

Closing Out Your Account

PUBLICATION 74 | NOVEMBER 2016

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PREFACE

As a retailer, you knew the importance of obtaining all required accounts when you started a business. It is equally important to know that you must inform the California State Board of Equalization (BOE) to close out your account(s) when any one of the following occurs:

- You are no longer actively engaged in business;
- You no longer sell prepaid wireless products or services;
- You qualify as a small seller of prepaid wireless products or services and you decide not to voluntarily collect the surcharge from your customers on and after January 1, 2017;
- You sell your business or stock of goods to someone else;
- You change the type or form of ownership for your business (for example, from a sole proprietorship to a corporation or partnership);
- You add a new partner or a partner leaves the business, and your partnership agreement calls for dissolution of the partnership and the formation of a new partnership when a change in partners occurs.

If you fail to notify the BOE of these changes, you could be held liable as a predecessor for taxes, fees, surcharges, interest and/or penalties which are incurred by a successor entity even though you cease to own or operate the business.

This publication covers the following topics related to closing out your account:

- Notifying the BOE
- Filing your final tax, fee, or surcharge return
- Sales after closing out your account
- Successor's liability and tax clearances
- Changes in ownership

If you want more information about any of these topics, please contact the BOE's Customer Service Center at 1-800-400-7115 (TTY:711). Staff will be happy to answer your questions.

We welcome your suggestions for improving this or any other publication. If you would like to comment, please provide your comments or suggestions directly to:

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

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 decision will be based on the law and not on this publication.

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

NOTIFYING THE BOE

If you sell, change partners, or close out your business, you should let us know. The following information may be needed before we can close out your account:

- The date you stopped being actively engaged in business.
- Your reason for not being actively engaged in business.
- The name(s) of any partner(s) who have dissociated from or been added to the partnership with effective dates.
- The means you used to dispose of your resale inventory, furniture, fixtures, and equipment. If you sold any of these items, you will need to disclose the selling price. If you sold your entire business, a portion of your business, or all or substantially all your resale inventory, you need to provide the selling price, name of the buyer, and a copy of the Bill of Sale or purchase agreement with the amount of purchase price.
- The purchase price of retained inventory.
- Your current address, daytime telephone number, and email address.
- The address where you retain your books and records.
- Your business website address, if available.

You can use the enclosed [BOE-65, Notice of Closeout](#), to notify us. The form will be reviewed by staff, who will contact you if additional information is required. If no additional information is needed, staff will close out your account.

You also need to file your final return and any prior returns (including prepayments) which you have not yet filed. To expedite your closeout, you should file these returns with the local office and pay any tax, fee, surcharge, penalty and interest with certified funds. If you pay by personal check and cannot provide a copy of the cancelled check, it may take eight or more weeks to complete the closeout of your account. Accounts required to make their tax, fee, or surcharge payments by EFT must also make their final payments through the EFT process.

After you have paid your entire liability (including liabilities resulting from an audit), staff will return any security you have on deposit. It is important to remember that, even after providing all information and having your account closed out, you must still keep your business records for four years.

Filing your final tax, fee, or surcharge return

Even though you have closed out your account, you must still report your sales up to the closeout date. This includes any sales of furniture, fixtures, or equipment that occurred as part of the closure or sale of your business. You must also report any inventory you intend to retain for your own use if that inventory was purchased without payment of any tax, fee, or surcharge.

To help expedite the closeout you should separately report and identify the sale of “fixtures and equipment” and “retained inventory” on your final return.

Sales of inventory to another retailer for resale or to the purchaser of your business are not taxable, but should be reported as “Sales to Other Retailers for the Purpose of Resale” on your return. A resale certificate should be obtained from the buyer and saved with your records.

Normally, you may file your final return on its regular monthly or quarterly due date. However, if you report annually, you must file the final return by the due date of the quarter in which you close out your account.

Closing out your account and filing your final return does not relieve you of a liability for any unpaid tax, fee, or surcharge whether reported or unreported. You are required to pay all tax, fee, or surcharges incurred for the period you were actively engaged in business.

If the business is a corporation, partnership, limited partnership, limited liability partnership, or limited liability company which has added or included tax as part of the price of the property sold, or owes use tax, corporate officers or other persons may be held personally liable for unpaid tax if they willfully failed to pay or caused not to be paid the tax that was due and were:

- Responsible for filing returns or paying tax, or
- Under a duty to act for the corporation in complying with the Sales and Use Tax Law.

If you think you may have difficulty paying tax that is due, you should contact the local office handling your account.

Taxable sales after closing out your account

Before requesting the close out of your account, you should be sure that you will make no more sales. You generally must register as a seller if you make three or more sales of tangible personal property (including retained inventory, fixtures, or equipment) in any 12-month period. As a seller, you are required to register with the BOE and to report and pay any tax, fee, or surcharge due.

In certain cases, a single sale of fixtures and equipment which occurs after the close out can also be taxable. A retail sale which occurs within 60 days is normally considered taxable unless you can prove that the sale was not contemplated at the closeout date. A sale that occurs after 60 days, but within one year, is taxable if:

- There was a contract of sale at the closeout date, or
- A lease with an option to buy existed at the closeout date, or
- There is evidence that a plan existed to sell the fixtures and equipment in due course

You are liable for use tax if you make personal or business use of property purchased without tax, for example, resale inventory. You are required to report and pay use tax on the cost of such property.

Successor's liability and tax clearance

If you are buying a business, you need to be aware of successor's liability.

Under the law, the buyer of a business or stock of goods must withhold from the purchase price an amount sufficient to cover the seller's liability for tax, interest, and penalties. If a sufficient amount is not withheld, the buyer may be held personally liable for the amount that should have been withheld. This is called "successor's liability" and is limited to an amount equal to the purchase price of the business or stock of goods.

To be released from this liability, the buyer may request a certificate of tax clearance from the BOE.

The following is a list of information to include in your written request for a tax clearance:

- The name, address, and phone number of the purchaser.
- The name, address, and phone number of the seller.
- The business address. If the business has more than one location and the purchaser is buying one or more locations, but not all of the locations, each location for which a tax clearance is requested must be listed. If the business has more than one location and all the locations are being purchased, please note that in the request.
- A copy of the Bill of Sale or purchase agreement with the amount of purchase price.
- The name of the escrow company and escrow number if applicable.
- The date the business was purchased.

If a tax clearance is needed to complete the sale of your business, you need to remember that it can take 60 days or more to obtain a clearance, especially if an audit is required and the seller's books and records are not available for review. You can help the clearance process by ensuring that the escrow company or buyer promptly files a written request for a clearance with the local BOE office.

You should also remember that:

- The liability of a successor does not replace your primary liability for unpaid tax, interest, or penalties. The BOE will generally only try to collect from a successor if unable to do so from the seller of the business.
- The amount of money you actually receive on the sale of your business may be reduced by the amount you owe. If you owe tax, you will be advised to pay the amount due and the escrow company will be informed of the amount to withhold from the purchase price to cover the liability. This liability must be paid to the BOE, including the tax due on the sale of any furniture, fixtures and equipment, before a certificate of tax clearance is issued.

Changes in ownership

If you plan to change the ownership of your business or have already done so, you should contact the BOE's Customer Service Center. Failure to notify the BOE of a change in ownership can make you liable for the taxes owed by the new owner(s).

If you continue to operate your business but change its form of ownership, you are required to obtain a new account. An account is valid only for the business entity (such as a sole proprietorship, partnership, corporation, limited liability company, or joint venture) in whose name it was issued and certain changes in ownership will invalidate it. For example, a new account is required when:

- A partnership adds or drops a partner and the partnership agreement requires that a new partnership be formed.
- There is a change in marital status for a married co-ownership.
- There is a change in the status of a registered domestic partnership.
- Your business converts from one type of organization (such as those named above) to another type of organization.
- A corporate reorganization or merger results in a new corporation.

Since some changes in ownership might also include taxable transfers of tangible personal property, it is recommended to contact the BOE before making the change. The staff can review the planned change and tell you if it would be subject to tax and if you will need a new account.

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	1-713	739-3900
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, 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.

Another good resource—especially for starting businesses—is the California Tax Service Center at 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. 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 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/ 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 [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.

Regulations

- 1595 *Occasional Sales–Sale of a Business–Business Reorganization*
- 1596 *Buildings and Other Property Affixed to Realty*
- 1699 *Permits*
- 1702 *Successor's Liability*

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

*INSTRUCTIONS: Please provide the following information to assist us in closing your account(s), releasing security, or issuing an escrow clearance. If you have a seller's permit, before completing this form, you should refer to a copy of the Board of Equalization (BOE) publication 74, **Closing Out Your Account**. Publication 74 contains important information about closing out your permit. If you have any questions, please call our Customer Service Center at 1-800-400-7115.*

SECTION I: ACCOUNT INFORMATION

NAME	ACCOUNT NUMBER(S)
CURRENT ADDRESS (street address)	DAYTIME TELEPHONE NUMBER ()
(city, state, zip code)	

SECTION II: CLOSEOUT INFORMATION (see back for instructions)

1. Date business was closed _____
2. Did you make any purchases for your own use using your seller's permit? YES NO
If YES, did you pay tax on those purchases to: a. your vendor b. the BOE
3. Do you have a prepaid Mobile Telephony Services (MTS) account? YES NO
 - a. Date you discontinued selling prepaid phone cards and/or services _____
 - b. If you qualify as a small seller, date you want your account closed out _____
4. Your forwarding address and telephone number _____
5. Location of your books and records _____
6. Was the business sold? YES NO
 - a. Date the business was sold _____
 - b. Total sales price \$ _____
 - c. Name, address, and telephone number of the **purchaser** _____
 - d. Did you sell the fixtures and equipment (F&E)? YES NO If no, proceed to h
 - e. Selling price of F&E \$ _____
 - f. Did the sale of F&E occur at the place of business that was sold? YES NO
 - g. If not, provide address for the place of business where the sale took place _____
 - a. *Note: If you sold your fixtures and equipment, even if you did not sell your business, you must include the selling price of these items on your final return under "Purchases Subject to Use Tax"*
 - h. Escrow number _____
 - i. Name, address, and telephone number of escrow company _____

SECTION III: LIST OF ITEMS NEEDED FOR CLOSEOUTS (see back for instructions)

The following items may be needed to finalize the closing of your account(s), the releasing of any posted security, or issuing of an escrow clearance.

- Payments of any other outstanding balances due.
- Your final tax return with payment (if a return is not available, call 1-800-400-7115). Payment of any amounts due must be made in certified funds in order to expedite finalizing your transaction. If you are required to make payments by EFT, you must also make your final payment through the EFT process.
- A copy of your escrow instructions or bill of sale showing the value of inventory, fixtures, and equipment sold.

Send this completed form and your supporting documents to:
Board of Equalization Customer Service Center
PO Box 942879
Sacramento, CA 94279-0090

SECTION IV: SIGNATURE

SIGNATURE	PRINT NAME AND TITLE	DATE
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SECTION V: INSTRUCTIONS

If the items listed below do not pertain to your closeout and you have completed Sections I and II, and signed in Section IV, send this document to the appropriate BOE office. See publication 74 for a list of field office locations.

Small Sellers—A “small seller” is a prepaid MTS seller (other than a telecommunication service supplier) who made less than the annual threshold of sales of prepaid MTS in the previous calendar year. Beginning January 1, 2017, small sellers are no longer required to charge and collect the prepaid MTS surcharge from their customers. For sellers that have more than one location, the sales of prepaid wireless services and products from all locations must be used to determine their annual sales. Small sellers are responsible for maintaining records to show that their annual sales are below the annual threshold.

Location of your books and records—The location of your books and records is important for audit purposes. Audits are important because they protect the state against an underpayment and protect the taxpayer against an overpayment.

Copy of your escrow instructions or bill of sale—These documents show the value of inventory, fixtures and equipment sold. If a sale of fixtures and equipment is not considered at the date of closeout, a subsequent single sale of the fixtures may be treated as an occasional sale. The single sale of fixtures and equipment subsequent to the date of closeout is taxable if either:

1. The sale occurs within 60 days of the date of closeout and the taxpayer cannot establish that the sale was not contemplated at the time of closeout; or
2. The sale takes place after 60 days and within one year of the closeout date, and:
 - a. A contract of sale existed at the date of closeout, or
 - b. A lease with an option to buy exists, or
 - c. Arrangements have been made for a plan to sell the fixtures and equipment in due course.

If these items are not provided, the BOE must wait 30 days before refunding any security deposits posted and/or closing your account. If you need assistance in providing any of the items listed above, contact your nearest BOE office for detailed instructions.

FOR BOE USE ONLY			
Is registration information current?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	F & E? YES <input type="checkbox"/> NO <input type="checkbox"/>
Is a final return filed?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	Inventory? YES <input type="checkbox"/> NO <input type="checkbox"/>
Was a final return provided to taxpayer?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	Is the documentation attached? YES <input type="checkbox"/> NO <input type="checkbox"/>
Are there any delinquencies?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	Unapplied payment? YES <input type="checkbox"/> NO <input type="checkbox"/>

