

State of California
BOARD OF EQUALIZATION

SALES AND USE TAX REGULATION

Regulation 1630. PACKERS, LOADERS, AND SHIPPERS

Reference: Sections 6007, 6359.7, 6359.8, and 6364, Revenue and Taxation Code

(a) IN GENERAL - DEFINITIONS. Packers, loaders, and shippers (hereinafter collectively called "shippers") purchase tangible personal property to be used in conditioning the goods to be shipped and to preserve, protect, and contain the goods during transportation. Such property includes, but is not limited to, the following:

(1) PROPERTY USED TO CONDITION THE GOODS FOR SHIPMENT OR TO PRESERVE AND PROTECT THE GOODS DURING SHIPMENT.

bracing materials	gas (including dispensers)
car strips	ice and dry ice
cleaning compounds	miscellaneous preservatives
degreasing compounds	rust preventing compounds
derusting compounds	salt
dunnage or "loose" lumber (except as otherwise specified in (2) below)	solvents
	tarpaulin (weather protection)

(2) PROPERTY USED AS CONTAINERS OR AS PARTS OF CONTAINERS OF THE GOODS SHIPPED.

bags	gummed tape
barrels	kegs
bottles	lumber (including "loose" lumber used in the same manner and for the same purpose as pallets)
boxes	
cans	pallets
carboys	sacks
cartons	strapping
crates	twine
cylinders	wrapping paper
drums	
excelsior and other packing and crating material	

(3) PROPERTY THAT WHEN PHYSICALLY INCORPORATED IN THE FINAL PRODUCT BEING SOLD IS A SALE FOR RESALE.

wax and fungicide	protective coatings
post harvest protective shields	salts, acids & caustics

(b) APPLICATION OF TAX.

(1) PROPERTY USED TO CONDITION, PRESERVE OR PROTECT GOODS DURING SHIPMENT.

(A) General. Tax applies to sales to shippers of property used in conditioning the goods to be shipped, or to preserve and protect the goods during transportation. It is immaterial whether or not a separate charge or separate billing is made by the shipper for the particular item, that it may not be returned to or reused by the shipper, that the goods are shipped in interstate or foreign commerce, or that the shipper's contract is with the United States. The property is purchased by the shipper for a purpose other than resale, i.e., conditioning the goods, or preserving and protecting the goods during shipment. Thus, the sale to the shipper is a retail sale, even though he or she may not retain title to the property used by him or her.

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(B) Ice, Carbon Dioxide and Preservatives.

1. Ice. The sale or use of ice or dry ice used in packing and shipping or transporting food products for human consumption is exempt from tax when the food products are shipped or transported in intrastate, interstate or foreign commerce by common carriers, contract carriers, or proprietary carriers.

2. Carbon Dioxide. Operative January 1, 1995, the sale or use of carbon dioxide used in packing and shipping or transporting fruits or vegetables for human consumption is exempt from tax when the fruits or vegetables are shipped or transported in intrastate, interstate, or foreign commerce by common carriers, contract carriers, or proprietary carriers provided the fruits or vegetables are not sold to the ultimate consumer in the package that contains the carbon dioxide.

3. Preservatives. Tax does not apply to the sale or purchase of preservative products under the following two circumstances:

a. The preservative product is included in the shipping container of exempt food products when they serve a beneficial purpose in preserving the food products during shipment or storage. These include moisture-absorbing desiccants, gas-absorbing ethylene sachets, and gas emitting sulfur dioxide pads or similar products.

b. The preservative product serves a beneficial purpose in preserving the food product and remains in the packaged food product until opened by the ultimate consumer. This includes nitrogen gas used to maintain an inert atmosphere in packaged food products which remains in the packaged food as a preservative until opened by the consumer; and moisture absorbing desiccants included in individual packages of beef jerky which remain sealed until opened by the consumer.

(2) PROPERTY USED AS CONTAINERS OR PARTS OF CONTAINERS OF GOODS SHIPPED.

(A) General. Tax applies to the sale or use of containers or container materials under the provisions of Regulation 1589, "Containers and Labels", (18 CCR 1589). However, except as provided in paragraph (b)(2)(C), when the shipper is not the seller of the contents, the sale of the containers or container materials or parts to the shipper is a taxable retail sale unless the shipper expressly contracts with his or her customer for the sale to his or her customer of the container or container material, making a separate charge therefor, with title passing from the shipper to his or her customer before any use of the material is made, and without any understanding or trade custom that the property will be returned to the shipper for reuse. When all of these conditions exist, the shipper may purchase the property for resale by giving a resale certificate to the supplier of the property. The sale of the property by the shipper is taxable unless exempt as a sale to the United States, as a sale in interstate or foreign commerce, or exempt for any other reason.

(B) Carbon Dioxide. Operative January 1, 1995, the sale or use of nonreturnable container materials containing carbon dioxide atmosphere is exempt from the tax when used in packing and shipping or transporting fruits or vegetables in intrastate, interstate, or foreign commerce by common carriers, contract carriers, or proprietary carriers, whether or not the shipper is the seller of the fruits or vegetables.

(C) Packing Food Products for Human Consumption. Operative April 1, 2000, the sale of, and the storage, use, or other consumption of, all containers is exempt from tax when sold or leased without the contents to persons who place food products for human consumption in the containers for shipment, provided the food products will be sold. The exemption applies without regard to whether the food products are sold in the same container or not, or whether the food products are remanufactured or repackaged prior to their sale.

(3) DISPOSABLE TEMPERATURE RECORDING DEVICES. The sale or storage, use or other consumption of a disposable temperature recording device in this state is subject to tax unless an exemption or exclusion from taxation applies. When a shipper of perishable food products purchases for resale a disposable temperature recording device for the sole purpose of shipping the device along with the products it ships, the shipper of the perishable food products does not make a taxable use of the disposable temperature recording device merely by starting the recording device in this state. If, pursuant to a perishable food product shipper's contract with its customer, the shipper provides a recording device along with perishable food products to an out-of-state point, the shipper's sale of the device constitutes an exempt sale in interstate commerce pursuant to Revenue and Taxation Code section 6396. The provisions of this paragraph do not, however, apply to the sale or lease of non-disposable temperature recording devices.

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History: Effective May 24, 1945.
Amended June 29, 1945.
Amended and renumbered July 8, 1971, effective August 19, 1971.
Amended January 9, 1980, effective February 29, 1980. In (b)(1)(B) substituted "Until July 1, 1980, tax" for "Tax"; added second sentence; substituted "in every instance" for "however" in third (former second) sentence.
Amended May 6, 1986, effective July 9, 1986. In subdivision (b)(1)(B), amended regulation to provide that sale or use of ice or dry ice used in packing and shipping or transporting food products for human consumption is exempt from tax as specified.
Amended December 13, 1995, effective January 12, 1996. Amended paragraph (b)(1)(B) to incorporate provisions of SB 1774 (Stats. 1994, Ch. 624) which exempted the sale and use of carbon dioxide under certain named conditions.
Amended August 21, 1996, effective November 22, 1996. Added subdivision (b)(2)(C); amended subdivision (b)(2)(A) to provide that transactions qualifying under new subdivision (b)(2)(C) are excluded from its provisions.
Amended July 29, 1999, effective October 27, 1999. Subdivision (a) new subdivision (3) added. Subdivision (b)(1)(B) deleted the word "and" in the title "Ice and Carbon Dioxide", also added the words "and Preservatives." New subdivision (b)(1)(B)(3) added.
Amended June 25, 2003, effective October 15, 2003. Subdivision (b)(3) added.
Amended October 19, 2004, effective January 11, 2005. Subdivision (b)(2)(C)- current language replaced with "Operative ... sale."

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.