use tax

If you purchase taxable property for resale without paying California tax and use the property for another purpose, you must generally pay *use tax*. The use tax rate is the same as the sales tax rate.

To pay use tax, you report the purchase price of the taxable items under *Purchases Subject to Use Tax* on your sales and use tax return. Those purchases become part of the total amount subject to tax.

The sections below describe some common ways in which use tax applies to your purchases.

Merchandise purchased for resale

When you use a resale certificate to purchase items for resale, you generally do not pay sales or use tax at the time of purchase. Instead, sales tax applies when you sell the merchandise at retail.

However, if you purchase taxable merchandise for resale but use it for business or personal purposes, you must pay *use tax* to the BOE. This includes:

- Merchandise you donate (Donations to certain organizations may be exempt. See "Donating items withdrawn from resale inventory" on page 5.)
- Merchandise you give to friends, employees, and others
- Merchandise you use yourself

Note: If you know at the time of purchase that you will not resell the merchandise, you should not use a resale certificate for that purchase. (See "Misuse of Resale Certificates" on page 5.)

If you have purchased merchandise for business or personal use and paid an amount for tax, but resell the item prior to making any use of it, 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 sales and use tax return.

Items used for demonstration and display

In general, merchandise you use exclusively for demonstration or 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 other purpose, including personal use, the purchase price must be reported under *Purchases Subject to Use Tax.* 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* (see page 11).

Purchases from out-of-state retailers

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

If you paid another state's sales tax on the purchase, you may receive credit for the tax paid by reporting the amount of the purchase under *Purchases Subject to Use Tax* and then deducting the amount of tax paid under *Sales or Use Tax Paid to Other States,* on your sales and use tax return. You can be credited up to the amount of California tax due. Please be aware that this credit does not apply to purchases that are resold by you in the regular course of business.

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 and shows the retailer's seller's permit or registration to collect use tax number, you do not need to report the purchase on your return.

Misuse of resale certificates

Many wholesale jewelry marts allow only retailers to enter or purchase at the mart. If you are purchasing resale inventory, you may purchase those items without tax by issuing a resale certificate to the vendor. However, if you are purchasing items you know you will use for yourself, give away as personal gifts, or otherwise not resell during the course of your business; you may not issue resale certificates for such purchases. You must pay sales tax on such items. Also, you may not allow someone else to use your permit to issue a resale certificate and make a purchase without tax.

If you give a resale certificate to purchase property that you know at the time will not be resold in the regular course of business, you will be liable for:

- The amount of tax that would be due had the certificate not been used, and
- Interest on the tax due (computed from the time the property was purchased).

In addition, you may have your seller's permit revoked and may be required to pay one or both of the following:

- A penalty of 10 percent of the tax or $500, whichever is greater, for each purchase made for personal gain or to evade payment of tax.
- A 25 percent penalty for fraud or intent to evade the tax.

It is a misdemeanor to issue a resale certificate to a seller to evade payment of tax. Each offense is punishable by a fine of $1,000 to $5,000 or imprisonment for up to one year in the county jail, or both.

Supplies and equipment

You are not required to collect sales tax on sales of repair parts, unless you charge separately for the parts and materials or their retail value is more than 10 percent of the total charge (see "Parts," page 1). If you paid tax on parts for which you later charge a customer sales tax, you may claim a deduction on your sales and use tax return. You may deduct the amount you paid for the parts (before tax was added), under *Cost of Tax-Paid Purchases Resold Prior to Use*.

Gift-wrapping and packaging supplies

Gift-wrapping and packaging supplies used to wrap merchandise may be purchased with a resale certificate.

Other equipment and supplies used in your business

Purchases of items used in your business are subject to sales or use tax. Such items include: display fixtures, equipment, bookkeeping, supplies, and maintenance materials. If items are bought from an out-of-state retailer who does not charge California use tax, the purchase must be reported on your sales and use tax return, under *Purchases Subject to Use Tax*. If you later sell any of these items at retail, the sale would be taxable.

Donating items withdrawn from resale inventory

In general, your business owes use tax when you remove items from your resale inventory and use them for a purpose other than to sell or for demonstration and display. You will not owe use tax if you donate those items to certain nonprofit or governmental organizations without first making any other use of the items. The organization must be operated for educational, scientific, or literary purposes, or is a religious or other organization described in Internal Revenue Code section 170(b)(1)(A). This exemption applies *only* to property which has been purchased for resale.

Property purchased specifically for donation to a qualified organization remains subject to the tax. A person is guilty of a misdemeanor if a resale certificate is issued for property which he or she knows at the time of purchase will be donated rather than resold.

Please refer to Regulation 1669, *Demonstration, Display and Use of Property Held for Resale—General* and publication 18, *Nonprofit Organizations* (see page 11). For information on qualifying charitable organizations, contact our Taxpayer Information Section (see page 10).

CREDITS FOR LOSSES AND RETURNED ITEMS

Some losses and returns can be listed under exempt transactions on your sales and use tax return and deducted from the total taxable sales. Other losses cannot be deducted. This chapter covers some of the losses and returns common to jewelry stores, including bad debts, repossessions, robbery and theft, and returned merchandise for which you give refunds.

Bad debts and other losses

Bad debts

If you make a sales tax payment to the BOE on a credit sale and later find you cannot collect on the balance due, you may be able to deduct the taxable percentage of the uncollectable amount on a later return. Bad debt deductions for losses from both repossessions and sales made on account generally are taken in the same way.

Generally, you can deduct taxable sales when you have been unable to collect payment for them, as long as the accounts—including uncollectible amounts and bad checks—are considered worthless and have been charged off for income tax purposes.

You should claim the deduction for the period in which you found the account worthless and wrote it off, under *Bad Debt Losses on Taxable Sales* on your sales and use tax return. If you receive payment at a later date, you must report it on the return for the period in which you received the payment.

Portions of your loss not allowed as deductions

The maximum allowable deduction is measured by the uncollected amount on which tax was actually paid with your tax return. Adjustments must be made for amounts which were not originally subject to tax, such as the sales tax itself, insurance, the wholesale value of repossessed items, and finance charges. To calculate a bad debt deduction, you must determine how much of your total loss was subject to tax, based on the taxable percentage of the original total selling price.

Please note: Even though this example shows tax calculated at a rate of 8.25 percent, you should use the rate in effect at your business location.

> *Example (Insufficient payment—no repossession):* You sold a bracelet for $1,000, plus a 4 percent, nontaxable insurance charge ($40) and 8.25 percent sales tax ($82.50), for a total of $1,122.50. The taxable amount of the sale was the original price of the item—$1,000—since neither sales tax nor insurance are subject to tax. You received $400 in payments for the bracelet. Your total loss (the amount you could not recover) was $722.50. Your bad debt deduction would be calculated as follows:

Total loss calculation:

$1,000.00	Price of Merchandise (taxable)
+ 40.00	Insurance (nontaxable)
+ 82.50	Sales Tax [$1,000.00 x 8.25%]
$1,122.50	Total Selling Price
– 400.00	Payments Received
$ 722.50	Total Loss

Allowable sales tax deduction calculation:

$$\frac{\$1{,}000.00}{\$1{,}122.50} = 0.90 \qquad \left(\frac{\$1{,}000.00 \text{ Taxable Price}}{\$1{,}122.50 \text{ Total Price}} = 0.90 \text{ Taxable \% of Original Sale}\right)$$

$ 722.50	Total Loss
x 0.90	Taxable Percentage of Original Sale
$ 650.25	Allowable Deduction for Sales Tax Purposes

Repossessions

To determine the allowable deduction for a repossessed item, you must also deduct the wholesale value of the item from the original, taxable selling price.

Example (repossession): Using the example above, you would make the following adjustment if you repossessed a bracelet with a wholesale value of $300:

Total loss calculation:

$1,122.50	Total Selling Price (see example above)
– 400.00	Payments Received
– 300.00	*Wholesale -Value of Repossessed Bracelet*
$422.50	Total Loss

Allowable sales tax deduction calculation:

$ 422.50	Total Loss
x 0.90	Taxable Percentage of Original Sale
$ 380.25	Allowable Deduction for Sales Tax Purposes

You cannot deduct collection expenses for bad debts. You must retain adequate and complete records to support any bad debt deduction you claim.

Determining the allowable deduction for a bad debt can be complicated. For more specific information, see Regulation 1642, *Bad Debts* (see page 11).

Tax rate changes

If the tax rate has changed since you made the sale, you must adjust the amount of the bad debt deduction to conform to the tax rate in effect at the time of the sale. Please call our Taxpayer Information Section for assistance, 1-800-400-7115.

Robbery and theft

Because sales tax is measured by sales you have made, robberies of cash are not deductible. You are required to pay sales tax on all taxable sales despite any loss of proceeds from them.

Losses of merchandise due to robbery, theft, or shoplifting are not deductible. However, since they may affect your cost of goods sold, you must document them in your records in case of an audit. Acceptable forms of documentation include police reports, insurance claims, reports from private investigating agencies, and so forth.

Returned merchandise with full refund or credit given

Under certain circumstances, you may deduct the value of returned merchandise on your tax return. To take the deduction, you must:

- Refund the full sales price (including sales tax) in cash or by giving the customer a full credit less any restocking charges; *and*
- Not require the customer to purchase other merchandise that costs more than the returned item.

However, if you require the customer to purchase more expensive merchandise to receive credit for the return, you may not take the returned merchandise deduction. In that instance, the return is considered a *trade-in*. Application of sales tax to trade-ins is covered, beginning on page 2.

Note: Generally a charge for restocking returned merchandise is a charge for a service and is not subject to tax. The amount withheld for restocking may not exceed the actual cost of restocking the returned merchandise. However, instead of using the actual cost for each transaction, the amount withheld for rehandling and restocking may be a percentage of the sales price determined by the average cost of rehandling and restocking returned merchandise during the previous accounting cycle (generally one year). Documentation must be maintained to support this method for calculating rehandling and restocking charges.

For more information on returned merchandise and restocking charges please see Regulation 1655, *Returns, Defects and Replacements* (see page 11).

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.

TAXPAYER INFORMATION SECTION
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
Irvine	1-949	440-3473
Norwalk	1-562	466-1694
Oakland	1-510	622-4100
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 Rosa	1-707	576-2100
Van Nuys	1-818	904-2300
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

You can log onto our website for additional information—such as laws, regulations, forms, publications, 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.*

Another good resource—especially for starting businesses—is the California Tax Service Center at *www.taxes.ca.gov.*

FAXBACK SERVICE

Our faxback service, which allows you to order selected publications, forms, and regulations, is available 24 hours a day. Call 1-800-400-7115 and choose the fax option. We'll fax your selection to you within 24 hours.

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*. 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* 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 eFile 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/info/email.html* to email your request. Email encryption allows us to provide a safe and secure way of transmitting confidential information electronically. Instructions for registering and receiving encrypted emails is posted to our website. 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 publication 70, *Understanding Your Rights as a California Taxpayer,* 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 the BOE website. Multilingual versions of our publications and other multilingual outreach materials are also available at *www.boe.ca.gov/languages/menu.htm*.

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