



# Tax Information Bulletin

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ISSUED QUARTERLY  
March 2002

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## What's Inside

**1. Alameda County's New District Tax**  
Voters have approved a new tax district, but the tax rate won't change. How is that possible?

### **2. Sales and Purchases in Cities That Have Their Own District Tax**

Be sure to add the city tax rate to the countywide rate.

### **3. How To Report Purchases Subject to Use Tax**

Often a stumbling block for retailers—find out which purchases must be reported.

### **4. New Seller's Permit Numbers**

If you see a seller's permit number that begins with "100-", don't be surprised.

### **5. Fixed-Price Contracts**

We need to correct ourselves. Fixed-price contracts are generally subject to  $\frac{1}{4}$ % percent tax rate increase that took effect January 1, 2002.

### **6. Hospitals and Medical Service Facilities**

It's time for an annual checkup. Read about important regulatory changes.

### **7. Accounts Receivable Acquired Without Recourse Eligible for Bad Debt Deduction**

Read this article for information on how bad debt deductions can apply to businesses that acquire such accounts or retailers who sell them.

### **8. Membership Fees—Taxable?**

When they are connected to retail sales, tax generally applies.

### **9. Purchases of Manufacturing Equipment**

Certain purchases are exempt from the state portion of the sales and use tax rate.

### **10. Help in Other Languages**

Help is available in Spanish, Korean, Chinese, Vietnamese, and other languages.

### **11. New or Revised Reference Material**

## **1. Alameda County To Have a New District Tax—Total Rate Will Remain at 8.25%**

On March 31, 2002, the Alameda County Transportation Authority (ACTA) 0.50 percent transactions and use tax will expire at midnight. However, voters in Alameda County approved a new 0.50 percent Alameda County Transportation Improvement Authority (ACTI) tax, which takes effect immediately after the ACTA tax expires. Consequently, the tax rate in Alameda County will remain at 8.25%.

### *Who must collect district tax?*

You must apply the 8.25% in Alameda County if you

- Are a retailer in Alameda County and your merchandise is sold and delivered within the county.
- Are a retailer located outside Alameda County who is engaged in business in the county and you sell merchandise for use in the county. You are considered to be engaged in business in the county if you (1) have any type of business location there, (2) deliver into the county using your own vehicles, or (3) have an agent or representative in the county who makes sales, takes orders, or makes deliveries for you.
- Are a dealer of vehicles, vessels, or aircraft and sell those items to customers who register them to an address located in Alameda County.
- Collect tax on lease payments you receive for leased property used by the lessee in Alameda County.

### *If you report yearly*

If you report taxes on an annual or fiscal year basis, be sure to keep track of your taxable Alameda County sales before and after April 1, 2002. When you complete your return, you will be asked to report your ACTA and ACTI sales separately.

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## 2. What Rate Do I Use for Cities That Impose a District Tax?

As most readers know, the base statewide sales and use tax rate in California is 7.25%.

However, in some parts of the state, voters have approved additional taxes to be imposed within their cities and/or countywide areas. This article focuses on citywide district taxes.

Currently, seven cities or towns in California have special tax districts that impose a transactions (sales) and use tax within their respective districts. However, as shown in the table below, some of those cities or towns are located in counties that have countywide tax districts. Consequently, sales and purchases in those cities are also subject to the countywide district tax rate(s).

### When am I required to report and pay district taxes?

You are required to report and collect district taxes only if you are engaged in business in the district. If you are not engaged in business in the district, you are liable only for the base statewide rate of 7.25%.

You are considered to be engaged in business in a tax district if you

- Are located in the district and your merchandise is sold and delivered within the district.
- Are located outside the district, but you
  - have a business location there (for example, a warehouse).
  - deliver property into the district using your own vehicles.
  - have an agent or representative in the district for the purpose of taking orders, selling, delivering, installing, or assembling.

- Are a dealer of vehicles, vessels, or aircraft and sell those items to customers who register them to an address located in the district.
- Collect tax on lease payments you receive for leased property used by the lessee in the district.

### Does the citywide district tax apply to sales and purchases outside the city limits?

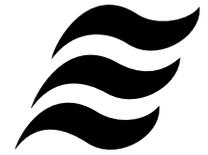
Only the sales or use of tangible personal property made within the city limits are subject to that city's district tax. For example, a restaurant owner has two locations—one in the City of Avalon and one in the City of Los Angeles. Both locations are in Los Angeles County where there are two additional countywide district taxes (0.5% each). For sales at the location in the City of Avalon, the taxpayer should apply the two countywide district taxes and the district tax imposed by the City of Avalon (0.5%), resulting in a total tax rate of 8.75%. For sales at the location in the City of Los Angeles, the taxpayer should only apply the two countywide district taxes, resulting in a total tax rate of 8.25%. The district tax imposed by the City of Avalon does not apply to sales made in the City of Los Angeles.

### Do I owe district tax for goods and merchandise shipped to a customer located in a tax district?

You are responsible for reporting the district tax *if you are engaged in business* in the district where the merchandise was shipped. Otherwise, you are not responsible for reporting the tax. See the left column for an explanation of "engaged in business."

For example, shipments made to the City of Clovis are subject to a combined rate of

City	County	Statewide Rate	City-Imposed District Tax	County-Imposed District Tax(es)	Total Rate for City
Avalon	Los Angeles	7.25	0.50	1.00	8.75
Calexico	Imperial	7.25	0.50	0.50	8.25
Clearlake	Lake	7.25	0.50	NONE	7.75
Clovis	Fresno	7.25	0.30	0.625	8.175
Placerville	El Dorado	7.25	0.25	NONE	7.50
Truckee	Nevada	7.25	0.50	0.125	7.875
Woodland	Yolo	7.25	0.50	NONE	7.75



8.175%, which is broken down as follows:

- 7.250%(statewide sales and use tax rate)
- + 0.625 (countywide district tax rate)
- +  $\frac{0.30}{8.175\%}$  (citywide district tax rate)

For more information on delivered sales, call our Information Center and request a copy of publication 105, *District Taxes and Delivered Sales*. This publication is also available on our website at [www.boe.ca.gov](http://www.boe.ca.gov).

**If I reported district tax in error (district tax did not apply to the transaction) and did not collect the district tax amount from my customer, can I get a refund?**

Yes. However, if you had collected the district tax from your customers, you must give back to them any tax that is refunded. You cannot keep the refund for yourself.

### 3. How To Report Purchases Subject to Use Tax

Most businesses understand when they must report and pay sales tax, but they aren't so sure what to do when it comes to use taxes. One of the most common reporting errors occurs on line 2 of the sales and use tax return "Purchases Subject to Use Tax."

**Common Errors Discovered in Audits**

sure what to do when it comes to use taxes. One of the most common reporting errors occurs on line 2

**What is "use" tax?**

Use tax generally applies to the use in California of tangible personal property that has been purchased without payment of California sales tax. Use tax does not apply to property held for resale, or for property that is used only for demonstration and display while being held for sale in the regular course of business.

**When do I owe use tax?**

Typically, you will owe use tax on property

- Purchased for resale, but withdrawn from inventory and used for another purpose, or
- Purchased for use from an out-of-state retailer who does not collect California tax.

**Examples**

- You buy office supplies over the Internet from an out-of-state vendor who does not

collect California tax. Since you will use the supplies in your business, you owe use tax on their purchase price.

- You operate a grocery store and purchase soda for resale without payment of California sales tax. However, instead of selling the soda, you give five cases to employees for the summer picnic. Since you used the soda instead of reselling it, you owe California use tax on the cost of the soda. Please note, if you gave employees food items for the picnic (for example, hot dogs, buns and chips), you would not owe use tax because you are consuming exempt food items.

You should report your use tax liability by reporting the purchase price on line 2 of your tax return "Purchases Subject to Use Tax."

*Note:* There are some instances where donations to certain charitable organizations are not subject to tax. For more information on these types of donations, contact our Information Center.

**What if I already paid use tax to my out-of-state supplier?**

You do not need to report the purchase on line 2 of your return if you already paid the correct amount of California tax to your out-of-state supplier. Some out-of-state retailers are required or have voluntarily registered to collect and report California use tax from their customers. In order to relieve your liability for the use tax, you must obtain and keep a receipt or invoice from the supplier that includes: the retailer's name, address and California seller's permit number or use tax registration number; your (the purchaser's) name and address; the date of sale; a description of the property sold; the sale amount and the amount of the tax paid.

For more information on use tax, please order publications 110, *California Use Tax Basics* and 112, *Purchases from Out-of-State Vendors*.



#### 4. New Seller's Permit Numbers Will Begin with "100--"

When you accept resale certificates from customers, you normally see that the numerical portion of seller's permits starts with "99--" or "97--" (older accounts may start with other numbers like "19--" or "21--"). By the time this article is published, we expect to be issuing new seller's permit accounts that begin with the prefix "100--." We want you to be aware of this new format so that if you are presented with a resale certificate from a new account holder, you will know a "100--" seller's permit is a valid format.

If you still have concerns, you may check the permit number's validity by calling our toll-free, 24-hour, automated verification service at 888-225-5263 or by visiting our website at [www2.boe.ca.gov/cgi-bin/boeinput.html](http://www2.boe.ca.gov/cgi-bin/boeinput.html). This online service is available between 5 a.m. and midnight, seven days a week. Please have the permit number, name and business address you wish to verify ready when you contact us.

#### 5. Correction: Fixed-price Contracts and the January 1, 2002, ¼% Sales Tax Increase

In our September 2001 *Tax Information Bulletin* we incorrectly stated that fixed-price contracts and fixed-price taxable lease agreements entered into prior to January 1, 2001 would be subject to the tax rates in effect at the time you and your customer entered into the contract. As explained in our November 2001 *Special Notice* on the increase, the Revenue and Taxation Code does *not* exempt fixed-price contracts or fixed-price leases from the ¼% rate increase. Consequently, the tax rate increase does apply to such contracts and leases. (*Exception:* Leases of mobile transportation equipment. Lessors who elect to pay their use tax liability measured by the fair rental value must pay tax at the rate in effect at the time the equipment is first leased. The tax rate will remain the same for all periods during which the equipment is leased.)

We apologize for any confusion our September article caused. If you have any questions,

please see the November 2001 *Special Notice* or call our Information Center.

#### 6. Tax Treatment for Hospitals and Other Medical Service Facilities

The following revisions were made in 2001 to Regulation 1503, *Hospitals, Institutions and Homes for the Care of Persons*, and Regulation 1591, *Medicines and Medical Devices*:

##### Regulation 1503

- Renamed to "Hospitals and other Medical Service Facilities, Institutions and Homes for Care of Persons."
- Abolished the distinction between administered and nonadministered medical supply items, making facilities providing medical services the consumers of tangible personal property used in the performance of those services or taken home after the period of stay. (Operative April 1, 2001.)
- Established that a "medical service facility" is a retailer when the items taken home are separately stated on the patient's billing or the contract between the facility and the patient specifically provides that title to the property passes to the patient. (Operative April 1, 2001.)
- Included medical service facilities, such as surgery centers and similar medical care facilities (whether patients are accepted for periods of less than or more than twenty-four hours) as consumers of property used in connection with their services.
- Included enteral feeding, Total Parenteral Nutrition (TPN) and Intradialytic Parenteral Nutrition (IDPN) within the definition of meals when served to patients of institutions.
- Included nutritional feeding supplies, such as feeding tubes, feeding bags, gastostomy tubes, jejunostomy tubes, nasogastric tubes, needles, syringes, cannulas, filters, locks, clamps, and connectors, within the definition of non-resusable items that become component parts of meals when provided to patients of institutions. Volumetric infusion pumps are *not* included unless the pump is used with a kidney dialysis machine.



### Regulation 1591

- Included enteral feeding, TPN and IDPN as a medicine.
- Included all the related nutritional feeding supplies mentioned above, as prosthetic devices under Regulation 1591 since nutritional feeding is a process that replaces the function of an esophagus for patients who have lost the capability to swallow food.

For more information or to obtain a copy of Regulation 1503 or Regulation 1591, please contact our Information Center, 800-400-7115. Or you may visit our website at [www.boe.ca.gov/sutax/staxregs.htm](http://www.boe.ca.gov/sutax/staxregs.htm).

## 7. Accounts Receivable Purchased from Retailers May Be Eligible for Bad Debt Deduction

Assembly Bill 599 (Chap. 600 Stats of 2000) amends Revenue and Taxation Code sections 6055 and 6203.5 to allow either a lender or a retailer to claim a bad debt deduction on taxable sales for accounts receivable sold "without recourse." "Without recourse" means that the lender will suffer any loss resulting from an uncollectible account. In essence, the lender accepts all the risks for collecting a debt acquired without recourse.

Prior to the adoption of AB 599, the law did not allow a bad debt deduction on an account receivable sold without recourse. There were no statutory provisions for a bad debt deduction to be granted to anyone other than the person responsible for the payment of the tax.

For taxes remitted on or after January 1, 2000, AB 599 allows a bad debt deduction to be claimed by either the retailer or lender for account receivables sold without recourse. The retailer and the lender must agree on whether the retailer or the lender is entitled to the bad debt deduction or refund and then file an election with the Board in a manner prescribed in the recently amended Regulation 1642, *Bad Debts*. In addition, claimants must register with the Board as a lender. As with other bad debt deductions, if a claimant obtains a tax benefit by deduction or refund for any amount it later

collects, that person must report tax on the subsequently collected amounts.

Claimants must be able to compute the taxable portion of the bad debt loss. This would exclude any nontaxable portions of the original sale as well as finance charges and late fees on the account. In addition, claimants must properly allocate the local and district taxes as remitted by the retailer. As with all bad debt deductions, the account must be both deemed to be worthless and written off for income tax purposes. While no specific form is required to file a claim for refund, all claims must be made in writing and state the specific grounds of the claim.

You can obtain copies of form BOE-101, *Claim for Refund*, and Regulation 1642, *Bad Debts*, from our website or by calling our Information Center at 800-400-7115. You can also visit our website or call our Information Center to obtain an application for a *California Certificate of Registration—Lender*, form BOE-400-MCL. Look under "Forms and Publications."

## 8. Are Membership Fees Taxable?

Most people's first reaction is that membership fees are not taxable due to their intangible nature. However, when membership fees are related to anticipated retail sales, those fees are taxable if

- The retailer sells merchandise to its members for a lower price than nonmembers who have not paid the fee, or
- The retailer sells its product only to members and the membership fee exceeds a nominal amount. Beginning January 1, 2001, Sales and Use Tax Regulation 1584, *Membership Fees*, defines a "nominal amount" as an amount totaling \$45 dollars or less a year. (This amount is subject to increase every five years based on a Consumer Price Index computation. The next evaluation occurs in June 2005.)

*Note:* Amounts received in conjunction with the basic membership fee such as add-on charges are not counted toward the \$45 nominal amount. Additional cards issued under the same membership number are sales of separate memberships.

Membership fees that are not related to anticipated retail sales are not subject to sales tax. For



example, when a country club charges fees (dues) to members and provides substantial service benefits, such as the use of golfing, tennis and swimming facilities, those membership fees are not related to sales even though the club may establish minimum meal and drink purchase requirements for its members.

## 9. Purchases of Manufacturing Equipment May Be Partially Exempt

Did you know that California provides a partial exemption from the sales and use tax for capital equipment purchases by certain new manufacturing businesses? Regulation 1525.2, *Manufacturing Equipment*, provides an exemption from the state general fund portion of the tax rate (currently 5%) for purchases by qualified persons of tangible personal property for use

1. In manufacturing, processing, refining, fabricating, or recycling,
2. In research and development activities described in Section 174 of the Internal Revenue Code,
3. To maintain, repair, measure, or test any property described in 1 or 2 above, or
4. By a construction contractor purchasing the property either as an agent of a qualified person or for the contractor's own account and subsequent resale to a qualified person for use in the performance of a construction contract for the qualified person who will use the tangible personal property as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or as a research or storage facility for use in connection with the manufacturing process.

This exemption is available for the first 36 months that a business is engaged in a qualifying new trade or business. In order to claim this partial exemption, the purchaser must preregister with the Board and be issued a certificate number.

### **Latest revisions to Regulation 1525.2, *Manufacturing Equipment*:**

- Previously, this regulation did not apply to purchases of tangible personal property acquired at a unit cost of \$250 or less. How-

ever, the regulation was amended last year to eliminate the \$250 threshold. The regulation also included a presumption that when the purchaser treated the property for income tax purposes as having a useful life of less than one year the property was considered a "consumable" and thus not eligible for this exemption. While this presumption still exists, the regulation has been amended to provide that the presumption may be overcome by evidence provided by the purchaser.

- Subdivision (f) was revised to provide a presumption that a retailer is acting in good faith when accepting an exemption certificate from a pre-qualified purchaser, absent any evidence to the contrary. Evidence to the contrary means that the retailer has direct knowledge the property will not qualify for the exemption as provided by the regulation.
- The regulation was amended in 2000 to allow claims for refund of the amount of the partial exemption not claimed in a timely manner by a qualified person who purchased qualified property from an in-state retailer or paid use tax on a qualified purchase. The claim must be filed according to the procedure described in section 6901 of the Revenue and Taxation Code. For transactions subject to use tax, a person filing a claim for refund of the partial exemption must establish that he or she was entitled to claim the partial exemption with respect to the amount of refund claimed. For transactions subject to sales tax, a person filing a claim for refund of the partial exemption must establish that the purchaser of the qualified property otherwise met all the requirements of a qualified person at the time of the purchase subject to the refund claimed.

Please call our Information Center if you have questions regarding this partial exemption. You can also call or go online to obtain a copy of Regulation 1525.2 or a copy of the application to register with the Board for the partial tax exemption (form BOE-231).



## 10. In Other Words—What We Say in Other Languages

To help all taxpayers understand the Sales and Use Tax Law, we provide a number of publications in different languages. For example, many publications are available in Spanish, Chinese, Vietnamese, and Korean, including publication 73, *Your California Seller's Permit*, and publication 51, *A Guide to Board of Equalization Services*.

A general information leaflet, *Making Sales in California* (publication 33), is also available in other languages, including German, Hindi, and Japanese. For a complete listing of our translated publications, please visit our website at [www.boe.ca.gov/transpubs.htm](http://www.boe.ca.gov/transpubs.htm).

In addition to providing publications to readers in other languages, we have staff available in our Information Center who can provide assistance in Spanish. And, as needed, we can connect individuals to other staff members who are proficient in more than one language.

In the example below, taken from a poster displayed in our district offices, we tell readers how to contact our Information Center or how to go online to obtain translated publications.

CHINESE 通知	KOREAN 알림	SPANISH Anuncio	VIETNAMESE Thông báo
我們已經得知你的要求並且，為了你的方便，我們已經為你翻譯了大多數最通用的稅的稅務刊物。為了獲得你所需要資訊：	여러분의 요청에 부응해서, 그리고 여러분의 편리를 위해서 인기 있는 대부분의 세금 안내서의 번역판을 마련했습니다. 필요한 정보를 얻으시려면:	Hemos escuchado sus peticiones y, para la conveniencia de usted, hemos traducido nuestras publicaciones más populares sobre impuestos. Para obtener la información que necesita:	Chúng tôi đã biết những yêu cầu của quý vị và, để tiện dụng cho quý vị, chúng tôi đã phiên dịch hầu hết các ấn bản phổ phổ cập về thuế để phục vụ quý vị. Muốn có thêm chi tiết, quý vị cần:
 請見傳達員要一份複本	 원하는 책자가 있으면 접수계 직원에게 부탁하십시오	 Pidale un ejemplar a la recepcionista	 Gặp nhân viên tiếp khách để có một ấn bản
 打電話給我們，電話是 1-800-400-7115	 전화 하십시오 1-800-400-7115 방문하십시오	 Llámenos al 1-800-400-7115	 Gọi cho chúng tôi tại số 1-800-400-7115
 接通我們在 <a href="http://www.boe.ca.gov/transpubs.htm">www.boe.ca.gov/transpubs.htm</a>	 웹사이트를 <a href="http://www.boe.ca.gov/transpubs.htm">www.boe.ca.gov/transpubs.htm</a>	 Conéctese con nosotros en la red, en el <a href="http://www.boe.ca.gov/transpubs.htm">www.boe.ca.gov/transpubs.htm</a>	 Đến với chúng tôi trên địa chỉ mạng lưới toàn cầu <a href="http://www.boe.ca.gov/transpubs.htm">www.boe.ca.gov/transpubs.htm</a>



## Changes to Tax Returns and the *Tax Information Bulletin*

### We're starting the year with a new look to your tax return

If you file sales and use tax returns BOE-401-A, BOE-401-G or BOE-401-E you'll notice a big change in the look of your return. Although you will report the same information you report on your current returns, the revised returns are laid out in a two-page format that is easier to read and complete. We have also revised the return instructions to help you adjust to the change. Please refer to those instructions if you have questions about filling out the new forms.

We began sending the revised returns with the January reporting period. We also revised form BOE-401-A2, which is a replacement return that can be used by BOE-401-A or BOE-401-EZ filers who may have lost the return mailed to them. Form BOE-401-A2 is available on our website.

### Changes planned for the June *Tax Information Bulletin*

When you receive your June *Tax Information Bulletin*, you will find that it has a much different look and feel. For example, it will be printed in color to make it easier to find information. And for some articles, you may be referred to other resources for more information. You may be referred to the Internet or our toll-free fax-back system, where you will be able to obtain an in-depth analysis on a topic—a more comprehensive analysis than can typically be provided in the newsletter. By using other information resources, we will be able to reduce the size of the *Bulletin* from eight pages to four.

We hope you will like the upcoming changes. When you receive your next *Bulletin*, please let us know what you think.

## 11. New or Revised Reference Material

If you would like to obtain a copy of any of the following reference material, please call the Information Center. Copies of some publications can also be obtained from our website at [www.boe.ca.gov](http://www.boe.ca.gov).

### Sales and Use Tax Publications

- 71 California City and County Sales and Use Tax Rates (January 2002)
- 74 Closing Out Your Seller's Permit (December 2001)
- 77 Out of State Sellers: Do You Need To Register with California? (November 2001)

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### *For More Information*

#### Information Center

800-400-7115

*Telephone devices for the deaf*

800-735-2929 (TDD) • 800-735-2922 (voice)

#### Internet

[www.boe.ca.gov](http://www.boe.ca.gov)

[www.taxes.ca.gov](http://www.taxes.ca.gov)

#### Seller's Permit Verification

Go online, [www.boe.ca.gov](http://www.boe.ca.gov), or call toll-free, 888-225-5263.

#### Taxpayers' Rights Advocate

Call toll-free, 888-324-2798.

#### Tax Evasion Hotline

Call toll-free, 888-334-3300.

#### Legislative Bills

[www.leginfo.ca.gov](http://www.leginfo.ca.gov)

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