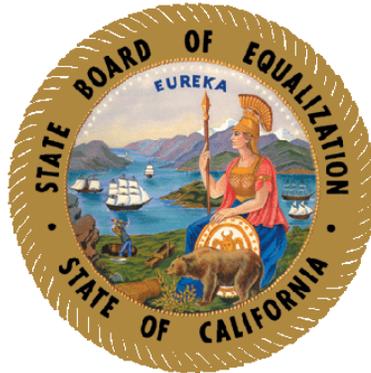


California State Board of Equalization



Welcome to the Board of Equalization's presentation on Retail Sales of Cigarettes and Tobacco Products.

Retail Sales of Cigarettes and Tobacco Products in California

What All Retailers Should Know



This presentation is designed to help retailers understand the requirements for selling cigarettes and tobacco products in California. Although focused on the retail sales aspect, some of this information also applies to wholesalers and distributors.

Licensing

- To sell cigarettes or tobacco products at retail, you must apply for a Cigarette and Tobacco Products Retailer's License for each location.
- This state license is separate from any local city tobacco licenses required.
- You will receive an application for a license when you apply for your seller's permit or you may call the Excise Taxes Division at 800-400-7115.
- The current one-time fee is \$100 per location.



The law requires all sellers of cigarette and tobacco products to register with the Board of Equalization and obtain a Cigarette and Tobacco Products license for each location from which sales are made. The cost of the retail license is a one-time fee of \$100. The license issued by the Board is separate from any city or county license. It is best to check with your local jurisdiction to find out if a local license is required.

Licensing

- The license is valid for a 12-month period and required to be renewed annually.
- A reinstatement fee of \$100 is required if a license is not renewed timely.
- If adding a location, the new location must be added to the seller's permit before a cigarette and tobacco product license can be activated for the new location.



The Cigarette and Tobacco Products License is issued by the Board's Excise Taxes Division. A separate license is required for each retail location where cigarettes and tobacco products are sold, and is valid for a 12-month period. You will be required to renew your license prior to its expiration date. There is no additional cost to renew your license; but if you do not timely renew your license and it expires, a reinstatement fee will be due.

If you operate multiple retail locations, each location must already have an active seller's permit or have been added to your existing seller's permit before a cigarette and tobacco license can be issued. A cigarette and tobacco license from one location cannot be used or transferred to your other location.

Licensing



- Submitting an application and fee does not mean sales of cigarettes or tobacco products can begin. The retailer must be in possession of the license and it must be displayed.
 - Applications are promptly processed but may take 2 to 4 weeks for a license to be issued.
 - A license is not assignable or transferable.
-

It is important to understand that simply submitting your application and fee does not mean you can begin making sales of cigarettes or tobacco. You must have received your license and display it at your place of business before you make any sale of cigarettes or tobacco products. Although applications are promptly processed by the Excise Taxes Division, it may take 2 to 4 weeks before you receive your license. Any questions you have about the license, or to check the status of your application, please contact the Excise Taxes Division by calling the toll-free number 800-400-7115.

Licensing

Wholesaler or Distributor License

- A Retailer's cigarette and tobacco license allows you to make retail sales only to legal-aged consumers.
- To engage in sales of cigarette and tobacco products to other retailers or wholesalers, you must obtain a separate Distributor or Wholesaler License. Sales to other retailers, wholesalers, or distributors are illegal if you are not properly licensed.
- For more information on obtaining a Distributor or Wholesaler License, contact the Excise Taxes Division.

A Retailer's cigarette and tobacco license allows you to make retail sales to legal-aged consumers. If you want to engage in sales of cigarette and tobacco products to other retailers or wholesalers, then you are required to obtain a separate Wholesaler or Distributor License. Sales to other retailers, wholesalers, or distributors are illegal if you are not properly licensed. For more information on obtaining a Distributor or Wholesaler License, please contact the Excise Taxes Division of the Board of Equalization.

Inspections



- BOE routinely conducts inspections of all businesses selling cigarettes and/or tobacco products.
- Inspections are unscheduled but are conducted during normal business hours.
- Inspections are conducted by the Investigations Division staff of the BOE.

As a retailer of cigarette and tobacco products, you can expect the Board of Equalization to stop in for a routine inspection of your store. The law allows inspections to take place anywhere cigarettes or tobacco products are sold, produced, or stored. The inspections are not scheduled but will be conducted during normal business operating hours. These inspections are completed by the Board's Investigations Division. The inspection will be performed in a reasonable manner and time, taking into consideration your business's operating hours, service to customers, or other retail functions.

Inspections



Inspectors will:

- Identify themselves, show their BOE identification, and give their business card.
 - Explain why they are there and what they will be inspecting.
 - Ask the person behind the counter for identification and their relation to the business (i.e., owner, relative, employee, etc.).
-

Upon arrival at your location, the Inspectors will introduce themselves, show their Board of Equalization identification, provide their business cards, and explain the purpose of the inspection. The inspectors will ask the on-site person in control of your business, if they are an owner, manager, or employee and will also request identification.

Inspections

Inspectors will also:

- Ask where cigarette and tobacco products are stored and request permission to inspect these areas.
- Request access to any secured cigarette/tobacco storage areas.
- Check to see that the cigarette/tobacco retailer's license (LRQ) and seller's permit are posted.
- Verify that registration information for the business is accurate.



Inspectors will ask where the cigarette and tobacco products are stored and request permission to inspect these areas. Inspectors will also ask for access to any secured storage areas. They will check to see if the cigarette and tobacco license and the seller's permit are posted. During the course of the inspection, the inspectors will also verify and update your registration information.

Inspections

- Verify the STAKE Act sign is posted. If not visible, they will provide a sign.
- Check to see that single sticks of cigarettes are not being sold.
- Check that all cigarette packs are stamped and scan the stamps to verify that the tax stamps are valid.
- Verify all cigarettes are listed on the California Tobacco Directory. **Note:** as of 9/22/09 flavored cigarettes are banned from sale in the U.S. and are subject to seizure.



A STAKE Act sign (which warns about sales to minors) is required to be posted by retailers selling cigarette and tobacco products. If one is not visible or the one you have is worn, the inspector will provide you with a new sign.

Be aware that it is illegal to sell single sticks of cigarettes.

During the course of the inspection, cigarettes will be visually inspected to make certain all cigarette packs are stamped with a California tax stamp. Cigarettes will also be scanned to verify that the tax stamps are valid.

California Tobacco Directory

Only cigarette brands and roll-your-own tobacco products listed in the Attorney General's California Tobacco Directory may be:

- sold
- offered for sale, or
- possessed for sale in California

For the current list of tobacco product manufacturers and brand families that are certified as being in compliance with California law, go to the Attorney General's website at:

<http://ag.ca.gov/tobacco/directory.htm>



Only cigarette brands and roll-your-own tobacco products listed on the Attorney General's California Tobacco Directory may be sold, offered for sale, or possessed for sale in California. The Directory lists both the brand name and manufacturer's name. Inspectors will verify that cigarette and tobacco products at your retail location are on the Directory, making them legal to sell. Please note that a federal ban on all flavored cigarettes and roll-your-own tobacco products went into effect September 22, 2009, and are subject to seizure. These flavored products have been removed from the California Tobacco Directory and can no longer be legally sold. You can obtain a copy of the Directory by visiting the Attorney General's website.

Inspections



We will also:

- Verify that all cigarettes comply with AB 178 – the California Cigarette Fire Safety and Firefighter Protection Act.
- As of January 1, 2007, only cigarettes certified by the manufacturer and approved by the Office of the State Fire Marshall as self-extinguishing may be sold in California.

Inspectors will also verify all cigarettes comply with the California Cigarette Fire Safety and Firefighter Protection Act (also known as AB 178). Cigarettes purchased and sold after January 1, 2007, are required to be certified by the manufacture and approved by the State Fire Marshal as self-extinguishing. Cigarettes listed on the California Tobacco Directory have been certified and approved by the State Fire Marshal.

Inspections



You can also expect us to:

- Ask for the last 12 months of purchase invoices for cigarette and tobacco products.
- Verify that excise tax is paid on all tobacco products.

Note: All tobacco products are considered untaxed unless proof of excise taxes paid is provided.

During the inspection, you will be asked to provide the last 12 months of your cigarette and tobacco purchase invoices. In part, the invoices are used to make sure the excise tax has been paid on all tobacco products. By statute, all tobacco products are considered untaxed unless proof is provided that the excise tax has been paid. A valid purchase invoice will confirm the payment of excise taxes.

Inspections

The inspectors will also:

- Reconcile your purchase invoices with the cigarette and tobacco inventory on hand.
- Verify invoices are valid and are from a licensed distributor/wholesaler.

Note: You can determine if a distributor's or wholesaler's license is valid on the BOE's website at:

www.boe.ca.gov



Your purchase invoices will also be used to reconcile your cigarette and tobacco inventory on hand. While reviewing your invoices, Inspectors will check to see if they are valid and purchased from a licensed wholesaler or distributor. Cigarette and Tobacco Product License numbers can be validated by checking the Board's website.

Invoices

A valid cigarette or tobacco product purchase invoice must be legible and contain:

- The name, address, telephone number, and license number of the wholesaler/distributor from whom the cigarettes and/or tobacco products were purchased.
- Retailer's name, address, and license number.
- The amount of CA excise taxes paid.
- An itemized list of products purchased.
- Date of purchase.

Purchases invoices for cigarette and tobacco products must be legible, include the date of the purchase, an itemized list of products purchased and the name, address, telephone number, and license number of the wholesaler or distributor. It must also contain your name, address and license number. The amount of excise taxes paid or a statement that excise taxes have been paid must also be included on the invoice. Purchase invoices that do not include all the required information may be considered invalid.

Sample of a Valid Purchase Invoice

MELISSA'S WHOLESALE
123 Wholesale Avenue
Anytown, CA 95000
(222) 555-1234
LD Q ET 90-000000

Invoice

Number 1066

Date: June 1, 2008

Bill To:

Joanna Shopkeeper
Linda's Smoke Shop
456 Smokey Drive
Anycity, CA 96000
LR Q ET 91-999999

Ship To:

Joanna Shopkeeper
Linda's Smoke Shop
456 Smokey Drive
Anycity, CA 96000
LR Q ET 91-999999

Description	Quantity	Price Each	Amount
COPENHAGEN	81.00	41.99	3,401.19
COPENHAGEN LONGCUT	63.00	20.99	1,322.37
COPENHAGEN POUCH	10.00	20.99	209.90
SKOAL STRAIGHT	9.00	41.99	377.91
SKOAL WINTERGREEN	9.00	41.99	377.91
SKOAL MINT	9.00	41.99	377.91
SKOAL FINECUT	9.00	41.99	377.91

Subtotal 6,445.10

Excise Tax 2,908.68

TOTAL \$ 9,353.78

0 - 30 days	31 - 60 days	61 - 90 days	> 90 days	Total
\$9,353.78				\$9,353.78

This is an example of a valid purchase invoice. It contains all the necessary information previously mentioned and clearly shows that excise taxes have been paid on the purchase.

Invalid Invoice

Reasons this invoice is not valid:

- Missing distributor or wholesaler information from whom the cigarettes and/or tobacco products were purchased.
- Missing the retailer's address and license number.
- The amount of excise tax paid is not listed on the invoice.

04354

David [redacted]

CUSTOMER'S ORDER NO. [redacted] DATE *10/02/07*

NAME [redacted] 12:05 PM

ADDRESS [redacted]

CITY, STATE, ZIP *Sanita RM*

SOLD BY CASH C.O.D. CHARGE ON ACCT. MOBE RETO PAID OUT

QUANTITY	DESCRIPTION	PRICE	AMOUNT
1			
2	<i>OPEN HOGEN SWIFE</i>	<i>4625</i>	<i>96 25</i>
3			
4			
5	<i>OPEN HOGEN C.C</i>	<i>23.27</i>	<i>46 54</i>
6			
7			
8			
9	<i>2 CAN/SPK</i>	<i>31.00</i>	<i>68 05</i>
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			

RECEIVED BY *PLN*

KEEP THIS SLIP FOR REFERENCE

5805

Charge
NO TAX
TOTAL DUE 154.79
TOTAL DUE 154.79

This is an example of an invalid invoice. It is missing much of the required invoice information. Invalid invoices will not be accepted as proof of excise taxes paid and may result in the seizure of your product. As a prudent business person, you should ensure your supplier provides you with a valid invoice.

Seizures

Seizures of cigarettes or tobacco can occur for many reasons, including:

- Counterfeit, counterfeit-stamped, unstamped, or out-of-state stamped cigarettes.
- Cigarettes “Not for Sale in U.S.”
- Cigarettes not listed in the Attorney General’s CA Tobacco Directory.
- Untaxed Tobacco:
 - Products purchased from an unlicensed out-of-state supplier.
 - Products not supported by valid purchase invoices.



The Cigarette and Tobacco Products Licensing Act provides broad authorities to the Board of Equalization, including the seizure of untaxed cigarette and tobacco products.

Seizures

Products will also be seized if:

- Cigarettes or tobacco products are sold while a cigarette and tobacco license is suspended or revoked.
- There is continued unlicensed sales of cigarettes or tobacco.

Note: Products seized for continued unlicensed sales or during a period of suspension or revocation are deemed forfeited to the State.



The Act also authorizes the Board to seize cigarette and tobacco products from retailers who make unlicensed sales or sales while their license is suspended or revoked.

Top Two Reasons for Cigarette Seizures in FY 2008-09

- Unstamped cigarettes.
- Cigarettes not listed on the California Tobacco Directory.



The top two reasons the Board seized cigarettes in fiscal year 2008-2009 were for possession of unstamped cigarettes and for possession of cigarettes not listed on the California Tobacco Directory.

Seizures

What happens if products are subject to seizure?

- The BOE inspector will take a physical inventory of what is to be seized and list the products seized on the *Receipt for Property Seized* form. The form includes:
 - Date and time of seizure
 - Name and signature of BOE inspector seizing the product
 - Name of the owner of items seized (i.e., sole proprietor, LLC, corporation, etc.) and business address where seizure occurred



If a seizure of product is necessary, the Board will physically take control of the product and provide you with a Receipt for Property Seized. The receipt will include the date and time of seizure, a list of the items seized, the name and signature of the Board inspector, and the owner's name.

Seizures



When inspectors seize cigarette or tobacco products, the BOE is required to notify business owners in writing:

- That their product was seized.
- When it occurred.
- What was seized.
- Their petition rights.

This information is mailed to the business owner(s) with the *Notice of Seizure and Forfeiture*.

When a seizure is made, the Board of Equalization is required to notify the business owner in writing. A “Notice of Seizure and Forfeiture” letter will be mailed to notify the owner a seizure occurred, the date of the seizure, a description of the products seized, and an explanation of their right to petition for the release of the product.

Seizures



The Notice will be mailed to:

- The business mailing address for sole proprietors.
- The business mailing address and personal residence of each partner in a partnership.
- The business mailing address and agent of service as listed with the Secretary of State for a corporation or LLC.

A petition form for the release of property seized is included with the *Notice*.

If your business is a sole proprietorship, the Notice will be mailed to your business mailing address. If your business is a partnership, it will be mailed to your business mailing address and personal residence of each partner. For corporations, the Notice is mailed to the corporation's business mailing address and the agent of service as recorded with the Secretary of State. Included in the Notice is a petition form for the release of the property seized.

Seizures

To request the return of property seized, a Verified *Petition for Release or Recovery of Property* must be filed in writing within **20 days** from the date of the *Notice of Seizure and Forfeiture*.

Note: The Board of Equalization is not legally permitted to return seized cigarettes or tobacco products unless they were erroneously or illegally seized.



To request the return of property seized, you must file a Verified Petition for Release or Recovery of Property in writing within 20 days from the date of the Notice of Seizure and Forfeiture. It is important that you read and understand all seizure-related correspondence sent to you by the Board of Equalization. If you have any questions, please don't hesitate to get in touch with a Board representative.

Seizures

- If cigarettes or tobacco products are seized due to continued “unlicensed” sales or sales during a period of suspension or revocation, a BOE-881, *Property Receipt* is issued.
- The inspector will fully explain the reason for this type of seizure.

Note: Products seized under these circumstances are deemed forfeited to the State and may not be petitioned for their return. Products legally forfeited to the State are not returnable.



If your products are seized due to continued unlicensed sales or sales made while your license is suspended or revoked, you will receive a Property Receipt listing the items seized. Products seized under these circumstances are deemed forfeited to the State. Products legally forfeited to the State are not returnable.

Public Notice of Seizure

The BOE is required to publicly notice the seizure of cigarette or tobacco products when:

- The seizure is 61 or more cartons of cigarettes,
- The wholesale cost of tobacco products seized is equivalent to 61 cartons of cigarettes, or
- The combined value of cigarettes and tobacco products seized is equivalent to 61 cartons of cigarettes.

Notice of Seizure Website:

www.boe.ca.gov/news/seizurecigtoboprod.htm

The Board is required to provide a public notice of seizure of cigarettes or tobacco products

- when the seizure of cigarettes is more than 60 cartons,
- when the wholesale cost of tobacco products seized is equivalent to 61 cartons of cigarettes,
- or when the combined value of cigarettes and tobacco products is equal to 61 cartons of cigarettes.

This public notice is posted on the Board's website.

What happens to seized product?

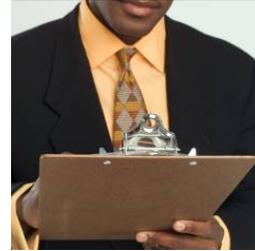


- Seized property is stored in a secured area as evidence.
 - When the petition process is complete and no further action is necessary, the evidence custodian will destroy forfeited products.
 - The time between seizure and destruction of property seized will vary depending on the circumstances of the seizure and/or length of petition process.
-

When product is seized, it is stored in a secured area as evidence. Once the petition process is complete and no further action is necessary, the product will be destroyed to a point it is no longer marketable. The product is not resold or reintroduced into the marketplace.

Citations

If violations of the cigarette and tobacco tax laws are found during an inspection, a citation may be issued by the inspector.



If violations of the cigarette and tobacco tax laws are identified during an inspection, a citation may be issued by the inspector. A citation is a notice of a violation of the law.

What is a citation?

- A citation is a “civil” or a “criminal” notice for violations of the law.
- Citations may be issued for violation of the:
 - Cigarette and Tobacco Licensing Act
 - California Cigarette and Tobacco Tax Laws
 - Sales and Use Tax Laws



Citations may be issued for violations of the Cigarette and Tobacco Licensing Act, the California Cigarette and Tobacco Tax Law, or Sales and Use Tax Laws. Inspectors may issue either a civil citation or a criminal citation.

Civil Citation Form

BOE-98 REV. 1 (11-05)
CIVIL CITATION

STATE OF CALIFORNIA
 BOARD OF EQUALIZATION

No. 04179

DATE ISSUED / / TIME AM PM DAY OF WEEK S M T W Th F S BOE-99 ATTACHED YES NO
 Serial No.

BUSINESS INFORMATION

CA SELLER'S PERMIT NO. CIGARETTE/TOBACCO SELLER'S LICENSE NO.

PRINT NAME (first, middle, last) TITLE

DRIVER LICENSE NO./STATE RESIDENCE TELEPHONE NO.
 ()

RESIDENTIAL OR BUSINESS ADDRESS (street, city, state, zip code)

MAILING ADDRESS (if different from above) CITY STATE ZIP

BUSINESS NAME (DBA) BUSINESS TELEPHONE NO.
 ()

VIOLATION INFORMATION

CODE AND SECTION DESCRIPTION

PROPERTY SEIZED

LOCATION OF VIOLATION(S) (street, city, zip) COUNTY OF OCCURRENCE

You will receive a notice in the mail regarding this citation from the Board of Equalization that will provide information about any restrictions or fines, if applicable, and your appeal rights. Contact information will be provided in the notice should you have any questions.

Without admitting guilt, signature acknowledges receipt of this citation.

OWNER SIGNATURE (or authorized representative) DATE

CITATION ISSUED BY (serial) TITLE DATE

SIGNATURE OF ISSUER DATE

Type of Service Personal Substitute Mail Certified Mail Registered Mail

COMMENTS:

Original - Excise Taxes and Fees Division
 Pink - Investigations Division Yellow - Business Owner

A Civil Citation is handled by the Board's Excise Taxes Division. A Criminal Citation, also referred to as a Notice to Appear, is a criminal misdemeanor citation and will be forwarded to the local District Attorney's Office. If you receive a criminal citation, the citation will include the date, time, and place where you are required to appear in court. The criminal citation you receive from the inspector may be your only notice for court appearance; the court may or may not send you a separate notice before your scheduled court date.

Top Three Violations Cited in FY 2008-09

- Purchase invoices for 1 year not available at retail location.
- Sale or possession of untaxed tobacco products.
- Sale or possession of unstamped cigarettes.



The top three violations cited in 2008-2009 were for

- lack of 12 months of “valid” purchase invoices at the business location,
- sale or possession of untaxed tobacco products, and
- sale or possession of unstamped cigarettes.

How can violations be avoided?

- Make sure your cigarette/tobacco license is displayed.
- Keep 12 months of valid purchase invoices on the premises. Invoices should show excise taxes paid.
- Buy from licensed distributors/wholesalers.
- Sell only cigarettes and roll-your-own tobacco products that are listed on the California Tobacco Directory.

MUST BE DISPLAYED CONSPICUOUSLY AT LOCATION ADDRESS FOR WHICH ISSUED

CALIFORNIA STATE BOARD OF EQUALIZATION

CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003
RETAILER'S LICENSE

LICENSE NUMBER: _____

BUSINESS MAILING ADDRESS: _____

EFFECTIVE DATE: _____

LOCATION ADDRESS: _____

THIS LICENSE HAS BEEN ISSUED TO YOU UNDER SECTION 40000 OF THE CALIFORNIA BUSINESS AND PROFESSIONS CODE.

NOT VALID AT ANY OTHER LOCATION ADDRESS.

BE HEREBY AUTHORIZED TO ENGAGE IN THE SALE OF CIGARETTES AND TOBACCO PRODUCTS.

THIS LICENSE IS VALID FOR THE EFFECTIVE DATE OR UNTIL EXPIRES, REVOKED, OR CANCELLED, AND IS NOT TRANSFERABLE. FOR GENERAL TAX INFORMATION PLEASE CONTACT THE INFORMATION CENTER AT 916-488-3715. FOR INFORMATION ON YOUR RIGHTS, CONTACT THE TAXPAYER RIGHTS ADVOCATE OFFICE AT 916-488-3715 OR 1-800-454-ARVY 2 0 05

A MESSAGE TO OUR LICENSE HOLDER

As a retailer, you have certain rights and responsibilities under the Cigarette and Tobacco Products Licensing Act of 2003. In order to assist you in your endeavor and to better understand the law, we offer the following informational sources:

- The Cigarette and Tobacco Products Licensing Act of 2003 found under Division 8 (commencing with section 22970) of the California Statutes, and the related code.
- Our website at www.sbe.ca.gov.
- Our toll-free Information Center at 916-488-3715.

As a retailer, you are required to maintain the original books and records of a prudent businessperson. You are required to maintain these books and records for no less than four years, and make them available for inspection by a board representative when requested. In addition, you must keep the records on file at the location identified on your license for at least one year after the date of purchase. Specific requirements are set forth in the Cigarette and Tobacco Products Licensing Act of 2003.

You must notify us if you are buying, selling, adding a location, or reorganizing your business, address or changing a partner, officer, or member, or address by and moving any or all of your business locations. This license is valid only for the type of ownership and location specified on the license. A person who obtains a license as a retailer who ceases to do business, or who ceases commercial business, or whose license has been suspended or revoked, shall also notify the Board immediately by writing to the State Board of Equalization, Excise Taxes Division, P.O. Box 942978, Sacramento, CA 95829-0556 in order to make arrangements to surrender the license, or by giving the license to a board representative.

If you would like to know more about your rights as a taxpayer, or if you are unable to resolve an issue with the Board, please contact the Taxpayer Rights Advocate office by calling 916-324-2706 or 916-324-2700. Their fax number is 916-324-3373.

License must be displayed at location address for which issued and must be visible to your customers.

STATE BOARD OF EQUALIZATION
Excise Taxes Division

The most common violation can be avoided by keeping 12 months of valid purchase invoices on the premises. The purchase invoices validate that excise taxes have been paid on the tobacco products and substantiates purchases have been made from a licensed person. Keep your active valid license posted and routinely check your cigarette and roll-your-own tobacco inventory against the California Tobacco Directory to avoid some of the other most commonly cited violations.

What happens when a citation is issued?

- The BOE inspector will fully explain why the citation is issued and the specific section(s) of law violated.
 - Civil citations are handled by the BOE Excise Taxes Division.
 - Criminal citations are processed through the Courts.
 - The inspector will explain the citation process to you, including your right to appeal.
-



In the event you are issued a citation, the inspector will explain why you were issued the citation and the section of the law that was violated. You will be asked to sign the citation. Please note that your signature on the citation is not an admission of guilt, only an acknowledgment that a copy of the citation was given to you. As previously mentioned, civil citations are handled by the Board's Excise Taxes Division and criminal citations are processed through the courts.

Penalties and Fines

Depending on the violations cited, penalties may include but are not limited to:

- A Warning Notice.
- Suspension or revocation of license.
- Fines up to \$50,000.
- Imprisonment not to exceed 1 year.
- Both fines and imprisonment.

The level of penalty imposed as a result of a civil or criminal citation will depend on type of violation and frequency of offense.

A citation could result in fines, penalties and restrictions on your license. Depending on the violations, penalties may include

- a warning notice,
- a suspension or revocation of your license,
- a fine of up to \$50,000 and/or imprisonment of up to 1 year.

The level of the fines, penalties and restrictions on your license will depend on the type of violation and the frequency of the offenses.

Penalties and Fines

In the case of criminal citations:

- Additional civil penalties may be assessed by the BOE in addition to penalties imposed by the court.
- These additional penalties may include suspension or revocation of the cigarette and tobacco license and possible fines.
- Civil fines assessed by the BOE will be reduced by any court fines imposed.



Fines and penalties imposed as a result of a criminal citation are assessed by the Courts. However, additional civil penalties may also be imposed by the Board of Equalization. These additional civil penalties may include added fines and suspension or revocation of your license. Civil fines assessed by the Board will be offset and reduced by any fines imposed by the Court.

Suspended License

- A suspended cigarette and tobacco license prohibits the sale of cigarettes or tobacco products at the business location cited.
- Suspensions may range from 10 to 30 days.
- The BOE website lists businesses with suspended Cigarette and Tobacco Product Licenses.

www.boe.ca.gov/sptaxprog/spexcise.htm

If your license is suspended as a result of a citation or seizure, the period of suspension can range from 10 to 30 days. The Board's website maintains a list of all businesses with a suspended Cigarette and Tobacco Product License.

Revoked License

Selling cigarettes or tobacco products while a cigarette and tobacco license is suspended will result in the revocation of the license.

- Revocations are:
 - Location specific.
 - For a minimum of 6 months.



If you sell cigarettes or tobacco products during your suspension period, all the cigarettes and tobacco products at that business location may be seized, additional fines or penalties imposed, and your license revoked. At a minimum, your license will be revoked for 6 months. The revocation of your cigarette and tobacco license does not affect your seller's permit or your ability to make other sales.

Revoked License

Revocation of a cigarette and tobacco product license will also occur:

- When a seller's permit becomes revoked.
- For a felony conviction.

Example:

- Counterfeiting tax stamps.
- Tax evasion of \$25,000 or more in tax in 12 consecutive months.
- Any permit revoked under any provisions of the Revenue and Taxation Code.

The revocation of a cigarette and tobacco product license will also occur when a seller's permit becomes revoked or when an individual has a felony conviction. Examples of felony convictions can include a person convicted for counterfeiting tax stamps or evasion of \$25,000 or more in tax in 12 consecutive months. A license may also be revoked if any other permit required by the Board of Equalization is revoked under provisions of the Revenue and Taxation Code.

Appeals

- If a citation is issued, a *Warning Notice* or a *Notice of Violation* is mailed by the Excise Taxes Division.
- Taxpayer appeal rights are described in the *Notice*.
- A written request to appeal must be received within 10 days from the date of the *Notice*.
- If the request is not received timely, the appeal may not be granted and the violation will remain on record.



If you are issued a citation, you will receive a Warning Notice or a Notice of Violation from the Excise Taxes Division. The Notice is sent to provide you with an explanation of your rights to appeal the citation. A form to file an appeal is included in the mailing. The appeal form or any written request to appeal must be received within 10 days from the date of the Notice. If the request is not received timely, the appeal may not be granted and the violation will remain on record and penalties imposed.

Appeals



- There are two levels of appeals.
 - The first level of appeal is a conference conducted by a Hearing Officer of the Excise Taxes Division.
 - A representative of the Investigations Division is included in these conferences.
 - All appeal conferences are conducted by telephone.
-

If you submit a written appeal, you will be contacted by the Excises Taxes Division to schedule an appeal conference. All appeal conferences are conducted by telephone. There are two levels of appeal; the first is conducted by a Hearing Officer of the Excise Taxes Division. A representative of the Investigations Division is included at this first level appeal conference in support of the citation issued.

Appeals

A *Notice of Decision* is mailed by the Excise Taxes Division within 4 to 6 weeks after the first level appeal conference.



- If there is disagreement with the outcome of the first level decision, the decision may be appealed within 10 days from the date of the *Notice* for a second level conference.
 - The second level conference is held by the Appeals Division of the BOE.
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After the first level appeal conference is completed, you will receive a Notice of Decision within 4 to 6 weeks from the Excise Taxes Division. If you disagree with the decision, you may appeal for a second level conference. Your request must be received within 10 days from the date of the Notice of Decision.

Appeals

- The Appeals Division will issue a *Notice of Decision* of the outcome of the second level appeal conference.
- The decision of this appeal conference is final unless the outcome is a revocation or a fine over \$2,500.
- Revocations and fines over \$2,500 may be appealed for a hearing before the BOE's elected Board.
- The Board Hearing is the final step of the appeal process with the BOE.

The Board's Appeals Division will conduct the second level appeal conference and will issue its Notice of Decision. The decision from this appeal conference is final unless the outcome of the second level appeal results in a revocation of your license or a fine of over \$2,500. Decisions resulting in a revocation or a fine over \$2,500 may be appealed for a hearing before the Board of Equalization's elected Board. A Board Hearing is the final step of the appeal process with the Board of Equalization.

Taxpayers' Rights Advocate



If you have been unable to resolve an issue with the Board, or if you would like to know more about your rights under the law, contact the Taxpayers' Rights Advocate at:

888-324-2798

www.boe.ca.gov/tra/tra.htm

When you have exhausted all other avenues, the Taxpayers' Rights Advocates office is available to step in and help you. They can also explain more about your rights under the law.

For more information...

The following publications are available on the BOE website:

www.boe.ca.gov

- BOE-400-LR, *Application for Retailer's Cigarette and Tobacco Products License*
- Pub 78, *Sales of Cigarettes and Tobacco Products in California*
- Pub 93, *Cigarette and Tobacco Product Taxes*
- Pub 152, *Cigarette and Tobacco Product Inspections*
- Pub 161, *Criminal Citations Include a Civil Administration Process*

Note: Some publications are available in multiple languages.

The Board has several publications related to the sale of cigarette and tobacco products in California and can be viewed on the Board's website. Some of these publications are also available in multiple languages.

Get it in Writing

A person must make a request in writing for advice from the Board whether an activity or transaction is subject to tax, and the request must fully describe the specific facts and circumstances of the activity or transaction.



Board of Equalization
Audit and Information Section
450 N Street; MIC 44
Sacramento, CA 95814

Revenue and Taxation code section 6596 – “Excusable Delay-Reliance on Advice”, states:

“If the Board finds that a person’s failure to make a timely return or payment is due to the person’s reasonable reliance on written advice from the Board, the person may be relieved of taxes imposed by §6051 and §6201 and any penalty or interest added thereto...”

Your specific situation may not have been covered in this presentation. If you need additional information, please send us your detailed request in writing to:

Board of Equalization
Audit and Information Section
450 N Street, MIC:44
Sacramento, CA 95814

E-mail Notifications



To get the latest information on changes or updates related to the sales of cigarette and tobacco products, you can register for E-mail notification at the BOE website listed below. As information becomes available, notices will be automatically e-mailed to you.

<http://www.boe.ca.gov/sptaxprog/etfd/index.htm>

To receive notices with the latest tax information related to the sales of cigarette and tobacco products in California, you can register for E-Mail Notifications through the Board's website. Once registered, notices will be automatically e-mailed to you with new information such as tobacco tax rate changes, reinstatement fee requirements, or other related information.

Contact information...

- **For information regarding licenses, civil citations, petitions, or appeals:**

Excise Taxes Division, MIC:56
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0056

Phone: 800-400-7115
Fax: 916-323-9297

- **For information regarding inspections, seizures, or criminal citations:**

Investigations Division, MIC:42
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0042

Phone: 916-324-0105
Fax: 916-324-1578

For more information or questions regarding licensing, civil citation status, petitions for recovery of property seized, or appeals, you may contact the Excise Taxes Division.

For additional information or questions regarding inspections, seizures, or criminal citations, you may contact the Investigations Division.

Thank you for taking the time to review this online information. We hope the presentation has been both useful and informative for you. If you wish to attend an instructor-led class on this same topic, please check the Board's Free Tax Seminar website for currently scheduled classes.