



State Board Of Equalization

Avoiding Common Sales and Use Tax Problems

Presumptions of the Tax Code

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



Common Types of Noncompliance

- Untaxed Purchases from Out-of-State Vendors
- Withdrawal from Resale Inventory for Own Use
- Unsupported Sales for Resale
- Difference Between Recorded and Reported Taxable Sales
- Reported Sales Lower than Expected Sales Based Upon a Markup on Purchases
- Errors in Compiling Return
- Difference Between Tax Accrued and Tax Paid
- Inadequate Records Resulted in Unreported Sales
- Unsupported Sales in Interstate Commerce Delivered to Instate Customer

Untaxed Purchases From Out-of-State Vendors

Items purchased without payment of California tax:

- Purchased for own use (not resale inventory) and
- From out-of-state businesses



Withdrawal from Resale Inventory for Own Use

Inventory items
purchased with a
resale certificate
without payment of
tax



Items withdrawn from
inventory for use
other than resale
(including use as gifts
and free samples or
for personal use)

Use Tax
= Due on
Cost

Resale Inventory



Gift



Use Tax
= Due on
Cost

Use Tax for Individuals

- Can be reported on BOE individual Use Tax return
- Can be reported on California Income Tax return



Sales For Resale

Common ways to document sales for resale
(examples to follow):

- A Resale Certificate
- A Purchase Order containing all the essential elements of a resale certificate



Basic Elements of a Resale Certificate

- Purchaser's name
- Purchaser's address
- Purchaser's valid seller's permit number
- Item(s) being purchased
- Statement that purchase is "for resale"
- Authorized purchaser's signature
- Date resale certificate is signed
- Purchaser's title
- Purchaser's type of business activity
- Seller's name



Resale Certificate Verification

To verify Seller's Permit number(s) submitted on resale certificates, retailers may call 888-225-5263 or access our website at www.boe.ca.gov



Resale Certificate Verification

Verification - Board of Equalization - Microsoft Internet Explorer

File Edit View Favorites Tools Help

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Address <https://efile.boe.ca.gov/boeweb/services/verification.jsp?action=SALES> Go Links

California State BOARD OF Equalization

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Access to Public Records

Verification

Please choose one.

- Sales and Use Tax Permit Verification
- Cigarette/Tobacco License Verification
- Ewaste Recycling Fee Account Verification

Enter the numeric portion only. Omit letters and other symbols (e.g. dashes.)

Seller's permit verification is available to help you determine if a seller's permit account number included on your customer's resale certificate is currently valid. As a seller, you are responsible for ensuring the resale certificate is properly completed. Please refer to [Regulation 1668, Resale Certificates](#).

Cigarette/Tobacco license verification is available to help determine if a cigarette/tobacco license is currently valid. As a Distributor, Wholesaler or Retailer, you are responsible for ensuring the license is valid.

Ewaste account verification is available to help you determine if a vendor of covered electronic devices (CEDs) is registered to collect and remit the electronic waste recycling fee. Please refer to the [Important Notice](#).

Done Local intranet

Resale Certificates

- Available at some stationery stores, form BOE-230, in Regulation 1668, and in Publication 73
- Must be filled out completely
- Must be taken timely and in good faith



California Resale Certificate

I HEREBY CERTIFY:

1. I hold valid seller's permit number: _____

2. I am engaged in the business of selling the following type of tangible personal property:

3. This certificate is for the purchase from _____ of the item(s) I have listed in paragraph 5 below. [Vendor's name]

4. I will resell the item(s) listed in paragraph 5, which I am purchasing under this resale certificate in the form of tangible personal property in the regular course of my business operations, and I will do so prior to making any use of the item(s) other than demonstration and display while holding the item(s) for sale in the regular course of my business. I understand that if I use the item(s) purchased under this certificate in any manner other than as just described, I will owe use tax based on each item's purchase price or as otherwise provided by law.

5. Description of property to be purchased for resale:

6. I have read and understand the following:

For Your Information: A person may be guilty of a misdemeanor under Revenue and Taxation Code section 6094.5 if the purchaser knows at the time of purchase that he or she will not resell the purchased item prior to any use (other than retention, demonstration, or display while holding it for resale) and he or she furnishes a resale certificate to avoid payment to the seller of an amount as tax. Additionally, a person procuring a resale certificate for personal gain or to evade the payment of tax is liable, for each purchase, for the tax that would have been due, plus a penalty of 10 percent of the tax or \$500, whichever is more.

NAME OF PURCHASER

ADDRESS OF PURCHASER (PURCHASER'S NAME, ADDRESS AND CITY/STATE/ZIP CODE)

PHONE NUMBER (AREA CODE AND NUMBER)

SIGNATURE OF PURCHASER

DATE OF PURCHASE

DATE

DATE

Purchase Order Used as a Resale Certificate

PURCHASE ORDER			
<input checked="" type="checkbox"/> For Resale	SR AC 99-999999	Number - 123456	
<input type="checkbox"/> Taxable		Date -3/5/00	
4000	Widgets	\$2.00 each	\$8000.00

Must specifically state **“For Resale.”**

Statements of “Nontaxable,” “Exempt,” or “Taxable - No” do not fulfill this requirement

Purchase Order and a Resale Certificate

- Purchase Orders that state “For Resale” must contain the same information as required for a resale certificate
- The resale certificate will often say “see purchase order”

California Resale Certificate

I HEREBY CERTIFY:

1. I hold valid seller's permit number: KH 123-456789
2. I am engaged in the business of selling the following type of tangible personal property:
Jewelry
3. This certificate is for the purchase from Acme Wire of the item(s) I have listed in paragraph 5 below. [Vendor's name]
4. I will resell the item(s) listed in paragraph 5, which I am purchasing under this resale certificate in the form of tangible personal property in the regular course of my business operations, and I will do so prior to making any use of the item(s) other than demonstration and display while holding the item(s) for sale in the regular course of my business. I understand that if I use the item(s) purchased under this certificate in any manner other than as just described, I will owe use tax based on each item's purchase price or as otherwise provided by law.

5. Description of property to be purchased for resale:

SEE PURCHASE ORDER

6. I have read and understand the following:

For Your Information: A person may be guilty of a misdemeanor under Revenue and Taxation Code section 6094.5 if the purchaser knows at the time of purchase that he or she will not resell the purchased item prior to any use (other than retention, demonstration, or display while holding it for resale) and he or she furnishes a resale certificate to avoid payment to the seller of an amount as tax. Additionally, a person misusing a resale certificate for personal gain or to evade the payment of tax is liable, for each purchase, for the tax that would have been due, plus a penalty of 10 percent of the tax or \$500, whichever is more.

NAME OF PURCHASER	
Ruby M. Malone	
SIGNATURE OF PURCHASER, PURCHASER'S EMPLOYEE OR AUTHORIZED REPRESENTATIVE	
<i>Ruby M. Malone</i>	
PRINTED NAME OF PERSON SIGNING	TITLE
Ruby M. Malone	Owner
ADDRESS OF PURCHASER	
123 Pine Street, Sacramento, CA 95814	
TELEPHONE NUMBER	DATE
(916) 555-1234	12-10-2010

About a Seller's Permit

- Allows sales to be made in California
- Provides a seller's permit number used to issue a resale certificate for purchases of inventory items without paying tax
- Does not allow buying items for personal or business use without paying tax
- Permit must be issued in the owner's name for each business address

DISPLAY CONSPICUOUSLY AT PLACE OF BUSINESS FOR WHICH ISSUED

CALIFORNIA STATE BOARD OF EQUALIZATION

SELLER'S PERMIT



ACCOUNT NUMBER
10/0916445 NDU 0 SDA TE LITERAL 123456789

/----- NEW FORMAT ADDRESS-----
-----//OWNER NAME 7B
TAXPAYER FIRM//DBA OR DOING BUSIN
ES . BOX 233560000--//ADDRESS CIT
Y STREET CA 99999-9999 //MAIL

NOTICE TO PERMITTEE:
You are required to cover all Federal and State sales that regulate or control your business. This permit does not allow you to do otherwise.

IS HEREBY AUTHORIZED PURSUANT TO SALES AND USE TAX LAW TO ENGAGE IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT THE ABOVE LOCATION.
THIS PERMIT IS VALID ONLY AT THE ABOVE ADDRESS.
THIS PERMIT IS VOID UNTIL REVOKED OR CANCELLED AND IS NOT TRANSFERABLE. IF YOU SELL YOUR BUSINESS OR DROP OUT OF A PARTNERSHIP, NOTIFY US OR YOU COULD BE RESPONSIBLE FOR SALES AND USE TAXES OWED BY THE NEW OPERATOR OF THE BUSINESS. *Not valid at any other address.*

For general tax questions, please call our Information Center at 800-400-7115.
For information on your rights, contact the Taxpayers' Rights Advocate Office at 888-324-2798 or 916-324-2798.

BOE-442-R REV. 15 (7-00)

Penalties for Improper Use of Resale Certificates



- Misuse of resale certificate is a misdemeanor
- The penalty is \$500 or 10% of the amount of tax per transaction, whichever is greater

Recorded vs. Reported Taxable Sales



Comparison between taxable sales per your books and records and taxable sales reported to the Board

Verifying Your Sales Using Mark-up Analysis



Verifying Your Sales Using Mark-up Analysis

Generally for businesses such as
Grocery Stores, Liquor Stores, Restaurants, etc.

Involves total sales, cost of goods sold,
and gross profit amount

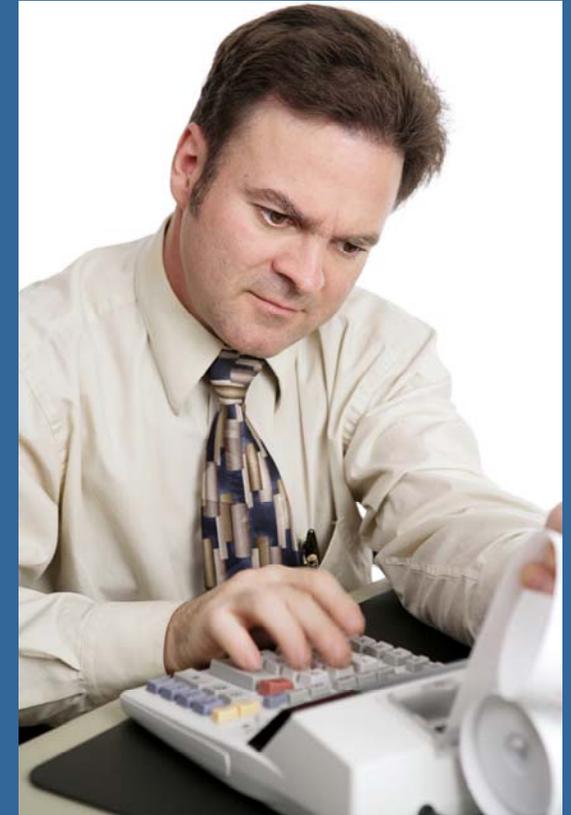
Verifying Your Sales Using Mark-up Analysis

\$ 100,000 Sales
- 75,000 Cost of Goods Sold
\$25,000 Gross Profit

$$\$25,000 \div \$75,000 = 33.33\% \text{ Markup}$$

Verifying Your Sales Using Mark-up Analysis

**Gross Profit ÷ Cost of Goods Sold
= Mark-up**



Verifying Your Sales Using Mark-up Analysis



Verifying Your Sales Using Mark-up Analysis

Taxable + Nontaxable Sales = Total Sales

\$100,000 Total Sales
- 75,000 Cost of Goods Sold
= \$25,000 Gross Profit

Gross Profit divided by Cost of Goods Sold = Mark-up Percentage

$\$25,000 \div \$75,000 = 33.33\%$ Markup

Using Taxable Markup Analysis to Verify Taxable Sales

In a business with both taxable and exempt sales (i.e. grocery store), the markup for both taxable and exempt products must be examined separately.



Reported Taxable Sales Lower than Expected Sales Based Upon a Markup on Taxable Purchases

Taxable + Nontaxable Sales = Total Sales

Joe Reported:

Taxable Sales		Exempt Sales	=	Total Sales
\$33,000	+	\$67,000	=	\$100,000

Reported Taxable Sales Lower than Expected Sales Based Upon a Markup on Taxable Purchases

Taxable

\$33,000 Sales

-\$30,000 Cost of Goods Sold

\$ 3,000 Gross Profit



$\$3,000 \div \$30,000 = 10\%$ Markup

Mark-up Analysis on Non-taxable Food Sales

Non-taxable Food

\$67,000 Sales

- \$45,000 Cost of Goods Sold

\$22,000 Gross Profit

$\$22,000 \div \$45,000$

= 49% Markup



Reported Taxable Sales Lower than Expected Sales Based Upon a Markup on Taxable Purchases

Corrected Taxable Sales =

Cost of Taxable Goods Sold x Mark-up Percentage
(from shelf test)

Joe's Corrected Taxable Sales =

\$30,000 Cost of Goods Sold x 30% = \$39,000

Application of Mark-up to Taxable Purchases

Calculated (Audited) Taxable Sales	\$39,000
Taxable Sales Reported	<u>-\$33,000</u>
Difference	<u><u>\$6,000</u></u>

Amount assessed in the audit by AI = \$6,000

Tax Accrued

Tax accrued, which is the amount of tax collected from customers or recorded as amounts due to the state, is compared to tax paid.



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.



Sales in Interstate Commerce

Common ways to document sales in interstate commerce:

- Bills of Lading
- Freight Invoices
- Delivery Receipts
- Correspondence



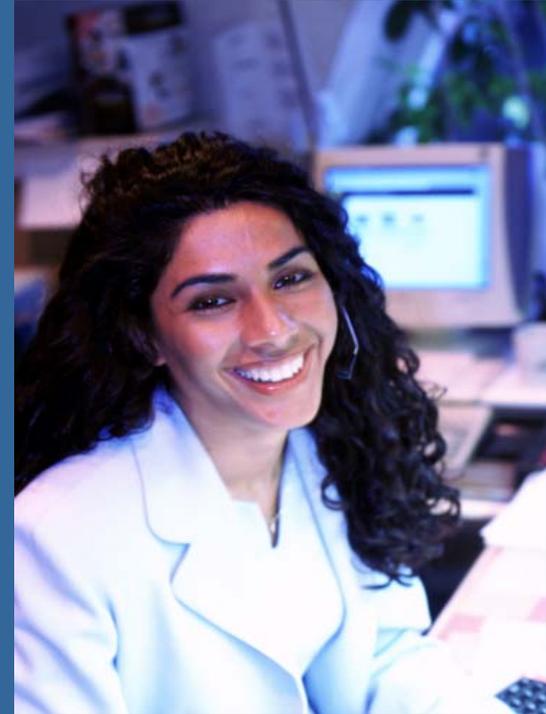
Unsupported Sales in Interstate Commerce Delivered to Instate Customers

- Delivery to a purchaser in California for subsequent shipment to another state is taxable.
- When the goods are diverted by the purchaser in transit to a California location, the exemption is lost.
- Drop shipments.



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



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



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.



**We wish you success
in your business venture.**



We welcome your comments and suggestions.