



TAX Information

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Taxpayers on a Quarterly Prepayment Reporting Basis are required to make prepayments based on one of two options

California Revenue and Taxation Code section 6471 requires taxpayers who average \$17,000 or more in taxable measure per month to make two prepayments each quarter. Generally, taxpayers on a quarterly prepayment basis may use one of two options to calculate their prepayments:

1. 90 percent of the tax liability for the current prepayment period, or
2. A calculation based on prior periods.

For details, please refer to [BOE-367-SUT](#), *Filing Instructions for Sales and Use Tax Accounts on a Quarterly and Prepayment Filing Basis*.

Failure to make the required prepayment by the due date will subject you to a penalty of 6 percent of the tax due. If the failure to make payment by the due date is found to be due to negligence or intentional disregard of the sales and use tax law or authorized rules and regulations, you will be subject to a penalty of 10 percent instead of 6 percent. If there is any deficiency in the amount of this payment that is found to be due to negligence or intentional disregard of the Sales and Use Tax Law or authorized rules and regulations, you will be subject to a penalty of 10 percent of the deficiency.

To avoid these penalties, be sure to file your prepayments by their due dates. To find out if you are on a quarterly prepayment reporting basis, contact our Taxpayer Information Section.

Businesses that make drop shipments for out-of-state sellers owe the sales tax

Please note: This article does not apply to deliveries of vehicles, vessels, and aircraft. For information on those deliveries, see [publication 34](#), *Motor Vehicle Dealers, Regulation 1610, Vehicles, Vessels, and Aircraft*, and [Regulation 1620](#), *Interstate and Foreign Commerce*.

It's not uncommon for out-of-state retailers to ask California suppliers to ship products to the retailers' California customers. This article discusses how sales tax applies to those kinds of "drop shipment" transactions.

Basic information, drop shipments and tax liability

In general, drop shipment transactions involve one consumer, two sales, and two businesses:

- The consumer in California who buys and receives the product.
- The "true retailer," a business located outside the state and not registered to collect California tax, which sells the product to the California consumer.
- The "drop shipper" who sells the product to the true retailer, but ships the product directly to the California consumer on behalf of the retailer.

When you drop ship products directly to California consumers on behalf of true retailers, you are liable for sales tax on the transaction.

Example

A Modesto resident orders a doghouse from Yankee Pets, a company in Maine, and pays the company for the order. Yankee Pets is not registered to collect and pay California use tax. Its doghouse supplier, California MegaPets, is located in California. Yankee Pets buys the doghouse from California MegaPets, who ships it directly to the Modesto resident. California MegaPets owes sales tax on

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the transaction. There are two options for calculating the taxable amount of the sale, as explained below.

Options for calculating sales tax due

As a drop shipper, you generally owe tax on the retail selling price the consumer paid the true retailer. However, if you don't know that amount, you may calculate the tax based on your selling price to the true retailer plus a markup of 10 percent.

Using the example above, if California MegaPets, the drop shipper, knows that the consumer paid the retail price of \$300 for the dog house, tax would be due on a \$300 sale. But if California MegaPets charged the true retailer \$200 and doesn't know how much the consumer paid, they could report and pay tax on a \$220 sale ($\$200 + 10\%$ markup of $\$20 = \220).

If you have any questions, please contact our Taxpayer Information Section or refer to [Regulation 1706, Drop Shipments](#).

Flavored cigarettes banned in U.S.

Effective September 22, 2009, cigarettes that contain certain characterizing flavors are considered adulterated and the manufacture, import, and sale of these products are banned in the United States as authorized by the Family Smoking Prevention and Tobacco Control Act (FSPTCA). The FSPTCA provides the Food and Drug Administration (FDA) with regulatory authority over the manufacture, marketing, and distribution of tobacco products. According to the Act:

“. . . a cigarette or any of its component parts (including the tobacco, filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavor (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or tobacco smoke.”

These products can no longer be manufactured, imported, or sold in the United States

For general information regarding the FDA's Tobacco Program and the ban on flavored cigarettes, please refer to the FDA's website at www.fda.gov/TobaccoProducts/default.htm.

In compliance with the new federal law, flavored cigarettes banned by the FSPTCA have been removed and may continue to be removed from the California Tobacco Directory by California's Attorney General. Cigarette and tobacco products licensees should refer regularly to the California Tobacco Directory provided at ag.ca.gov/tobacco/directory.php for a product list of cigarette manufacturers

and brand families that are authorized for sale in California.

It is illegal for distributors to affix a California tax stamp on packages of cigarettes or pay the tax on roll-your-own product unless the manufacturer and the brand family are listed in the California Tobacco Directory. Sales of cigarettes and roll-your-own products that are not listed in the California Tobacco Directory are prohibited and could be seized by federal, state, or local law enforcement authorities.

If you have any questions regarding this notice, please call our Taxpayer Information Section.

Electronic Waste Recycling Fees and Covered Electronic Devices

The Electronic Waste Recycling Fee (eWaste fee) is a fee imposed on the purchase of a new or refurbished Covered Electronic Device (CED). A CED is a video display device that has a screen greater than 4 inches, measured diagonally, which is identified as a CED by the Department of Toxic Substances Control (DTSC). Currently the DTSC has identified the following types of video display devices as CEDs:

- Cathode ray tube (CRT) and CRT containing devices
- Computer monitors and televisions containing CRTs
- Laptop computers containing Liquid Crystal Display (LCD)
- Desktop monitors containing LCDs
- Televisions containing LCDs (excluding LCD projection televisions)
- Plasma televisions (excluding plasma projection televisions)
- Portable DVD players with LCD screens

If a video display device is not listed above (for example; a cell phone, MP3 player, GPS, non portable DVD player) then the video display device is not a CED and is not subject to the eWaste fee.

In addition, the following video display devices are specifically excluded from being CEDs:

- A video display device that is a part of a motor vehicle, as defined in section 415 of the Vehicle Code, or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.
- A video display device that is contained within or a part of a piece of industrial, commercial, or medical equipment, including monitoring or control equipment.
- A video display device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator

and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier.

- An electronic device, on and after the date that it ceases to be a covered electronic device.

CalRecycle Reduces Electronic Waste Recycling Fee Rates Beginning January 1, 2011

On July 26, 2010, the Director of the Department of Resources, Recycling and Recovery (CalRecycle) approved a decrease for all CEDs effective January 1, 2011. The new eWaste fee rates are as follows:

Screen size - measured diagonally	Fee
More than 4 inches, less than 15 inches	\$ 6.00
15 inches or more, less than 35 inches	\$ 8.00
35 inches or more	\$10.00

The BOE is responsible for collection of the eWaste fee.

If you have any questions regarding CEDs, please visit www.dtsc.ca.gov, or call 800-728-6942. If you would like to learn more about the eWaste program, please visit [CalRecycle](#) or call CalRecycle at 916-341-6000.

For more information about the BOE's role in the collection of the fee, see [publication 95](#), *Electronic Waste Recycling Fee*, [eWaste](#), or call our Taxpayer Information Section.

New cigarette tax stamps

A multi-year contract for encrypted cigarette tax stamps was awarded to SICPA Product Security, LLC, by the Department of General Services on July 23, 2010. The contract provides for encrypted cigarette tax stamps, stamping machinery, stamp validation equipment, and necessary services to support the administration of the California Cigarette and Tobacco Products Tax Law (Revenue and Taxation Code section 30161), see [publication 4](#), *California Cigarette and Tobacco Products Tax Law*.

As a result of an enhanced contract, a new counterfeit-resistant cigarette tax stamp was due to be released in November. In addition to the minimum requirements, the new stamp has:

- A color shifting effect visible to the human eye
- A visible serial number unique to each stamp
- Tamper evident surface cuts
- Expanded data encryption and other security features

Additionally, a low cost validation device that can authenticate the new stamp will be available for purchase at a nominal price.

The BOE is working with the vendor, SICPA, to roll-out these improvements and system software upgrades that are called for in the contract. Further details will be provided as information becomes available. Please visit Cigarette Tax Stamp Contract at www.boe.ca.gov for the latest information.

Cigarettes are subject to the cigarette tax and cigarette distributors must attach a tax stamp to each package of cigarettes before distributing it to wholesalers and retailers. The stamp indicates that cigarette tax has been paid.

Thinking of purchasing an existing business? Here is a piece of useful information to consider

The purchaser of a business can be held liable for taxes owed by the previous owner that includes current liabilities such as sales taxes payable to the state. The purchaser buying the entire business or stock of goods can be held liable to pay all taxes, penalties, and interest determined and unpaid at the time of the sale, to the purchase price of the business.

What can purchasers do to avoid having to pay someone else's sales tax liability? You can withhold a sufficient amount from the purchase price and pay the tax liability, or purchasers can obtain a Certificate of Tax Clearance. This certificate is an official document issued to a purchaser of a business by the BOE. Receiving this certificate relieves the purchaser of the responsibility for taxes, interest and penalty owed by the seller that may be unknown to the purchaser at the time of sale or transfer. Without a Certificate of Tax Clearance, the purchaser may be issued a notice of successor's liability within three years after the date the BOE receives written notice of the purchase of the business or stock of goods.

For additional information, see [Regulation 1702](#), *Successor's Liability*, or call our Taxpayer Information Section.

New regulation for audit procedures

New [Regulation 1698.5](#), *Audit Procedures*, describes the general procedures followed in BOE audits. The regulation explains the purpose of audits, the expected time-frame for completing audits, and the duties of BOE staff and taxpayers during an audit. The regulation also explains the general rules regarding the time and location of audits, requests to change locations, audit conferences, audit plans, record requests, and the presentation of audit findings.

If your business has been selected for audit, Regulation 1698.5 will give you information about what to expect during the audit process. You may also download a copy of [publication 76, Audits](#), for additional information including what to do if you disagree with the findings.

Annual Taxpayers' Bill of Rights Hearings to begin

Do you have suggestions for improving our services? Do you want us to look more closely at a tax or fee issue? If you do, come share your ideas and concerns with our Board Members at the annual Taxpayers' Bill of Rights hearings. You can present your proposal verbally or in writing.

The annual business and property taxes hearings for 2011 will be held in June in Culver City and in September in Sacramento. The dates and times were not yet set when this article went to press, but you may check our website or contact the Taxpayers' Rights Advocate for details.

Although you are not required to make advance arrangements to speak, it will help us to prepare if you contact the Taxpayers' Rights Advocate Office at 888-324-2798 beforehand to let us know your topic. If your proposal is complex or extensive, we encourage you to submit it in advance and then summarize it in your oral presentation.

For more details, please call the Advocate Office or visit us at www.boe.ca.gov (click on the tab "Your Rights" and choose "Taxpayers' Rights Advocate"), where you can also view the office's 2009-10 annual report, which will be available soon.

Be sure BOE has your current email address

In BOE's efforts to be greener and more cost effective, information like tax rate changes, newsletters, tax and fee updates, public meeting agendas, and announcements, will only be available electronically.

If the BOE does not have your account's email address, then you may not receive important information that could affect your business.

If you are a registered eClient, you can make changes to your email by logging in with your user ID and password. You can also fill out a [BOE-345-WEB, Notice of Business Change](#), to add or update an email address. Subscribe to our email BOE Updates and receive all the latest BOE news, on a monthly basis.

BOE's online educational seminars

The BOE announced the expansion of its online seminars to include numerous topics such as:

- Introduction to Basic Sales and Use Tax
- Sales and Use Tax for Nonprofit Organizations
- Property Tax Exemptions for Nonprofit Organizations
- How to Avoid Common Sales and Use Tax Mistakes
- eFile Demonstration
- How to eFile Your Use Tax Return

Please view them at www.boe.ca.gov/info/VirtualSeminars.

Civil behavior in trying times

We know that you may find yourself frustrated with the difficulties of the tax law or pressed for time when dealing with our staff. Still, we ask that you treat our employees just as you would like to be treated in a business situation. Any statement or gesture made to a BOE employee that seems remotely like a threat—even a statement made in jest—will be referred to our Internal Security and Audit Division for investigation.

Ethics at work—“thank you” is enough

We'd like to remind you that BOE policy prevents our employees from accepting gifts of any type. So if you're grateful to someone for going the extra mile to help you with a complicated issue, a simple “thank you” will do. You can also use our online Customer Service Survey form at www.boe.ca.gov/info/survey.htm to express yourself.

For More Information

All telephone numbers are toll-free.

Internet

www.boe.ca.gov
www.taxes.ca.gov

Taxpayer Information Section

800-400-7115

TTY: 711

Requests for Fax Copies

800-400-7115

(Choose automated services)

Seller's Permit Verification

888-225-5263

www.boe.ca.gov

Taxpayers' Rights Advocate

888-324-2798

www.boe.ca.gov

Tax Evasion Hotline

888-334-3300

State Legislation

www.leginfo.ca.gov/bilinfo.html

California State
Board of Equalization
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