



Special Notice

Vehicles, Vessels, and Aircraft Purchased Out of State

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Board website and Member contact information:

www.boe.ca.gov

Taxpayers' Rights Advocate: 888-324-2798

The approval of the 2004-2005 California Budget included Senate Bill 1100 (SB 1100), which in part amends Revenue and Taxation Code (RTC) section 6248 to replace the existing "90-day test" with a "12-month test" to determine whether the out-of-state purchase of a vehicle, vessel, or aircraft was for the purpose of storage, use, or other consumption in California and therefore subject to California use tax. Assembly Bill 1809 (Chapter 49, Statutes of 2006) extends the previous sunset date of section 6248 from June 30, 2006 to June 30, 2007.

From October 2, 2004, through June 30, 2007, any vehicle, vessel, or aircraft purchased outside of California and brought into the state within 12 months from the date of its purchase is presumed to be acquired for storage, use, or other consumption in California and subject to tax if any of the following occur:

- the vehicle, vessel, or aircraft was purchased by a California resident as defined in section 516 of the California Vehicle Code, **or**
- in the case of a vehicle, the vehicle was subject to vehicle registration in California during the first 12 months of ownership, **or**
- in the case of an aircraft or vessel, the aircraft or vessel was subject to property taxation in California during the first 12 months of ownership, **or**
- the vehicle, vessel, or aircraft is used or stored in this state for more than one-half of the time during the first 12 months of ownership.

Under any of the conditions described above, it is presumed that the vehicle, vessel, or aircraft was purchased for use in California and use tax will apply. However, if a purchaser provides satisfactory documentary evidence showing that the vehicle, vessel, or aircraft was purchased for use outside of California during the first 12 months of ownership, use tax will not apply. Acceptable evidence may include proof of registration of that vehicle, vessel, or aircraft with the proper out-of-state authority. This documentation must be submitted to the Board of Equalization for evaluation.

Binding Contract: The provisions of amended RTC section 6248 do not apply if a vehicle, vessel, or aircraft is purchased, or is the subject of a binding purchase contract that was entered into, on or before October 1, 2004.

Resident: Vehicle Code section 516 provides in part that a "resident" means any person, including a natural person, firm, partnership, association, limited liability company, or corporation, who shows an intent to live or be located in California on more than a temporary basis. A person's presence in California for six months or more in any 12-month period creates a rebuttable presumption of residency, as evidenced by factors including, but not limited to, the address where the person is registered to vote, their place of employment, or business location.

LIMITED EXCLUSIONS

Repair, Retrofit, and Modification of Aircraft and Vessels

An aircraft or vessel is not presumed to have been purchased for use in California, and is therefore not presumed to be subject to use tax, if the aircraft or vessel is brought into this state within the first 12 months of ownership for the limited purposes of repair, retrofit, or modification, provided that no more than 25 hours of air or sailing time in California is logged for incidental or other use. This exclusion does not apply to vehicles.

Interstate or Foreign Commerce

If a purchaser claims that a vehicle, vessel, or aircraft which enters California within 12 months from the date of its purchase was not purchased for use in California because of its use in interstate or foreign commerce, the use may qualify for exclusion from tax. If the vehicle, vessel, or aircraft is first functionally used outside of California and one-half or more of the vehicle miles traveled, nautical miles traveled, or flight time traveled, respectively, during the six-month period immediately following its entry into the state are commercial miles traveled or commercial flight time traveled in interstate or foreign commerce, the use of the property in California is excluded from use tax.

Registration of a Vehicle with California DMV

Form BOE-447, *Statement Pursuant to Section 6247 of the California Sales and Use Tax Law*, is used by a purchaser to claim that their vehicle purchase was for use outside of the state. This form is also used by a dealer to document that a California resident purchased the vehicle for use outside of the state. When a California resident brings their vehicle into California during the first 12 months of ownership, the Board considers the vehicle to be purchased for use in California and use tax may apply. If use tax applies, the purchaser must remit the tax directly to the Board of Equalization.

Form BOE-448, *Statement of Delivery Outside California*, is used by a dealer to certify that a vehicle was delivered to a purchaser outside California. It is used by a purchaser to support the fact that delivery was accepted out of state.

The registration of a vehicle with the California DMV by a California resident supports an intent to use a vehicle in California. A dealer may complete the DMV registration of a vehicle for its California customers. However, if the dealer accepts BOE-447 from a California resident who requests that the dealer register the vehicle in California, the dealer's good faith acceptance of this certification may be questioned.

The Continuation of Other Existing Requirements

SB 1100 amended RTC section 6248 to expand of the "90-day test" to a "12-month test." This expanded "12-month test" applies only to the use of vehicles, vessels, and aircraft, having no effect on the "90-day test" applicable to the use of all other types of tangible personal property. Additionally, amended section 6248 does not change the imposition of use tax on tangible personal property, including vehicles, vessels, and aircraft, purchased outside of the state and first functionally used in California.

For More Information

Information on use tax due on purchases of vehicles, vessels, and aircraft is found on our website at www.boe.ca.gov/sutax/faqtrans.htm. For any questions regarding use tax or this notice, please call our Information Center at 800-400-7115 (TDD/TTY: 800-735-2929). Staff are available to take your calls weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.
