

Sales and Use Taxes

Revenues

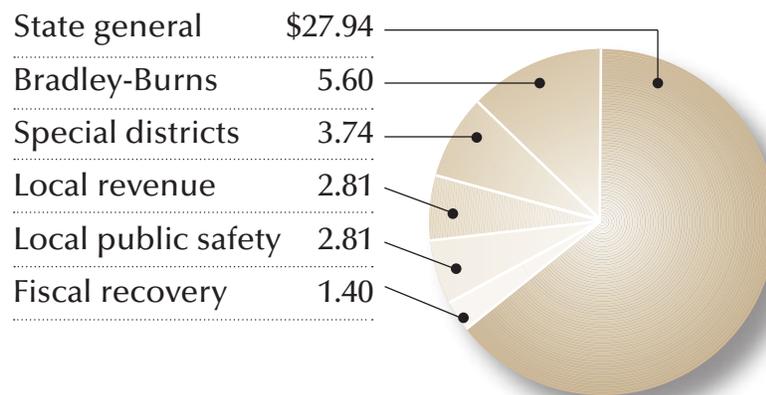
California sales and use tax revenue totaled \$44.3 billion in 2005-06, an increase of 6.8 percent from the \$41.5 billion total in 2004-05. Sales and use tax revenue included:

- \$34.96 billion from the 6.25 percent state sales tax, with:
 - \$27.94 billion allocated to the state’s General Fund; tax rate of 5.00 percent.
 - \$2.81 billion allocated to the state’s Local Revenue Fund; tax rate of 0.50 percent.
 - \$2.81 billion allocated to the Local Public Safety Fund; tax rate of 0.50 percent.
 - \$1.40 billion allocated to the state’s Fiscal Recovery Fund; tax rate of 0.25 percent.
- \$5.60 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.
- \$3.74 billion in special district transactions (sales) and use tax; rates vary by district.

Sales and use tax allocations to the General Fund were 6.7 percent higher than in 2004-05.

2005-06 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 2005-06 (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.

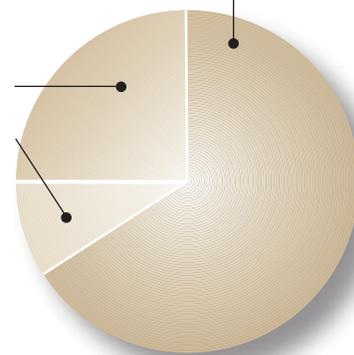
Local Sales and Use Tax

In 2005-06, the Board collected and allocated the 1.0 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.

2005-06 Local Sales and Use Tax Distributions

Billions of dollars

Cities	\$27.94
1/4% Transportation tax	5.60
Special districts	3.74





The railroad was a good career path for women, who worked jobs such as station agents, telegraph agents, and window cleaners through the 1930s and 1940s.

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 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, 2006, 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 2005-06, there were 64 district taxes in effect, with rates ranging from 0.10 percent to 1.0 percent. A new district tax, City of Ukiah Transactions and Use Tax, took effect October 1, 2005, with the rate of 0.50 percent. On September 30, 2005, the Madera County Transportation Authority District Tax expired.



On March 31, 2006, two additional district taxes also expired: the City of Calexico Heffernan Hospital District and the Santa Clara County General Fund Transactions and Use Tax. Additionally, the following eight new districts went into effect on April 1, 2006:

Santa Clara Valley Transportation Authority	0.50
City of San Rafael Transactions and Use Tax	0.50
City of Merced Transactions and Use Tax	0.50
City of Salinas Temporary Transactions and Use Tax	0.50
City of Scotts Valley Transactions and Use Tax	0.50*
City of Dinuba Police and Fire Protection Transactions and Use Tax	0.75
City of Porterville Public Safety, Police & Fire Transactions & Use Tax	0.50
City of Tulare Transactions and Use Tax	0.50

*Effective 4/1/09 the rate will be reduced to 25 percent.

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.

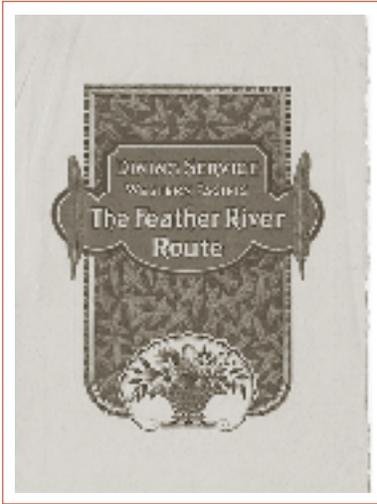
Operations

The Board encourages voluntary tax law compliance and offers sales and use tax assistance through its Sacramento headquarters and 25 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.

At June 30, 2006, the number of registered sellers was 878,986, representing 1,069,106 business locations. The agency processed approximately 3.1 million sales and use tax returns, which included prepayment forms.

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 2005-06, the Sales and Use Tax Department collected nearly \$850 million in delinquent sales and use taxes.



The menu for the 1940 Third Annual Snow Ball Excursion from San Francisco to Lake Norvell, via the Feather River. The trip featured breakfast with all the fixings, plus a selection of stronger beverages.

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 2005-06, revenues totaled \$749.6 million, including funds collected by the Board and

- \$645.7 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 4.6 percent over 2004-05.

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 one percent of active master accounts each year, concentrating on those considered most likely to be inaccurate in their tax reporting. In 2005-06, the sales and use tax audit program disclosed net deficiencies of more than \$335 million. Taxpayers received more than \$134.7 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.



Cooks in cramped galleys efficiently produced a variety of breakfasts, lunches, and dinners. This was a sought-after job, offering good wages and advancement from fourth chef up to chef.

The category for failure to pay use tax on purchases from out-of-state vendors was the most costly and frequent error, representing more than two in ten taxpayer errors. This noncompliance category accounted for more than 35 percent of all net sales and use tax audit deficiencies (less refunds), or more than \$111 million in unpaid tax. Unsupported sales for resale was the second most costly and frequent category of taxpayer noncompliance. More than one in ten taxpayer errors occurred in that category. This area of noncompliance made up over 17 percent of net sales and use tax audit deficiencies (less refunds), totaling more than \$54 million in unpaid tax.

The charts on page 37 summarize the Board's findings on the types of taxpayer noncompliance for 2005-06 and provide other tax compliance information required by the Taxpayers' Bill of Rights.

Tax Evasion

Noncompliance may also be intentional. In 2005-06 the Investigations Division issued audit billings in the amount of \$9,766,723 related to sales tax evasion.

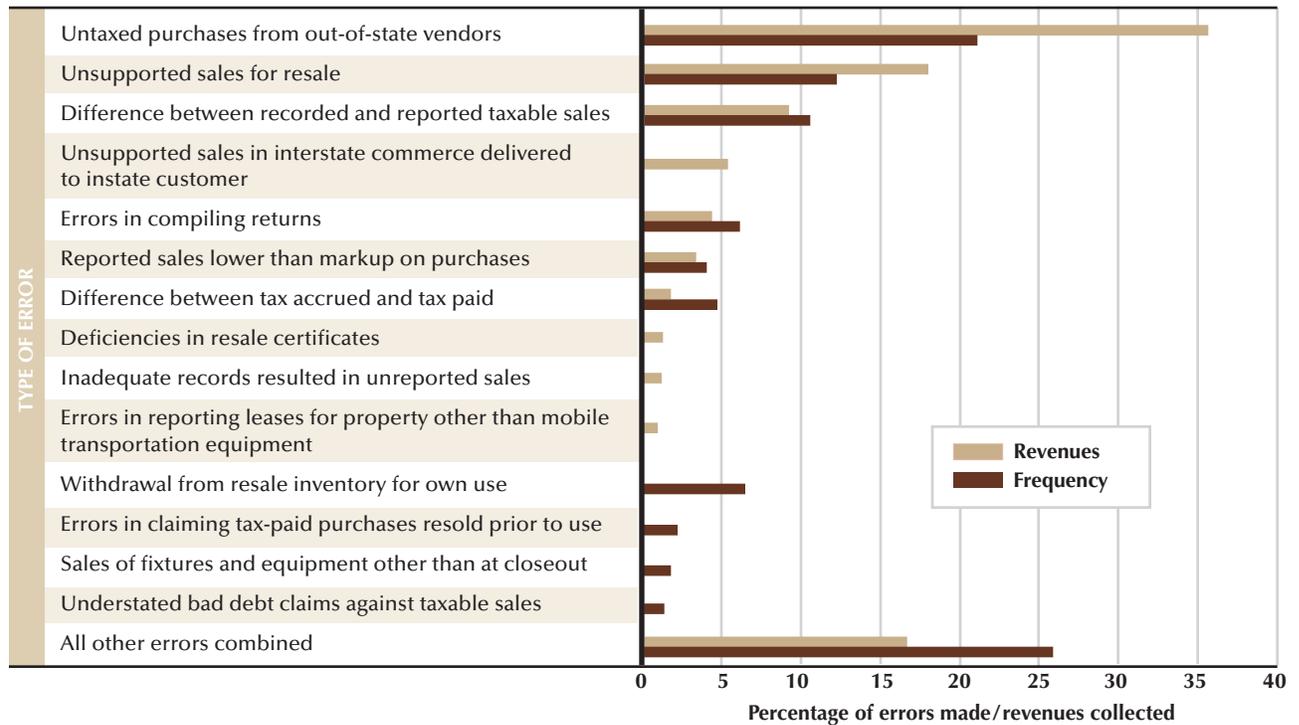
Appeals

Taxpayers who disagree with Board audit results or other decisions regarding the application of sales or use tax may take advantage of the administrative appeals process. For information on appeals filed in 2005-06, see "Appeals," which begins on [page 55](#).

2005-06 Analysis of Noncompliance

Types of Noncompliance

Frequency of Errors/Revenues Collected



Types of Businesses Making Error

Ranked by Revenues Collected

Type of Business	Percentage	Rank for 2004-05
Public Utilities, Transportation, and Allied Services	11.89	17
Manufacturers and Wholesalers of Electronic Equipment	9.53	3
Publishers and Distributors of Light Industrial Equipment	7.48	1
Aircraft Dealers	6.85	47
Office Stores and School Furniture Equipment Stores	6.17	7
Gasoline Stations	6.17	14
Full-Time Specialty Stores	4.66	5
Construction Contractors and Sellers of Building Materials	3.67	2
Used Automotive Dealers	3.18	8
Producers and Distributors of Heavy Industrial Equipment	3.16	4
All other Businesses	37.23	
Total	100.00	

Court Decisions

Plaintiff Awarded Costs

The dispute involved the taxpayer's sale of ownership shares in a race-horse. The taxpayer's claim of tax-exempt status was rejected, but the taxpayer succeeded in securing a judgment representing a refund of almost 90 percent of the amounts that he had paid in sales tax and accrued interest. The court held that, although the taxpayer satisfied one of the statutory elements for an award of costs and fees under Revenue and Taxation Code (RTC) section 7156 by substantially prevailing with respect to the amount in controversy, the taxpayer failed to establish that the Board's position was not substantially justified. The record supported the trial court's finding that the Board had justification for taking many of the positions that it took in the litigation. Accordingly, the taxpayer could not recover attorney fees and costs under RTC 7156. That ruling did not, however, preclude an award of costs to the taxpayer as the prevailing party under Code of Civil Procedure (CCP) section 1032, subdivision (b). Because the Board refused the taxpayer's offer of judgment, it was also possible that the taxpayer might be entitled to expert witness fees pursuant to CCP section 998. The court remanded the case to the trial court to determine an appropriate award of costs. The Board and the plaintiff negotiated a settlement of the costs, and a stipulated judgment was entered.

Dan J. Agnew v. State Board of Equalization (2005)
134 Cal.App.4th 899

Proper Venue for Sales and Use Tax Refund Litigation is in County Where Attorney General Maintains Legal Presence

Online retailer Barnesandnoble.com LLC sued the Board for a tax refund in Santa Clara County Superior Court, saying it did not have to report and pay use tax on its sales in California because it was not engaged in business here. The retailer filed the suit in Santa Clara County based on Revenue and Taxation Code section 6933, which allows for action against the Board for recovery of a refund in any city or city and county where the Attorney General has an office. The Attorney General maintains an office of the Bureau of Narcotics Enforcement in San Jose, which is in Santa Clara County. The Board, however, filed a motion to change venue, arguing that the Attorney General did not maintain a legal office in that county. The trial court denied the motion. The Board sought review at the court of appeal, which agreed, finding that section 6933 relates to tax litigation, and that the Attorney General's presence in Santa Clara County is to enforce drug laws, not process tax litigation. The court of appeal directed that the Board's motion to transfer the case to the City and County of San Francisco be granted.

State Board of Equalization v. Superior Court (2006)
138 Cal. App. 4th 951

Legislation

Car Buyer's Bill of Rights

Among its provisions, requires car dealers to offer a two-day “cooling off” period on used vehicles with a purchase price of less than \$40,000, sold for personal, family, or household use. The new requirement does not apply to the sale of motorcycles, off-highway vehicles, or recreational vehicles. The charge for the contract cancellation option is based on a sliding scale, depending on the cash price of the vehicle. The charge for the two-day contract cancellation option is not subject to sales tax.

Assembly Bill 68, Chapter 128, Statutes of 2005, effective January 1, 2006, but operative July 1, 2006

Electronic Funds Transfers

Requires taxpayers whose average monthly sales and use tax liabilities average \$10,000 or more, to remit their tax payments electronically.

Assembly Bill 139, Chapter 74, Statutes of 2005, effective July 19, 2005

Local Tax Allocation—Jet Fuel Sales

Operative January 1, 2008, modifies the way the 1 percent Bradley-Burns Uniform local tax is allocated on sales of jet fuel, so that the place of sale for sales of jet fuel is the place in which the fuel is delivered into the aircraft, regardless if the retailer has only one or more than one place of business in this state, or whether the sales are negotiated in this state.

Assembly Bill 451, Chapter 391, Statutes of 2005, effective January 1, 2006, but operative January 1, 2008

Voluntary Use Tax Reporting

Extends for an additional two years, the provision that allows qualifying purchasers to voluntarily register with the Board and pay their past-due use tax liabilities in exchange for a reduction in the number of years of past-due liabilities for which they will be held responsible.

Assembly Bill 671, Chapter 308, Statutes of 2005, effective January 1, 2006

Sales Tax Amnesty

Deletes the provision that specifies that a taxpayer may not file a claim for refund for any amounts paid in connection with the interest penalty imposed under the Sales and Use Tax Amnesty Program.

Assembly Bill 911, Chapter 398, Statutes of 2005, effective September 29, 2005

Legislation (Continued)

Electronic Funds Transfers

Among its provisions, changes to January 1, 2006, the operative date of the requirement that persons whose monthly tax liability averages \$10,000 or more per month remit their payments via an electronic funds transfer. Also, contains a Board-sponsored provision that eliminates the requirement that those who voluntarily remit funds by electronic funds transfer, must do so for a minimum of one year.

Assembly Bill 1765, Chapter 519, Statutes of 2005, effective October 4, 2005

Vehicles, Vessels and Aircraft Purchased Outside California

Extends for one year the sunset date (from July 1, 2006 until July 1, 2007) of the sales and use tax provision that specifies that it shall be rebuttably presumed 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 and is subject to California use tax.

Assembly Bill 1809, Chapter 49, Statutes of 2006; effective June 30, 2006

Allocation of Sales and Use Tax Administrative Costs

Beginning July 1, 2006, requires that the Board's administrative costs associated with administering the state and local sales and use taxes on behalf of the state, local governments, and local jurisdictions be based on the simplified methodology described in "Response to the Supplemental Report of the 2004 Budget Act," a report produced by the Board in November 2004. The simplified methodology allocates the Board's administrative costs primarily on a revenue benefit basis with the cost of return processing allocated on the basis of return lines used in filing sales and use tax returns. The new methodology results in a slight decrease in administrative costs borne by the state General Fund and the local special taxing jurisdictions' transactions and use taxes, with a slight increase in costs borne by the local governments' Bradley-Burns uniform local sales and use taxes.

Assembly Bill 1809, Chapter 49, Statutes of 2006; effective June 30, 2006

Transactions and Use Tax—County of San Mateo

Authorizes the County of San Mateo, subject to two-thirds voter approval, to impose a transactions and use tax at a rate of 0.125 or 0.25 percent for park and recreation purposes.

Senate Bill 203, Chapter 682, Statutes of 2005; effective January 1, 2006

Regulations

Records

Regulation 1698, Records, was amended to require certain taxpayers to retain records for a minimum of ten years due to the statute of limitations for deficiency determinations issued under the provisions of Revenue and Taxation Code section 7073, subdivision (d).

Title 18, California Code of Regulations, section 1698; effective November 3, 2005.

Place of Delivery of Tangible Personal Property

Regulation 1823.4, Place of Delivery of Tangible Personal Property Generally, was added to provide a sample declaration to be signed by a purchaser that retailers may use to support an exclusion from district use tax to demonstrate that it is not applicable to a given transaction.

Title 18, California Code of Regulations, section 1823.4; effective January 26, 2006.

Locomotives 90-Day Test

Regulation 1620, Interstate and Foreign Commerce, was amended to explain the application of sales and use tax to sales of locomotives in interstate commerce.

Title 18, California Code of Regulations, section 1620; effective September 15, 2006.