



Chino Hills State Park, Orange County

Sales and Use Taxes

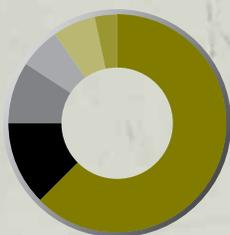
Revenues

California sales and use tax revenue totaled \$44.3 billion in 2007-08, a decrease of 1.5 percent from the \$45.1 billion total in 2006-07. Sales and use tax revenue included:

- \$34.8 billion from the 6.25 percent state sales tax, with:
 - \$27.8 billion allocated to the state’s General Fund; tax rate of 5.00 percent.
 - \$2.8 billion allocated to the state’s Local Revenue Fund; tax rate of 0.50 percent.
 - \$2.8 billion allocated to the Local Public Safety Fund; tax rate of 0.50 percent.
 - \$1.4 billion allocated to the state’s Fiscal Recovery Fund; tax rate of 0.25 percent.

2007-08 Sales and Use Tax Revenues

Billions of dollars



■ State General	\$27.77
■ Bradley-Burns	\$5.66
■ Special Districts	\$3.97
■ Local Revenue	\$2.81
■ Local Public Safety	\$2.81
■ Fiscal Recovery	\$1.40

- \$5.7 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.
- \$4.0 billion in special district transactions (sales) and use tax; rates vary by district.

Sales and use tax allocations to the General Fund were 2.2 percent lower than in 2006-07.

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 2007-08 (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.

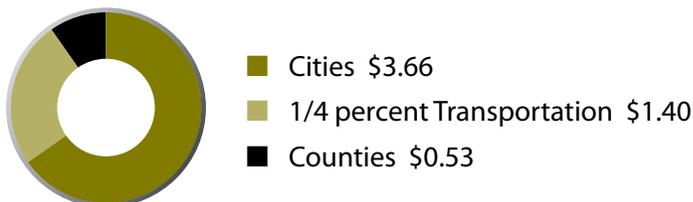
Local Sales and Use Tax

In 2007-08, the BOE 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 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 Tables 21A and 21B of the Appendix, beginning on [page A-26](#).

2007-08 Local Sales and Use Tax Distributions

Billions of dollars



Redevelopment Agencies

Between 1981 and 1993, 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, 2008, 32 redevelopment projects in 25 California cities were receiving sales and use tax revenue.

District Transactions (Sales) and Use Tax

The BOE collects and distributes district transactions (sales) and use tax on behalf of voter approved tax districts 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 2007-08, there were 87 district taxes in effect, with rates ranging from 0.10 percent to 1.0 percent. Additionally, the following four new districts went into effect during fiscal year 2007-08:

Effective April 1, 2008:

City of Selma Public Safety Transaction and Use Tax	0.50%
City of Delano Transaction and Use Tax	1.00%
City of Hollister Transaction and Use Tax	1.00%
City of Ceres Public Safety Transactions and Use Tax	0.50%

Sales made by retailers in a jurisdiction levying a district tax are generally 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. Property purchased for use in a district may be subject to that district’s use tax.

Operations

The BOE encourages voluntary tax law compliance and offers sales and use tax assistance through its Sacramento headquarters and 23 field offices located across the state. BOE 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.

As of June 30, 2008, the number of sales and use tax permits totaled 863,648, which represented 1,057,617 business locations. The agency processed approximately 3.2 million sales and use tax returns, which included prepayment forms and electronically filed (e-filed) returns.

Compliance Activities

BOE 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 2007-08, the Sales and Use Tax Department collected over \$800 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 2007-08, revenues totaled \$650.1 million, including funds collected by the BOE and

- \$549.1 million collected by the Department of Motor Vehicles (DMV).
- \$4.3 million collected by the Department of Housing and Community Development (HCD).

Consumer use tax revenues this fiscal year decreased by 14.25 percent over 2006-07.



Julia Pfeiffer Burns State Park, Monterey County

Audit Program

The BOE 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 2007-08, the sales and use tax audit program disclosed net deficiencies of more than \$329.2 million. Taxpayers received more than \$116.1 million in sales and use tax refunds.

Areas of Taxpayer Noncompliance

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

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

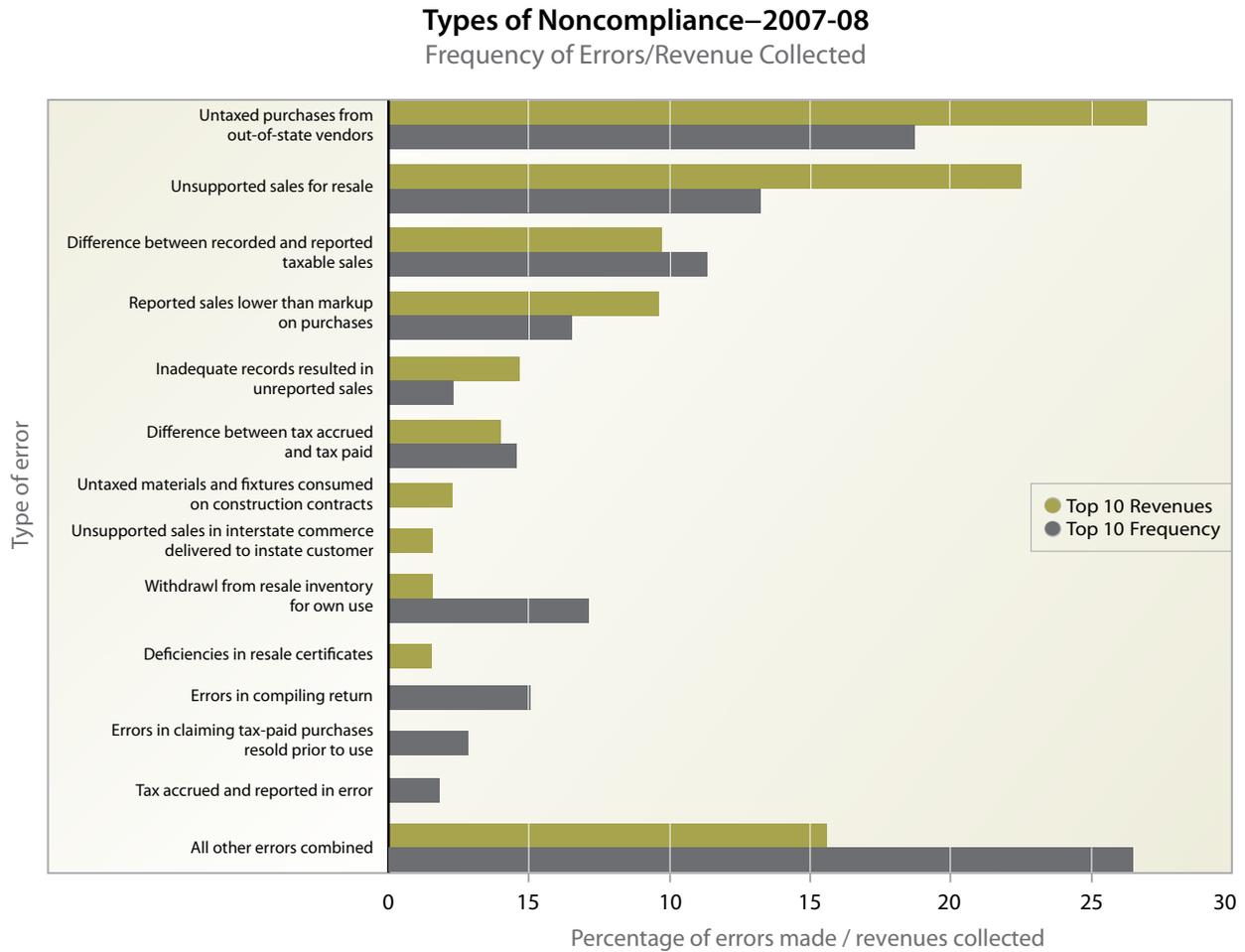
The *Failure to pay use tax on purchases from out-of-state vendors* category was the most costly and frequent error, representing approximately two in ten taxpayer errors. This noncompliance category accounted for 27 percent of all net sales and use tax audit deficiencies (less refunds), or more than \$78 million in unpaid tax. *Unsupported sales for resale* was the second most costly and frequently occurring category of taxpayer noncompliance. More than one in ten taxpayer errors occurred in that category. This area of noncompliance made up over 22 percent of net sales and use tax audit deficiencies (less refunds), totaling more than \$65 million in unpaid tax.

The following charts summarize the BOE’s findings on the types of taxpayer noncompliance for fiscal year 2007-08 and provide other tax compliance information required by the Taxpayers’ Bill of Rights.

Analysis of Noncompliance, 2007-08

Types of Noncompliance

Frequency of Errors/Revenues Collected



Types of Business Making Error

Ranked by Revenues Collected

Type of Business	Percentage List high to low	Rank 2007-2008
Publishers and Distributors of Light Industrial Equipment	11.17	1
Public Utilities, Transportation, and Allied Services	6.80	2
Used Automobile Dealers	6.51	3
Construction Contractors and Seller of Building Materials	6.10	4
Gasoline Stations	5.88	5
Producers and Distributors of Heavy Industrial Equipment	4.68	6
Office Stores and School Furniture Equipment Stores	4.38	7
Full-time Specialty Stores	4.25	8
Eating and Drinking Places with Alcoholic Beverages	4.10	9
Eating and Drinking Places with General On-Sale Licenses	3.90	10
All Other Businesses	41.69	
Total	100.00	

Tax Evasion

Noncompliance may also be intentional. In 2007-08, the Investigations Division issued audit billings for over \$10.9 million related to sales tax evasion. Of the \$10.9 million, approximately seven percent was disclosed through the division's Business License Inspection Program (BLIP), a two-year pilot program conducted in the San Francisco Bay and the Los Angeles Metropolitan areas. The positive result of this pilot program has led to the recommendation of a three-year "statewide" inspection function as part of the BOE's sales tax program called the Statewide Compliance and Outreach Program (SCOP).

Court Decisions

Tax Did Not Apply to Charges for Optional Computer Service Contracts

Dell, which had been sued by customers for collecting sales and use taxes on charges for optional service contracts, filed a cross-complaint against the BOE for a refund of the disputed taxes it had paid to the state. The Court of Appeal concluded that the optional service contracts were not taxable. The service contracts were not tangible personal property and were not part of the sale of computers, but rather were a separate object of the transaction at a readily ascertainable value. While the company's computers and service contracts were sold concurrently for an aggregate price, they were distinct consumer items and each was a significant object of the transaction. The service contracts had readily ascertainable values, even without itemized invoices.

Dell, Inc. v. Superior Court (2008) 159 Cal.App.4th 911.

Electricity Is Tangible Personal Property

The trial court ruled in favor of the BOE in determining the taxpayers were not entitled to a refund of use taxes. The taxpayers produced and sold electricity to California consumers. They paid use taxes arising from purchases of coal outside California, which they used in California to produce steam to power their turbines. The Court of Appeal affirmed the judgment. The court held that electricity constitutes tangible personal property within the meaning of Revenue and Taxation Code section 6016 because electricity can be measured and felt and is perceptible to the senses. The purchases of coal were not exempt from the use tax under sections 6007 and 6008, as properly purchased for resale in the regular course of business because the coal was not incorporated into a final product within the meaning of section 1525 of Title 18 of the California Code of Regulations. Rather, the coal functioned as a catalyst in the manufacturing process. The California Supreme Court denied review.

Searles Valley Minerals Operations Inc. v. State Board of Equalization (2008) 160 Cal.App.4th 514.

Sales and Use Tax Legislation

Nonprofit Organizations: New Children’s Clothing

Provides a sales and use tax exemption to a nonprofit organization qualifying for exempt status under section 23701f of the Revenue and Taxation Code until January 1, 2014, for sales and purchases of new children’s clothing to be distributed by the charity without charge to any individuals under the age of 18.

Assembly Bill 538, Chapter 317, Statutes of 2007; effective October 8, 2007; operative January 1, 2008

BOE-sponsored Omnibus Bill

This bill contains BOE-sponsored provisions that, among other things, accomplish the following:

- Increases the use tax exemption for the amount of tangible personal property from \$400 to \$800 for any items purchased in a foreign country and personally hand-carried into this state within any 30-day period. This conforms to changes in the federal duty-free exemption.
- Provides appeals rights to taxpayers who have been assessed a ten percent penalty for failure to make a prepayment according to the law and that failure is due to negligence or intentional disregard for the law.

Assembly Bill 1748, Chapter 342, Statutes of 2007; effective January 1, 2008

Transactions and Use Tax–Santa Clara Valley Transportation Authority

Authorizes the Santa Clara Valley Transportation Authority, subject to two-thirds voter approval, to impose a transactions and use tax at a rate of 0.125 percent for transit facilities and services.

Senate Bill 264, Chapter 430, Statutes of 2007; effective January 1, 2008

Regulations

Regulation 1521, *Construction Contractors*, explains that photovoltaic cells, solar panels, and solar modules are considered materials when they function in the same manner as other materials such as roofing shingles, skylights, wall panels, or windows. But other photovoltaic cells, solar panels, and solar modules are considered accessories to a building and are considered fixtures.

Title 18, California Code of Regulations, section 1521; effective February 3, 2008

Regulation 1570, *Charitable Organizations*, incorporates statutory provisions regarding an exemption for sales of new children's clothing to certain nonprofit organizations for distribution without charge.

Title 18, California Code of Regulations, section 1570; effective April 10, 2008

Regulation 1586, *Works of Art and Museum Pieces for Public Display*, explains that the exemption for original works of art now includes those leased from one nonprofit organization to another nonprofit organization for 35 years or more. Amendments also clarify that items of clothing or personal adornment may be original works of art.

Title 18, California Code of Regulations, section 1586; effective July 26, 2007

Regulation 1591, *Medicines and Medical Devices*, Regulation 1591.2, *Wheelchairs, Crutches, Canes, and Walkers*, and Regulation 1591.4, *Medical Oxygen Delivery Systems*, clarifies that specified clinics are included in the definition of a health facility for purposes of the exemption from sales and use tax for medicines furnished by a health facility.

Title 18, California Code of Regulations, sections 1591, 1591.2, and 1591.4; effective July 30, 2007

Regulation 1603, *Taxable Sales of Food Products*, explains the application of tax to payments of tips, gratuities, and service charges. This regulation also provides examples of when tips, gratuities, and service charges would and would not be included in taxable gross receipts.

Title 18, California Code of Regulations, section 1603; effective August 15, 2007

Regulation 1620, *Interstate and Foreign Commerce*, incorporates statutory provisions regarding the exemption from use tax for the first \$400 of tangible personal property purchased in a foreign country and hand-carried into this state, and the subsequent increase in the exempted amount to \$800 as of January 1, 2008.

Title 18, California Code of Regulations, section 1620; effective April 23, 2008



Old Town San Diego State Historic Park, San Diego County

Regulation 1660, *Leases of Tangible Personal Property—In General*, explains that “customer facility charges” required by an airport to be collected from customers of rental car companies operating in or near the airport are not subject to sales or use tax.

Title 18, California Code of Regulations, section 1660; effective July 10, 2007

Regulation 1671.1, *Discounts, Coupons, Rebates, and Other Incentives*, provides guidance on how tax applies to coupon transactions, purchase discounts, customer rebate transactions, and various allowances. The regulation also provides long-awaited guidance regarding the application of tax to payments received by retailers from rebate, incentive, buy-down, and other promotional programs (third-party rebates) offered by manufacturers, vendors, and other third parties to promote the sale of their products.

Title 18, California Code of Regulations, section 1671.1; effective July 4, 2007

Regulation 1699, *Permits*, clarifies the methods for notifying the BOE when a seller’s permit becomes inactive. The amendments also explain the limitation on predecessor’s liability set forth in Revenue and Taxation Code section 6071.1 and make it clear that the fraud penalty can be imposed on a predecessor when the ownership of the successor who committed fraud is substantially the same as the predecessor ownership.

Title 18, California Code of Regulations, section 1699; effective February 23, 2008

Regulation 1802, *Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes*, clarifies the jurisdiction to which local use tax on a transaction of \$500,000 or more should be reported.

Title 18, California Code of Regulations, section 1802; effective February 1, 2008