

**The State
Board of Equalization
Welcomes You
to the
*Basic Sales
and
Use Tax Seminar***



Welcome to the California State Board of Equalization's presentation on Basic Sales and Use Tax.

About This Presentation

The following presentation is to be used only as an aid to illustrate general tax concepts, but it does not address every situation.

The Revenue and Taxation Code, regulations, court decisions and other applicable laws generally control the decision making process.

Throughout this presentation, you'll find reference cites in the bottom right hand corner of the screen. They are found in the Board of Equalization's Business Taxes Law Guide, Volume I, which is available on our website at www.boe.ca.gov.

Please contact Board of Equalization staff for a comprehensive response to your specific questions.

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Do I Need a Seller's Permit?

- Every person, (i.e. individual, firm, partnership, corporation, etc.,)
- Engaged in the business of selling or leasing tangible personal property
- Wholesalers, as well as retailers, must secure such permit.
- No fee is required to obtain a permit

Analysis of the California Sales and Use Tax Law

Every person, for example an individual, a firm, a partnership, or a corporation, engaged in the business of selling or leasing tangible personal property must obtain a permit from the State Board of Equalization. This includes wholesalers as well.

A Seller's Permit ...

- ⇒ Allows sales to be made in California.
- ⇒ Must be issued in the owner's name for each business address.
- ⇒ Does not allow buying items for personal use without paying tax.



<http://www.boe.ca.gov/info/reg.htm>

A seller's permit allows you to: make sales in California and purchase resale inventory without payment of tax. A seller's permit does NOT allow you to purchase items for your own use without payment of tax.

How Do I Apply For a Seller's Permit?

⇒ By mail, phone, or in person.

Note: Seller's Permit Applications can be downloaded from our website or obtained from our Taxpayer Information Section at 800-400-7115



You can easily obtain an application online or by visiting any local Board office.

What Information Will I Need?

Business Information:

- ⇒ Bank Account Details
- ⇒ Estimated Income

Personal Information:

- ⇒ Driver's License*
 - ⇒ Social Security Card*
- *or substitute documents

When you apply for your Seller's Permit, you will need to have certain business information such as your business bank account details and your estimated income. In addition, you will need personal identification documents such as a valid driver's license and your social security card. If you do not have these identification documents, some substitute documents are also accepted. Please call the Taxpayer Information Section at 800-400-7115 for details.

Do I Have to Pay for My Permit and When Will I Get It?

- No Charge for Seller's Permit
- A Security Deposit may be Required
- Receive between 1-14 Days



There is no charge to obtain a Seller's Permit however a security deposit may be required. When you apply by mail, you will typically receive your permit within 7-14 days. If you apply in person we may be able to issue your permit the same day.

Filing Requirements

When you are issued a seller's permit, the Board will assign you a reporting basis based on the information you furnish. It may be:

⇒ Monthly

⇒ Quarterly

⇒ Annually

Your tax return is due after the close of your reporting period

You must e-file a sales and use tax return and pay any sales and use tax due on your sales and purchases for each period. If you have made no sales during that period you still need to file a return showing zero sales. Your tax return is due after the close of the reporting period. For example, if your period closes on June 30, you must file and pay by July 31.

What Is A Sale?

Any transfer of title or possession, of tangible personal property for consideration, *regardless* of when payment is received.



§ 6006, § 6012

A sale is any transfer of title or possession, of tangible personal property for consideration, regardless of when payment is received.

What Is Sales Tax?

- ⇒ Sales tax is imposed upon the retailer (seller) on the sale of tangible personal property at retail in the State of California.
- ⇒ Retailer may be reimbursed for the sales tax by their customers.
- ⇒ Tax is due based upon the gross receipts from retail sales.

Analysis of the California Sales and Use Tax Law

Sales tax is imposed upon the retailer (the seller) on the retail sale of tangible personal property in the State of California. As a retailer, even if the customer does not give an amount as “tax” for the purchase, you are still liable for the tax.

What Are Total Gross Receipts?

- ⇒ Total amount received for the sale whether received in money or other consideration, e.g. barter.
- ⇒ Valued in money.
- ⇒ Generally includes charges related to your sales, such as fabrication labor, service, etc.
- ⇒ Includes any credit allowed for trade-ins.

§ 6006, § 6012

Generally, your gross receipts include the total amount you receive for the sale, valued in money, or other consideration, such as a trade-in value or barter. This also includes charges for fabrication labor or services that are part of the sale of your product.

Presumptions of the Sales and Use Tax Law

- ⇒ All sales of tangible personal property are taxable unless otherwise specifically exempted.
- ⇒ Claimed exemptions must be supported by documentation.
- ⇒ Taxpayer is responsible for maintaining and providing documentation for potential examination.



The Sales and Use Tax Law presumes that every sale of tangible personal property in California is subject to tax unless it is an exempt sale or transaction. Any exempt transaction or sale must be supported by proper documentation, which will be discussed in more detail later.

What are Some Common Exemptions & Deductions

- ⇒ Sales for Resale – Supported by resale certificate or purchase order.
- ⇒ Some Food Products – For example, cold food sold to-go.
- ⇒ Labor – Repair and installation.
- ⇒ Sales to the U.S. Government.
- ⇒ Sales in Interstate and Foreign Commerce.
- ⇒ Sales Tax Included in Gross Receipts. (Line #1 of the Sales and Use Tax Return).

<http://www.boe.ca.gov/sutax/staxregs.htm>

Some common examples of exemptions and deductions are listed on this slide. There are numerous other exemptions. If you are in doubt, please contact the Taxpayer Information Section at 800-400-7115 or check the website for more information.

Required Records

Records must be maintained for at least four (4) years.

Examples of Records:

- ⇒ Sales Invoices
- ⇒ Cash Register Tapes
- ⇒ Sales Journals
- ⇒ Purchase Invoices
- ⇒ Cancelled Checks
- ⇒ Purchase Journals
- ⇒ Resale Certificates
- ⇒ Exemption Certificates
- ⇒ Purchase Orders
- ⇒ Shipping Documents
- ⇒ Schedules
- ⇒ Working Papers used in preparing tax returns.



Regulation 1698
Publication 116
Sales and Use Tax Records

As a retailer you must maintain your accounting records for at least four years. The records that we require include, but are not limited to, the normal books of account, records of sales and purchases, documentation to support claimed exemptions, and schedules or working papers you used in preparing your tax returns. Also save any other records you use in your business that support your sales.

What Is Use Tax?

- ⇒ California purchaser owes and must pay the use tax due on items purchased for use, stored, consumed, or given away in California (without payment of tax).
- ⇒ Out-of-state retailers “engaged in business” in California must collect and pay use tax on items sold to Californian consumers.



Analysis of the California Sales and Use Tax Law

The use tax is imposed on the purchaser for items purchased from an out-of-state retailer without payment of tax that are consumed in California. For instance, if you bought a computer for your business here in California, you would pay sales tax. The same holds true if you bought that same computer from a retailer in New York for your business here in California. If you did not pay any tax to the retailer, you owe the USE tax on the cost of the computer. The Use tax rate is the same as the sales tax rate.

Out-of-state retailers “engaged in business” in California must collect and pay use tax on items sold to Californians. For example, if that New York retailer had a sales person who travels to California to solicit its computer sales, the New York retailer is considered to be engaged in business in California and would have to collect use tax from its California customers.

How Do I know if I Owe Use Tax?

Use Tax may be due on items purchased without payment of California sales or use tax:

⇒ Purchases from out-of-state businesses acquired for your own use without payment of tax.

OR

⇒ Inventory items that you purchased for resale that are consumed for your own use (including use as gifts and free samples).

Analysis of the California Sales and Use Tax Law

Using our New York computer example, if you purchase a computer for your business and you did not pay tax on that purchase, you owe the Use tax on the purchase price. If that computer was purchased as part of your inventory as a computer retailer, and you decide to use it yourself, you will owe the use tax based on the cost.

How Do I Pay California Use Tax Due?

If you have a Seller's Permit, you must report your purchases subject to use tax on your Sales & Use Tax Return.

If you do not have a Seller's Permit, you may report the purchases on the form (BOE-401-DS) in Publication 79B which may be downloaded from our website



<http://www.boe.ca.gov/pdf/boe401a2.pdf>

If you are a retailer you will report on your Sales and Use Tax Return. If you are a consumer, you will report the Use Tax due on your Use Tax Return.

New Use Tax Registration Requirement Assembly Bill 4x-18

- ⇒ Effective immediately
- ⇒ Due date is April 15 for the previous calendar year.



Revenue and Taxation Code section 6225

The new Use tax registration requirement enacted by AB4x-18, requires that persons defined on the next slide register with the Board of Equalization and report their use tax due on April 15th for the previous calendar year.

Are You a Qualified Purchaser Under the New Use Tax Registration Requirements?

What is a qualified purchaser? A person (i.e. individual, partnership, corp.) who:

- ⇒ Receives at least \$100,000 in gross receipts from business operations per calendar year
- ⇒ Is not required to hold a seller's permit
- ⇒ Is not required to be registered pursuant to Revenue and Taxation Code Section 6226
- ⇒ Is not a holder of a use tax direct payment permit as described in Revenue and Taxation Code Section 7051.3
- ⇒ Is not otherwise registered with BOE to report use tax

Revenue and Taxation Code section 6225

A qualified purchaser is a person who receives at least \$100,000 in gross receipts from business operations per calendar year, is not required to hold a seller's permit, is not required to be registered pursuant to Revenue and Taxation Code Section 6226, is not a holder of a use tax direct payment permit as described in Revenue and Taxation Code Section 7051.3, and is not otherwise registered with BOE to report use tax. An example of this might be a law firm, a CPA firm or any type of service business that does not sell tangible personal property or is not otherwise registered with the BOE.

In-State Voluntary Disclosure

The In-state Voluntary Disclosure Program allows qualified purchasers who have an existing use tax liability, to come forward and register, thereby limiting the statute of limitations to 3 years.

For more information see our website



The In-State Voluntary Disclosure program has been set-up to allow people who owe use tax to come forward and register. In so doing, they will limit their liability to 3 years. Without the program, the limitation period could be up to 10 years. For more information on this program, please see our website.

Is the Sales and Use Tax Rate the Same Throughout California?

The Sales and Use Tax rate is made up of:

- ⇒ State Tax
- ⇒ County Tax
- ⇒ Local Tax, and
- ⇒ District Tax(es)

The state, county and local taxes make up the base tax rate. Cities and counties with applicable district taxes add to the base rate which cause rates to be different throughout the state.

See the BOE website for a list of all Sales and Use Tax rates.

There are several components that make up Sales and Use Tax. It is made up of the state tax, county tax, local tax, and district tax. District taxes are voter approved special taxes in certain California counties and cities or defined districts. Sometimes there are several district taxes in one area. The BOE website contains a comprehensive list of all city and county Sales and Use tax rates.

What Sales and Use Tax Rate Do I Use?

- ⇒ The retailer (seller) has a location in a district that imposes district taxes.
- ⇒ The retailer (seller) physically enters a district that imposes district tax with their own truck to deliver an item.
- ⇒ Sales people physically enter a district that imposes district tax to solicit sales.



District taxes are a component of the Sales and Use tax. They are applicable when a retailer has a location in a district that imposes a district tax, if the retailer physically enters the district to deliver an item, or if the retailer's sales people physically enter the district to solicit sales, then the district tax applies. If the retailer does not collect an amount as tax, then district use tax may apply to that sale, and this is to be reported by the purchaser.

Other Important Facts and Responsibilities

- ⇒ Advise the Board of ownership changes. This may affect your liability for future taxes.
- ⇒ Advise the Board of changes in business, mailing, and e-mail addresses.
- ⇒ Retailers should report sales in the return period when the sale is made even though payment may be received in a later return period.
- ⇒ Retailers are responsible for payment of sales tax even when the customer does not pay it.

Publication 73 *Your California Seller's Permit*
Publication 74 *Closing Out Your Seller's Permit*

It is extremely important to keep the BOE informed of any changes in your business, such as ownership and/or mailing address, including email changes. You are responsible for the correct payment of sales tax regardless of whether you receive sales tax reimbursement from your customer.

Other On-line Services Available

BOE Website (www.boe.ca.gov)

- ⇒ On-line Verification of Seller's Permit Numbers
- ⇒ Enhanced Tutorials
- ⇒ E-mail Notification Lists
- ⇒ Class & Seminar Schedules
- ⇒ Publications Specific to Your Type of Business
- ⇒ Frequently Asked Questions (FAQ's)
- ⇒ Directory of BOE Offices
- ⇒ Tax News, Special Notices
- ⇒ Credit Card Payments
- ⇒ Useful Links to Other Websites

The BOE provides a wealth of information and services online. Online you will be able to verify seller's permit numbers, watch tutorials, find classes and seminars scheduled in your area, read publications specific to your business type, get answers to frequently asked questions, locate your local Board office, learn about the latest tax news, process your credit card payment, find useful links to other websites, and sign up for email notifications for a broad variety of topics.

BOE Offers Free 1 - 1 Assistance

- A staff consultant will review your business operation and record keeping system.
- Call your local Board office today to make an appointment.



If you would like one-on-one assistance to ensure your record keeping system is adequate, please contact your local Board office to set-up an appointment with a taxpayer educational consultant. The staff consultant will determine whether your records are adequate and if you are reporting your sales correctly. This program is strictly voluntary but is quite useful for many new and existing business owners.

Taxpayer Information Section

- ⇒ 800-400-7115
800-735- 2929 (TDD)
- ⇒ Mon. - Fri. 8am to 5pm
- ⇒ 1-1 Assistance
- ⇒ 24 hr. fax-back service
- ⇒ Recorded Information



In addition to online services, BOE has a taxpayer information call center with staff that can answer your questions. The call center number is 800-400-7115 and is open Monday through Friday from 8 a.m. to 5 pm, Pacific Time. Further, there is a 24 hr fax back service which you can use to request commonly used forms and publications.

Taxpayers' Rights Advocate

888-324-2798

If you have been unable to resolve a disagreement with the Board and you would like to know more about your rights under the law.



www.boe.ca.gov/tra/tra.htm

Publication 70 *Understanding Your Rights as a California Taxpayer*

If you have exhausted all other avenues to resolve your tax related complaint or if you would like to know more about your rights under the law, you may contact the BOE's Taxpayers' Rights Advocate office at 888-324-2798.

Get It in Writing

Revenue and Taxation Code section 6596 - Excusable Delay-Reliance on Advice, states:



“If the Board finds that a person’s failure to make a timely return or payment is due to the person’s reasonable reliance on written advice from the Board, the person may be relieved of taxes imposed by §6051 and §6201 and any penalty or interest added thereto...”.

§6596

The Sales and Use Tax Law is complex. Should you have a specific tax question, we encourage you to write to us. By putting your questions in writing, you will be protected from owing additional tax, interest, and penalties, should we furnish you with erroneous advice. You are not afforded the same protections if you receive the information orally, in person, or over the telephone.

We wish you success
in your business venture.



We welcome your comments and suggestions.

Thank you for listening to this tutorial. We wish you success in your business venture.