

Late 1800s



McElroy Octagon House, San Francisco

Sales and Use Taxes

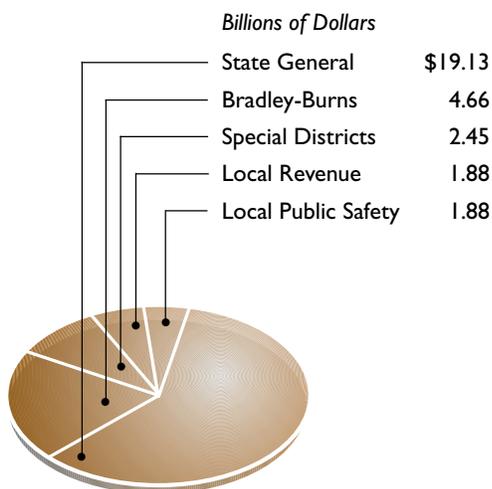


Revenues

In 1998-99, total California sales and use tax revenue reached \$30 billion, an increase of 6.6 percent from the previous year's total of \$28.14 billion. 1998-99 revenues included:

- \$22.89 billion from the 6 percent state sales tax, with
 - \$19.13 billion—5 percent—allocated to the state General Fund,
 - \$1.88 billion—0.5 percent—allocated to the state's Local Revenue Fund, and
 - \$1.88 billion—0.5 percent—allocated to the Local Public Safety Fund.
- \$4.66 billion from the 1.25 percent Bradley-Burns Uniform Local Sales and Use Tax, allocated among all of the state's 58 counties and 471 cities.
- \$2.45 billion in special district transactions (sales) and use tax (rates vary by district).

1998-99 Sales and Use Tax Revenues



1998-99 revenues allocated to the state General Fund, \$19.13 billion, were 7.7 percent higher than revenues for 1997-98.

Programs

California's sales tax, paid by retailers engaged in business in the state, applies to all retail transactions except those specifically exempted by law. The use tax generally applies to the storage, use, or other consumption in this state of goods purchased from retailers in transactions not subject to the sales tax. Use tax also may apply to purchases shipped to a California consumer from another state.

The statewide rate for both the sales and use tax, unchanged since 1991, is currently 7.25 percent (combined 6 percent state rate and 1.25 percent local rate). The total sales and use tax rate is higher in areas where special transactions and use taxes are in effect.

As detailed on the previous page, sales and use taxes provide revenue to the state's General Fund, to local governments through specific state fund allocations, and to local jurisdictions.

Local Sales and Use Tax

The Board of Equalization collects the 1.25 percent Bradley-Burns Uniform Local Sales and Use Tax and allocates resulting revenue among all California cities and counties. For each sale, one-quarter percent of the 1.25 percent local tax is allocated to the county where the sale occurs and is used to fund transportation projects. The remain-

ing one percent of the tax is allocated to the county or an incorporated city, generally depending on the location of the sale. City and county local tax distributions are detailed in Table 21A of the Appendix, beginning on page A-26.

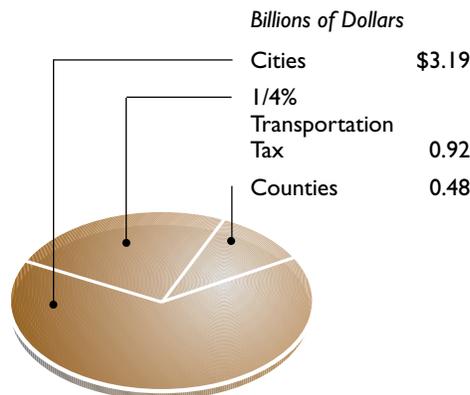
Redevelopment Agencies. Between 1981 and 1994, cities were authorized to finance redevelopment projects with revenue derived from the local sales and use tax, distributed under agreement to city redevelopment agencies. While this authority was repealed effective January 1, 1994, existing city ordinances were permitted to continue. Thirty-nine redevelopment projects in 28 California cities and counties were receiving sales and use tax revenue as of June 30, 1999.

District Transactions (Sales and Use Tax)

The Board of Equalization collects and distributes district transactions (sales) and use tax on behalf of voter-approved special tax districts established throughout the state. Revenues fund transportation projects, open space protection, hospitals, county services, public libraries, and schools.

At the beginning of the 1998-99 fiscal year, there were 30 special tax districts in the state, with rates ranging from 0.125 percent to 0.50 percent. One tax district expired during the fiscal year, and six new tax districts were created (see "Highlights," page 12).

1998-99 Local Sales and Use Tax Distributions



Sales made by retailers engaged in business in a special tax district are subject to a total sales tax rate that includes the statewide rate of 7.25 percent and the applicable district tax rate. While the provisions of the Transactions and Use Tax Law are similar to state and local sales and use tax laws, significant differences do exist, including an exemption for sales shipped to a location outside the district for use in that location. There are also special requirements for sales of registered vehicles, aircraft, and undocumented vessels.

Operations

The Board encourages voluntary tax law compliance, offering sales and use tax assistance through its Sacramento headquarters and 26 field offices located across the state. Staff in Board offices in New York, Chicago, and Houston assist taxpayers who are located outside of California but are registered to do business in this state.

The number of registered sellers increased slightly in the fiscal year, totaling 976,502 as of June 30, 1999. The agency processed approximately 3.2 million sales and use tax returns in 1998-99.

Compliance Activities

Board compliance staff ensure that sellers properly comply with permit requirements, assist taxpayers in interpreting tax laws and regulations, and provide classroom instruc-

tion and individual assistance in the correct preparation of tax returns. In 1998-99, compliance staff collected more than \$556 million in delinquent sales and use taxes.

Consumer Use Tax Section

Working closely with state and federal agencies, the Consumer Use Tax Section administers the use tax due on nondealer sales of vehicles, vessels, aircraft, and mobile homes and on purchases identified on customs declarations. Fiscal year 1998-99 revenues of \$494.5 million included

- \$437 million collected by the Department of Motor Vehicles; and
- \$8.7 million collected by the Department of Housing and Community Development.

Overall consumer use tax collections were 6.7 percent higher than in 1997-98.

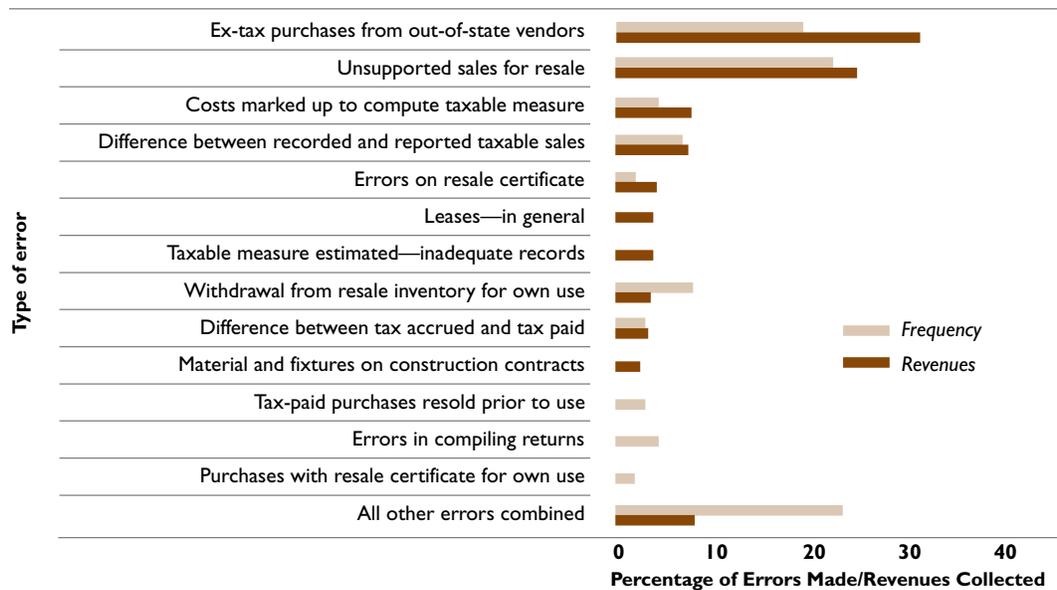
Audit Program

The Board maintains an effective audit program to ensure that businesses report neither more nor less tax than prescribed by law. The program audits approximately three percent of active accounts each year, concentrating on those considered most likely to be inaccurate in their tax reporting. In fiscal year 1998-99, the sales and use tax audit program disclosed net deficiencies of more than \$357.0 million. Taxpayers received more than \$44.9 million in sales and use tax refunds.

Analysis of Noncompliance, 1998-99

Types of Noncompliance

Frequency of Error/Revenues Collected



Type of Business Making Error

Ranked by Revenues Collected

Type of business	Percentage	Rank for 1997-98
Publishers and Distributors of Light Industrial Equipment	16.25	2
Manufacturers and Wholesalers of Electronics Equipment	10.68	1
Construction Contractors and Sellers of Building Materials	7.58	7
Banks, Insurance Companies, and Business Services	5.34	5
Public Utilities and Concerns Providing Transportation and Allied Services	5.27	17
Manufacturers and Wholesalers of Stores and Office Equipment	4.53	4
Producers and Distributors of Heavy Industrial Equipment	3.78	3
Repair and Hand Trade Shops	3.44	8
Manufacturers and Wholesalers of Textiles and Household Furnishings	3.36	18
Eating and Drinking Places with General On-Sale Licenses	3.26	20
All Other Businesses	36.51	
Total	100.00	

Areas of Taxpayer Noncompliance

To comply with requirements of the Taxpayers' Bill of Rights, each year the Board

- Identifies the areas of the Sales and Use Tax Law where taxpayer noncompliance is highest; and
- Classifies the types of businesses making errors.

Sales for resale made without supporting documentation was the most frequently encountered category of taxpayer noncompliance this fiscal year. Slightly more than 25 percent of net 1998-99 audit deficiencies, more than \$18.98 million, occurred in that category. The second-most-common non-compliance category consisted of purchases made from out-of-state vendors without payment of use tax. This noncompliance category was the most costly to the State, accounting for more than 30 percent of all net sales and use tax audit deficiencies, or more than \$23.45 million.

The charts on the opposite page summarize the Board's findings on the types of taxpayer noncompliance for fiscal year 1998-99 and provide other tax compliance information required by the Taxpayers' Bill of Rights.

Appeals

Taxpayers who disagree with Board audit results or other decisions regarding the application of sales and use tax may seek resolution through the Board's administrative

appeals process. For information on appeals filed in 1998-99, see chapter 6, "Appeals," which begins on page 49.

The agency also offers a settlement program as an alternative method of tax dispute resolution. In 1998-99, after review and comment by the state attorney general, the members of the Board approved 145 sales and use tax cases for settlement. The total settlement amount was \$22.94 million.

The Board reorganized the settlement program this year and transferred it to the agency's Legal Division in February 1999. The reorganization has reduced the time required to complete settlement cases.

Court Decisions

Board Annotations

The Supreme Court held that annotations published by the Board in its *Business Taxes Law Guide* are not accorded the same weight as a regulation. The application of an agency interpretation to a particular case is judged by its thoroughness, validity of reasoning, and consistency with earlier and later pronouncements.

Yamaha Corp. of America v. State Board of Equalization (1998) 19 Cal.4th 1

Gifts Sent Outside California

Upon remand by the California Supreme Court (see the decision cited above), the Court of Appeal concluded that the use tax



John McMullen House, San Francisco

applies when merchandise is delivered to a common carrier in California for delivery to a gift recipient in another state. The gift occurs in this state.

Yamaha Corp. of America v. State Board of Equalization (1999) 73 Cal.App.4th 338

Legislation

Administrative Cost Recovery

Limits the amount the Board of Equalization may charge for services in administering local special taxing jurisdictions' transactions and use taxes.

Assembly Bill 836, Chapter 890, Statutes of 1998; effective January 1, 1999

District Tax Authorizations

City of Placerville. Authorizes the City of Placerville to levy a transactions and use tax at a rate of 0.125 percent or 0.25 percent upon voter approval.

Senate Bill 781, Chapter 234, Statutes of 1998; effective August 3, 1998

City of Clovis. Authorizes the City of Clovis to levy a transactions and use tax at a rate not to exceed 0.3 percent upon voter approval.

Senate Bill 1424, Chapter 158, Statutes of 1998; effective January 1, 1999

North Lake Tahoe Transportation

Authority. Among other things, authorizes the creation of the North Lake Tahoe Transportation Authority and allows the authority to levy a transactions and use tax at a rate of 0.25 percent or 0.5 percent upon voter approval.

Senate Bill 1488, Chapter 1044, Statutes of 1998; effective January 1, 1999

Teleproduction or Other Postproduction Service Equipment

Exempts from the 5 percent state sales and use tax specific property purchased by a qualified person for use primarily in qualified teleproduction or other postproduction services.

Assembly Bill 2798, Chapter 323, Statutes of 1998; effective January 1, 1999

Space Flight Property

Indefinitely extends the sales and use tax exemption for sales and purchases of qualified space flight property and eliminates the requirement that the flight originate at Vandenberg Air Force Base.

Assembly Bill 2798, Chapter 323, Statutes of 1998; effective January 1, 1999

Non-Annual Plants

Exempts from the sales and use tax sales and purchases of non-annual plants that produce food for human consumption or that will be resold. Previously, this exemption was limited to sales and purchases of annual plants.

Assembly Bill 2798, Chapter 323, Statutes of 1998; effective January 1, 1999

Additional Taxpayers' Rights

This Board-sponsored measure enhances the California Taxpayers' Bill of Rights as follows:

- For interest imposed on tax liabilities for periods beginning after June 30, 1999, authorizes the Board to abate interest in certain circumstances when a taxpayer failed to pay tax because of an unreasonable error or delay by a Board employee or as the direct result of an error by the Department of Motor Vehicles in calculating use tax due on a vehicle or vessel.
- Authorizes the Board to enter into a formal, written installment payment agreement with a taxpayer for the payment of any amounts due. Fifteen days before terminating an agreement without the taxpayer's consent, the Board must notify the taxpayer by mail of the reason for the termination and of the taxpayer's right to request an administrative review of the termination.
- Provides that for recovery actions of erroneous refunds, beginning July 1, 1999, no interest is due on the amount of the erroneous refund until 30 days after the Board mails the repayment notice, provided the taxpayer in no way caused the erroneous refund.

- When a taxpayer seeks reimbursement of fees and expenses related to a Board hearing, shifts to Board staff the burden of proving that its actions were justified. Specifies also that a claim for reimbursement must be filed within one year of the date that the Board's decision becomes final.
- Authorizes the Board to return levied property when (1) the levy on the property was not lawful; (2) a taxpayer is complying with an approved installment payment agreement; or (3) the return of the property will make collecting the tax easier or be in the best interest of the state and the taxpayer.
- Authorizes the Board to release or subordinate a lien if that will make collecting the tax easier or will be in the best interest of the state and the taxpayer.

Assembly Bill 821, Chapter 612, Statutes of 1998; effective January 1, 1999

Firearm Fees Excluded from Sales Tax

Authorizes the Department of Justice to require a firearms dealer to charge each firearm purchaser no more than \$14 in firearm fees, with certain exceptions. Since the Penal Code imposes the fee on the

purchaser, the fee is no longer taxable as part of the sale of a gun.

Senate Bill 591, Chapter 922, Statutes of 1998; effective January 1, 1999

Protection of Confidential Taxpayer Information

Provides that any unauthorized inspection or unwarranted disclosure or use of certain tax information by officers or employees of the Board of Equalization and the Franchise Tax Board is a misdemeanor.

Senate Bill 1383, Chapter 623, Statutes of 1998; effective January 1, 1999



Bidwell Mansion, Chico

Public Records Act—Feasibility of Indexing

Requires the Board of Equalization to adopt regulations to establish procedures and guidelines for access to public records and specifies that access may not be limited based on the purpose for which the record is being requested if it is otherwise subject to disclosure. Also requires the Board to study the feasibility and cost of indexing the Board's public records and to report the findings to the Legislature by January 1, 2000.

Senate Bill 2174, Chapter 1049, Statutes of 1998; effective January 1, 1999

California Internet Tax Freedom Act

Creates the California Internet Tax Freedom Act to prohibit the imposition, assessment, or attempt to collect any new local tax or fee on Internet access, online computer services, or their use, except as specified, for a three-year period. This prohibition does not include any existing taxes imposed in a uniform and nondiscriminatory manner. Therefore, sales and purchases through the Internet would remain subject to sales or use tax to the same extent they were prior to enactment of this measure.

Assembly Bill 1614, Chapter 351, Statutes of 1998; effective January 1, 1999

Regulations

Computer Programs

Regulation 1502, *Computers, Programs, and Data Processing*, was amended to include within the term “computer” manufacturing equipment that incorporates a computer and to clarify the application of tax to the sale of a prewritten program installed by a seller on the customer’s premises.

Title 18, California Code of Regulations, section 1502; effective January 29, 1999

Drugs and Medicines for Food Animals; Medicated Feed

Regulation 1506, *Miscellaneous Service Enterprises*, was amended to interpret and apply subdivision (e) of Revenue and Taxation Code section 6358 and Revenue and Taxation Code section 6358.4.

Title 18, California Code of Regulations, section 1506; effective July 9, 1998

Out-of-State Construction Contractors

Regulation 1521, *Construction Contractors*, was amended to clarify that out-of-state contractors performing construction contracts in California, and United States construction contractors, are subject to the same tax requirements as in-state contractors.

Title 18, California Code of Regulations, section 1521; effective February 13, 1999

Claims for Refund—Partial Exemption for Manufacturer Equipment

Regulation 1525.2, *Manufacturing Equipment*, was amended to permit a manufacturer who made a purchase from an out-of-state retailer, but did not claim the partial use tax exemption allowed by this regulation, to file a claim for refund in the amount of the exemption he or she was entitled to claim.

Title 18, California Code of Regulations, section 1525.2; effective April 3, 1999

Envelopes

Regulation 1541.5, *Printed Sales Messages*, was amended to clarify that the sales of reply envelopes and other printed matter, such as order forms, incorporated into printed sales messages are exempted from the sales and use tax and to explain how the purchaser can act as the seller’s agent when the envelopes or other printed matter are purchased from a third-party supplier.

Title 18, California Code of Regulations, section 1541.5; effective February 14, 1999

Wireless Telecommunication Devices

Regulation 1585, *Cellular Telephones, Pagers, and Other Wireless Telecommunication Devices*, was adopted to interpret and apply the Sales and Use Tax Law to sales of wireless telecommunication devices.

Title 18, California Code of Regulations, section 1585; effective February 11, 1999



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Non-Annual Plants

Regulation 1588, *Seeds, Plants, and Fertilizer*, was amended to incorporate statutory amendments to Revenue and Taxation Code section 6358, subdivision (c). The amendments added non-annual plants that produce food for human consumption to the exemption for sales and use of annual food plants.
Title 18, California Code of Regulations, section 1588; effective April 1, 1999

Blood Collection and Pack Units

Regulation 1589, *Containers and Labels*, was amended to incorporate the provisions of Revenue and Taxation Code section 6364.5.
Title 18, California Code of Regulations, section 1589; effective July 11, 1998

Prescription Medicines

Regulation 1591, *Medicines and Medical Supplies, Devices and Appliances*, was amended to update cross-references to other codes, correct clerical errors, and delete obsolete effective dates.
Title 18, California Code of Regulations, section 1591; effective October 17, 1998

Aircraft Parts

Regulation 1593, *Aircraft*, was amended to incorporate statutory amendments to Revenue and Taxation Code section 6366; to provide specific examples of the types of flights that do and do not qualify as common carriage; and to make other clarifications.
Title 18, California Code of Regulations, section 1593; effective October 17, 1998

Nonedible Cake Decorations

Regulation 1602, *Food Products*, was amended to provide that tax applies to the sales of nonedible cake decorations attached to a cake or bakery product when the value

of the decorations is considered substantial compared with the entire charge for the cake or bakery product or if the price of the nonedible decoration is separately stated.

Title 18, California Code of Regulations, section 1602; effective June 12, 1999

Hotel Meals, Food to Go

Regulation 1603, *Taxable Sales of Food Products*, was amended to clarify when hotels serving complimentary meals are considered to be consumers of the meals and when they are considered to be retailers of the meals; to incorporate statutory amendments to Revenue and Taxation Code section 6359, subdivision (d)(6), related to sales of food on a “to-go” basis; and to make other clarifying changes.

Title 18, California Code of Regulations, section 1603; effective January 9, 1999

Foreign Commerce

Regulation 1620, *Interstate and Foreign Commerce*, was amended to clarify that transactions involving imports are subject to sales or use tax, as appropriate, and to explain when tangible personal property is regarded as entering the “stream of commerce” for purposes of the foreign commerce exemption from sales and use tax.

Title 18, California Code of Regulations, section 1620; effective February 7, 1999

Interest and Penalties

Regulation 1703, *Interest and Penalties*, was amended twice to conform the regulation to recent legislation.

Title 18, California Code of Regulations, section 1703; effective October 2, 1998, and April 17, 1999