



*Y*OSEMITE CREEK  
ABOVE THE FALLS





# Sales and Use Taxes

## Revenues

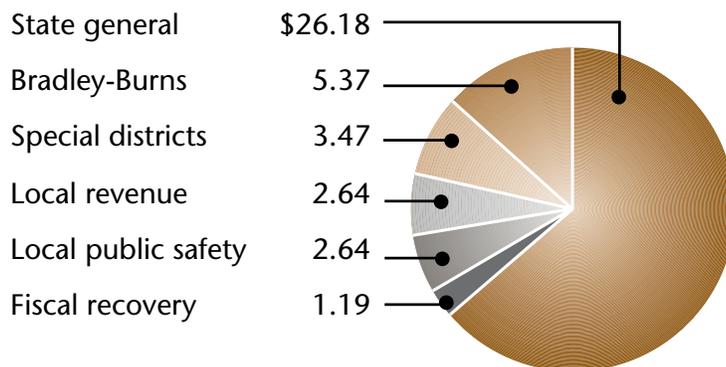
California sales and use tax revenue totaled \$41.5 billion in 2004-05, an increase of 9.0 percent from the \$38.1 billion total in 2003-04. Sales and use tax revenue included:

- \$32.64 billion from the 6.25 percent state sales tax, with \$26.18 billion allocated to the state's General Fund; tax rate of 5.0 percent.
  - \$2.64 billion allocated to the state's Local Revenue Fund; tax rate of 0.5 percent.
  - \$2.64 billion allocated to the Local Public Safety Fund; tax rate of 0.5 percent.
  - \$1.19 billion allocated to the state's Fiscal Recovery Fund; tax rate of 0.25 percent
- \$5.37 billion from the 1.00 percent Bradley-Burns Uniform Local Sales and Use Tax, allocated among all of the state's 58 counties and 478 cities.
- \$3.47 billion in special district transactions (sales) and use tax; rates vary by district.

Sales and use tax allocations to the General Fund were 8.8 percent higher than in 2003-04.

### 2004-05 Sales and Use Tax Revenues

Billions of Dollars





## Programs

Retailers engaged in business in California pay the state's sales tax, which applies to all retail sales of goods and merchandise except those sales specifically exempted by law. The use tax generally applies to the storage, use, or other consumption in California of goods purchased from retailers in transactions not subject to the sales tax. Use tax may also apply to purchases shipped to a California consumer from another state, including purchases made by mail order, telephone, or Internet.

The sales and use tax rate in a specific California location has three parts: the state tax rate, the local tax rate, and any district tax rate that may be in effect. The statewide combined sales and local tax rate was 7.25 percent in 2004-05 (6.25 percent state tax rate and 1.0 percent local tax rate).

State sales and use taxes provide revenue to the state's General Fund, to cities and counties through specific state fund allocations, and to other local jurisdictions.

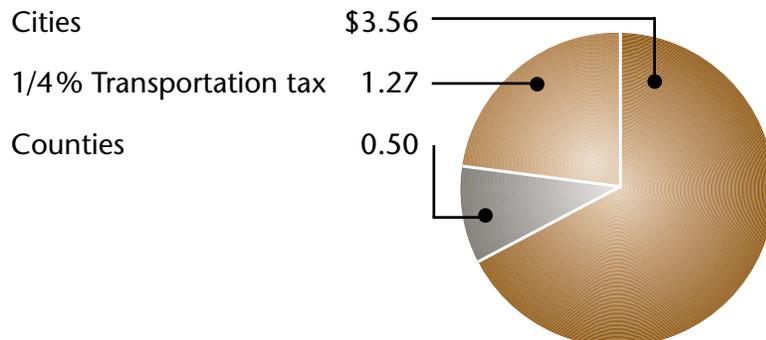
### Local Sales and Use Tax

In 2004-05, the Board collected and allocated the 1.00 percent Bradley-Burns Uniform Local Sales and Use Tax for all California cities and counties. For each sale, the 0.25 percent local tax was allocated to the county where negotiations for the sale occurred, for local transportation projects. The remaining 0.75 percent local tax was allocated to the county or an incorporated city, generally depending on the location of the sales negotiations.

City and county local tax distributions are detailed in Table 21A of the Appendix, beginning on [page A-26](#).

### 2004-05 Local Sales and Use Tax Distributions

Billions of Dollars





### **Wawona Hotel Store**

**Front of the Wawona Hotel store in early 1900s. The hotel and store helped serve tourists visiting the nearby Grove and those heading to Yosemite's rim, eight hours away by stage. Its sign reads "Wawona Hotel Co. General Merchandise, Post Office, Meat Market."**

**Redevelopment Agencies.** Between 1981 and 1994, cities could finance redevelopment projects with revenue derived from the local sales and use tax and distributed under agreement to city redevelopment agencies. While this authority was repealed effective January 1, 1994, existing city ordinances were permitted to continue. As of June 30, 2005, 33 redevelopment projects in 26 California cities were receiving sales and use tax revenue.

### **District Transactions (Sales) and Use Tax**

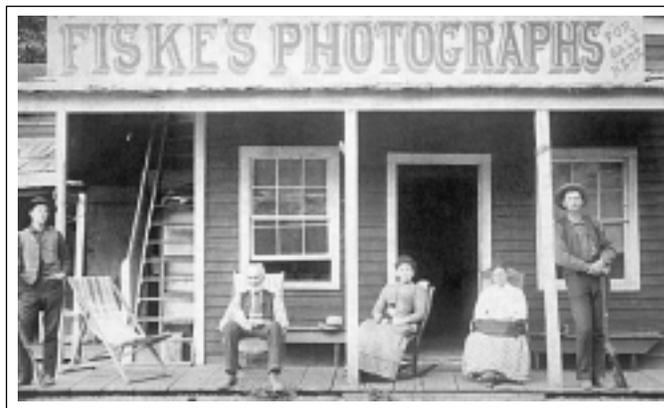
The Board collects and distributes district transactions (sales) and use tax on behalf of voter-approved district taxes throughout the state. The districts fund a range of local services and infrastructure, including general government, transportation projects, open space, hospitals, and public libraries. Some California locations lie within more than one tax district. A complete list of tax districts, jurisdictions, and revenues is found in Appendix Table 21C, beginning on [page A-30](#).

At the beginning of the 2004-05 fiscal year, there were 45 district taxes in effect, with rates ranging from 0.125 percent to 0.50 percent. A new district tax went into effect on October 1, 2004, with a rate of 1.0 percent: the City of Trinidad General Revenue Transactions and Use Tax. On January 1, 2005, two additional district taxes went into effect, both with



rates of 0.50 percent: the City of Fort Bragg Maintain City Streets and City of Sonora Transactions and Use Taxes. Additionally, the following 17 new districts went into effect on April 1, 2005:

|  |      |
|--|------|
| City of Richmond Transactions and Use Tax                          | 0.50 |
| City of South Lake Tahoe Transactions and Use Tax                  | 0.50 |
| County of Fresno Zoo Authority                                     | 0.10 |
| City of Lakeport Transactions and Use Tax                          | 0.50 |
| Marin County Transportation Authority                              | 0.50 |
| Mariposa County Health Care Transactions and Use Tax               | 0.50 |
| City of Los Banos Public Safety Transactions and Use Tax           | 0.50 |
| City of Sand City General Purpose Transactions and Use Tax         | 0.50 |
| City of San Juan Bautista Transactions and Use Tax                 | 0.75 |
| City of Montclair Transactions and Use Tax                         | 0.25 |
| City of El Cajon Public Safety Facilities Transactions and Use Tax | 0.50 |
| City of Stockton Public Safety Transactions and Use Tax            | 0.25 |
| City of Capitola Transactions and Use Tax                          | 0.25 |
| Sonoma County Transportation Authority                             | 0.25 |
| City of Sebastopol Community Transactions and Use Tax              | 0.25 |
| City of Santa Rosa Public Safety Transactions and Use Tax          | 0.25 |
| City of Farmersville Transactions and Use Tax                      | 0.50 |



#### **Fiske's Photographs**

**George Fiske, the first photographer to be a year-round resident of Yosemite, lived there for nearly 40 years. He built his photography studio in 1898, and listed some 600 images for sale in his catalogue. James Hutchings called Fiske "the resident photographic artist of Yo Semite."**



Sales made by retailers engaged in business in a jurisdiction levying a district tax are subject to a total sales tax rate that includes the statewide rate and the applicable district tax rate (see Appendix Table 23B, on [page A-34](#)). 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. These include an exemption for sales shipped to a location outside the district for use in that location and special requirements for sales of aircraft, registered vehicles, and undocumented vessels.

## Operations

The Board encourages voluntary tax law compliance and offers sales and use tax assistance through its Sacramento headquarters and 24 field offices located across the state. Board staff in the agency's New York, Chicago, Houston, and Sacramento Out-of-State field offices assist taxpayers located outside California who are registered to do business in this state.

The number of registered sellers increased this fiscal year, reaching 1,077,909 by June 30, 2005. The agency processed more than 3.2 million sales and use tax returns.

## Compliance Activities

Board compliance staff ensure that sellers properly comply with permit requirements, assist them in interpreting tax laws and regulations, provide classroom instruction and individual assistance in the correct preparation of tax returns, and collect outstanding tax amounts. In 2004-05, compliance staff collected more than \$700 million in delinquent sales and use taxes.

## Consumer Use Tax Section

The Consumer Use Tax Section works closely with state and federal agencies in administering the use tax due on nondealer sales of vehicles, vessels, aircraft, and mobile homes and on purchases identified on customs declarations. In 2004-05, revenues totaled \$715.2 million, including funds collected by the Board and

- \$631.5 million collected by the Department of Motor Vehicles.
- \$8.6 million collected by the Department of Housing and Community Development.

Consumer use tax revenues this fiscal year increased by 1.2 percent over 2003-04.



## **Audit Program**

The Board maintains an effective audit program to ensure that businesses report neither more nor less tax than required. The program audits nearly 1.0 percent of active master accounts each year, concentrating on those considered most likely to be inaccurate in their tax reporting. In fiscal year 2004-05, the sales and use tax audit program disclosed net deficiencies of more than \$375.3 million. Taxpayers received more than \$104.4 million in sales and use tax refunds.

## **Areas of Taxpayer Noncompliance**

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

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

The category for unsupported sales for resale was the most costly error and the second most frequent representing more than one in ten taxpayer errors. This noncompliance category accounted for more than 30 percent of all net sales and use tax audit deficiencies (less refunds), or more than \$88 million in unpaid tax. Failing to pay use tax on purchases from out-of-state vendors was the most frequent error and the second most costly category of taxpayer noncompliance. More than two in ten taxpayer errors occurred in that category. This area of noncompliance made up nearly 29 percent of net sales and use tax audit deficiencies (less refunds), totaling more than \$84 million in unpaid tax.

The charts on page 35 summarize the Board's findings on the types of taxpayer noncompliance for 2004-05 and provide other tax compliance information required by the Taxpayers' Bill of Rights.

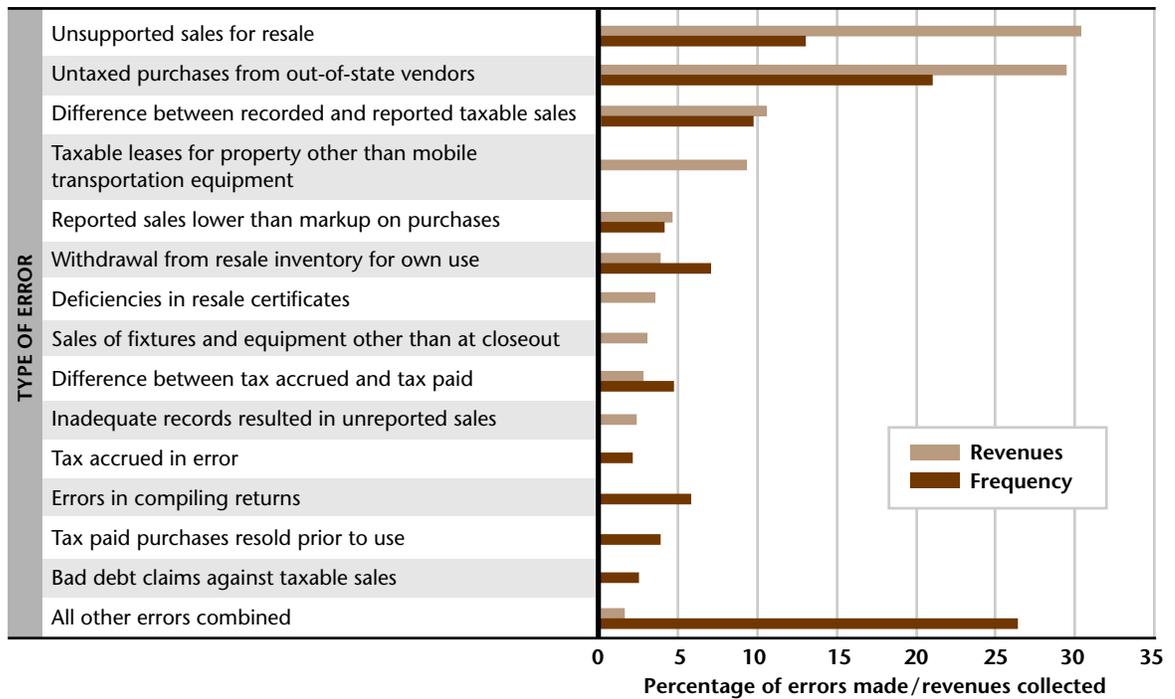
## **Appeals**

Taxpayers who disagree with Board audit results or other decisions regarding the application of sales or use tax may take advantage of the Board's administrative appeals process. For information on appeals filed in 2004-05, see "Appeals," which begins on [page 51](#).



## 2004-05 Analysis of Noncompliance

### Types of Noncompliance Frequency of Errors/Revenues Collected



### Types of Business Making Error Ranked by Revenues Collected

| Type of Business   | Percentage | Rank for 2003-04 |
|--|------------|------------------|
| Publishers; producers and distributors of light industrial equipment | 27.27      | 2                |
| Manufacturers and wholesalers of electronic equipment                | 9.66       | 1                |
| Repair and hand trade shops  | 9.11       | 3                |
| Producers and distributors of heavy industrial equipment             | 4.34       | 11               |
| Construction contractors and sellers of building materials           | 4.04       | 10               |
| Gasoline stations  | 3.95       | 12               |
| Office stores and school furniture equipment stores                  | 3.84       | 6                |
| Used automobile dealers  | 3.50       | 8                |
| Full-time specialty stores   | 2.72       | 5                |
| Manufacturers and wholesalers of store and office equipment          | 2.63       | 4                |
| All other businesses   |            | 28.94            |
| <b>Total</b>   |            | <b>100.00</b>    |



## Court Decisions

### **Borders Online Must Collect and Remit Use Tax**

Borders Online (Online), which has no California locations, took orders over the Internet and shipped the purchased items to California consumers from outside the state. Those purchasers could return the items to any Borders Books and Music Store (Borders) for an exchange or credit card refund. Online and Borders were separate but related companies. The court held that, although there was no written agreement between the two, Borders acted as Online's representative in California for purposes of accepting returns from Online's California purchasers. The court further held that the acceptance of returns for Online was a selling activity under Revenue and Taxation Code section 6203. Online was therefore a retailer engaged in business in California, and required to collect the applicable California use tax from its purchasers and remit the tax to the Board. The court held that Online had substantial nexus with California, and that requiring Online to collect and remit the use tax does not violate the commerce clause of the United States Constitution.

*Borders Online v. State Bd. of Equalization* (2005) 129 Cal.App.4th 1179

## Legislation

### **Tax Penalty Amnesty Program for Amounts Due Prior to January 1, 2003**

Requires the Board to administer a sales and use tax penalty amnesty program for the period beginning on February 1, 2005 and ending March 31, 2005. The amnesty program applies to sales and use tax liabilities due and payable for tax reporting periods beginning before January 1, 2003.

*Senate Bill 1100, Chapter 226, Statutes of 2004; effective August 16, 2004*

### **Vehicles, Vessels and Aircraft Purchased Outside California**

Provides that, for the period October 1, 2004 through July 1, 2006, it shall be presumed, unless shown otherwise, that a vehicle, vessel, or aircraft purchased outside this state, and brought into California within 12 months from the date of purchase, is purchased for use in California. Therefore, it is subject to California use tax, if any of the following occur:

- (a) The vehicle, vessel, or aircraft was purchased by a California resident;
- (b) The vehicle was subject to California registration or the vessel or aircraft was subject to property tax in this state during the first 12 months of ownership; or
- (c) The vehicle, vessel, or aircraft was used or stored in this state more than one-half of the time during the first 12 months of ownership.

*Senate Bill 1100, Chapter 226, Statutes of 2004; effective August 16, 2004*



## Legislation (Continued)

|   |  |
|---|--|
| <b>Tax Practitioners</b>  | <p>Extends the sunset date on the tax practitioner-client confidentiality privilege from January 1, 2005 to January 1, 2009.</p> <p><i>Assembly Bill 1416, Chapter 412, Statutes of 2004; effective January 1, 2005</i></p>  |
| <b>Statistical Data—<br/>San Fernando<br/>Valley</b>  | <p>Requires state agencies that develop and maintain data and statistics on a city level, to make a separate breakdown of the San Fernando Valley and requires the City of Los Angeles to provide all necessary data to state agencies that request it for these purposes.</p> <p><i>Assembly Bill 2207, Chapter 181, Statutes of 2004; effective date January 1, 2005</i></p>   |
| <b>Kings County—<br/>Sales and Use Tax<br/>Revenues</b>   | <p>Among its provisions, requires the California Research Bureau, in conjunction with the Board and the Franchise Tax Board, to calculate the state tax revenues attributable to Kings County for the fiscal year 2003-04, and for each fiscal year thereafter, commencing with the 2006-07 fiscal year.</p> <p><i>Assembly Bill 2585, Chapter 885, Statutes of 2004; effective date January 1, 2005</i></p>   |
| <b>Local Government<br/>Budget Trailer Bill—<br/>Technical Corrections<br/>to the “Triple Flip”<br/>(Sales and Property<br/>Tax Swap)</b> | <p>Among its provisions, provides that, during the “Triple Flip,” the applicable local sales and use tax rate in the case of a county is 1.0 percent, and in the case of a city is 0.75 percent or less.</p> <p><i>Assembly Bill 2115, Chapter 610, Statutes of 2004, effective September 20, 2004</i></p>   |
| <b>Local Government<br/>Revenues—<br/>“Triple Flip”</b>   | <p>Among its provisions, Proposition 1A, approved by the voters in the November 2004 election:</p> <p>Prohibits the Legislature from restricting the authority of a city or county to impose a rate under the Bradley-Burns Uniform Local Sales and Use Tax Law or the Transactions and Use Tax Law, and prohibits the Legislature from changing the method of allocation of these local sales and use taxes. The Legislature, however, could revise the allocation of the use tax portion of the Bradley-Burns tax if necessary to comply with federal law or an interstate compact. The Legislature is prohibited from extending the revenue exchange period (also known as the “Triple Flip”) and must restore the 0.25 percent local tax rate after the revenue exchange period.</p> <p><i>Senate Constitutional Amendment, Resolution Chapter 133, Statutes of 2004; effective November 3, 2004</i></p> |

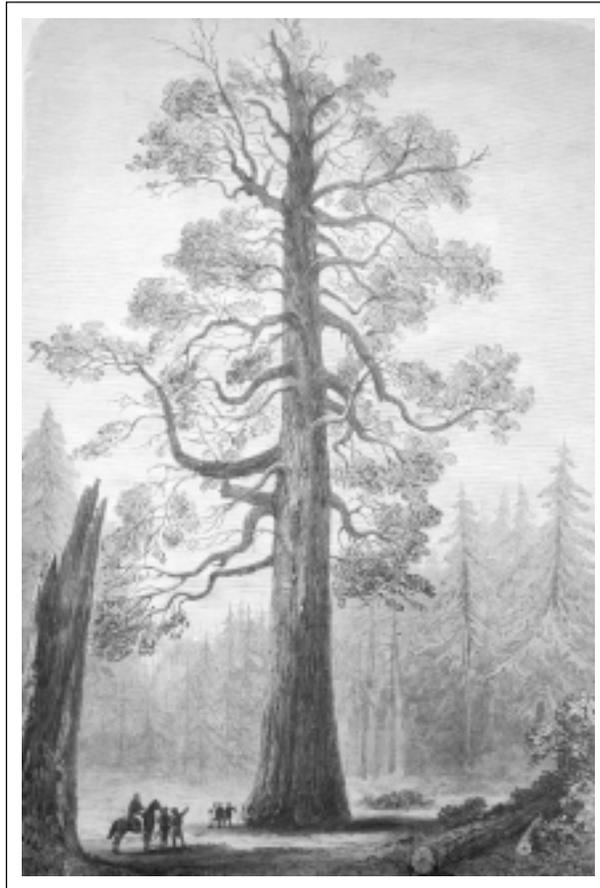


## Regulations

### Membership Fees

Regulation 1584, *Membership Fees*, was amended to explain that when persons other than retailers make sales of memberships that are related to a retailer's anticipated sale of tangible personal property, and the retailer's sales meet the criteria established in subdivision (a)(1) of the regulation, the gross receipts from such membership sales should be included in the taxable measure of the retailer selling tangible personal property, and not the person selling the membership.

*Title 18, California Code of Regulations, section 1584; effective August 26, 2004*



### Grizzly Giant

The "Grizzly Giant," shown in this early lithograph, is not the tallest nor most graceful tree. Standing at 100 feet tall, its broken branches, worn smooth bark, and many scars show countless struggles with snow, wind, and fire. Yet, at about 6,000 years old, the patriarch of the Mariposa Grove is likely not only the oldest living tree, but the oldest living thing on earth.



## Regulations (Continued)

### **Containers and Labels**

Regulation 1589, *Containers and Labels*, was amended to implement the provisions of Revenue and Taxation Code (RTC) 6364(d), operative April 1, 2000. The statute provides an exemption for the sale or lease of a container to a person who places food in the container for shipment, provided the food products will be sold, whether in the same container or not, and regardless of whether the food products are remanufactured or repackaged prior to sale. The operative date of the change is April 1, 2000, with the effective date of the regulation January 13, 2005.

*Title 18, California Code of Regulations, section 1589; effective January 13, 2005*

### **Foreign Consuls**

Regulation 1619, *Foreign Consuls*, was amended to explain new federal requirements for automobile dealers to demonstrate they are entitled to an exemption from tax for sales or leases of vehicles to foreign consular officers, employees, or members of their families. The operative date of the change was June 1, 2003, with an effective date of the regulation February 5, 2005.

*Title 18, California Code of Regulations, section 1619, effective February 5, 2005*

### **Packers, Loaders, and Shippers**

Regulation 1630, *Packers, Loaders, and Shippers*, was amended to implement the provisions of RTC 6364(d). That statute provides an exemption for the sale or lease of a container to a person who places food products for human consumption in the container for shipment, provided the food products will be sold, whether in the same container or not, and regardless of whether the food products are remanufactured or repackaged prior to sale. The operative date of the change is April 1, 2000, with an effective date of January 11, 2005.

*Title 18, California Code of Regulations, section 1630; effective January 11, 2005*

### **Process for Reviewing Transactions and Use Tax Distribution Inquiries**

Regulation 1828, *Process for Reviewing Transactions and Use Tax Distribution Inquiries*, was amended to establish a formal process for administering district tax inquiries and appeals. The operative date of the regulation is July 1, 2004, with effective date June 17, 2004.

*Title 18, California Code of Regulations, section 1828, effective June 17, 2004*