



Special Notice

STATE BOARD OF EQUALIZATION

450 N STREET
SACRAMENTO, CA 95814

BOARD MEMBERS

BETTY T. YEE
First District
San Francisco

BILL LEONARD
Second District
Ontario/Sacramento

MICHELLE STEEL
Third District
Rolling Hills Estates

JEROME E. HORTON
Fourth District
Los Angeles

JOHN CHIANG
State Controller

EXECUTIVE DIRECTOR RAMON J. HIRSIG

BOE WEBSITE AND
BOARD MEMBER CONTACT
INFORMATION
www.boe.ca.gov



New Legislation to affect Certain Veterans

A new law will change the registration and reporting requirements for certain United States veterans who sell goods from temporary locations. Senate Bill 809 (Stats. 2009, Ch. 621) added Revenue and Taxation Code (RTC) section 6018.3, which provides that a “qualified itinerant vendor” is the consumer and not the retailer of tangible personal property owned and sold by the qualified itinerant vendor under specified conditions. RTC section 6018.3 becomes operative April 1, 2010 and will remain in effect until January 1, 2012.

What is the difference between a retailer and consumer?

In general, a retailer is required to hold a seller’s permit and report tax based on the taxable sales of products to their customers. When certain persons are considered the consumers of tangible personal property sold by them, it means that sales to such persons are retail sales for which either the sales or use tax applies. Resale certificates may not be issued by such consumers when making purchases. Since businesses generally owe tax on sales made to consumers, a qualified itinerant vendor should expect to pay an amount as “tax” when purchasing merchandise from their suppliers. As a consumer, a qualified itinerant vendor is not required to hold a seller’s permit.

Who is considered a “qualified itinerant vendor?”

A person is a “qualified itinerant vendor” when all of the following apply:

- The person was a member of the Armed Forces of the United States, who received an honorable discharge or a release from active duty under honorable conditions.
- The person is unable to obtain a livelihood by manual labor due to a service-connected disability.
- For the purposes of selling tangible personal property, the person is a sole proprietor with no employees.
- The person has no permanent place of business in this state.

Qualified itinerant vendors are responsible for maintaining documentation to establish they meet all of the criteria noted above.

What is considered a “permanent place of business?”

For the purpose of RTC section 6018.3, a “permanent place of business” means any building or other permanently affixed structure, including a residence, used for the purpose of making sales, or taking orders and arranging property for shipment.

A “permanent place of business” does not include any building or permanently affixed structure, including a residence, used for the storage of tangible personal property or the cleaning of equipment or other property used in connection with the manufacture or sale of tangible personal property.

Persons who are generally considered to *not* have a permanent place of business may include: vendors who only sell from mobile food carts or beverage stands, lunch wagons, and vendors who only sell at swap meets or other special events.

Are there exceptions to this new law?

The provisions of RTC section 6018.3 do not apply to the sale of alcoholic beverages and single items sold for more than \$100. Therefore, qualifying veterans continue to be regarded as retailers, rather than consumers, with respect to their sales of alcoholic beverages and

***Special Notice
New Legislation
to affect Certain
Veterans***

single items for more than \$100. Furthermore, the new provisions do not apply to a person who operates a vending machine or to a person engaged in the business of serving meals, food, or drinks to a customer at a location owned, rented, or supplied by the customer.

What should I do if I qualify as a consumer, but I currently have a seller's permit?

As a consumer, you are not required to hold a seller's permit and should complete BOE-65, *Notice of Close Out for Seller's Permit*. If you issued resale certificates to your suppliers, you should provide them with written notification of your consumer status, so that they may charge tax on your purchases of taxable products. Since the provisions of RTC section 6018.3 will only remain in effect until January 1, 2012, you will need to reapply for a seller's permit if you make sales after that date.

What should I do if I am uncertain whether I am considered a qualified itinerant vendor?

Those persons who are uncertain whether they qualify are encouraged to submit a written request for advice to: Audit and Information Section, MIC:44; State Board of Equalization; P.O. Box 942879; Sacramento, CA 94279-0044. As provided by RTC section 6596, if the Board of Equalization (BOE) 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 BOE, the person may be relieved from future tax liabilities.

Taxpayer Information Section

If you have any further questions regarding this notice, please visit our website at www.boe.ca.gov or call our Taxpayer Information Section at 800-400-7115 (TDD/TTY: 800-735-2929). Customer Service Representatives are available to assist you weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.