

Cigarette AND Tobacco Products Taxes NEWSLETTER

 Board of Equalization

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Welcome to our new Cigarette and Tobacco Products Taxes Newsletter!

This publication is geared specifically to our cigarette and tobacco products taxpayers. In this publication we summarize changes to tax laws administered by the Board of Equalization (BOE) that affect you and provide articles of general interest. This publication is also available on line at www.boe.ca.gov/news/etncont.htm. For more information regarding other special taxes and fees administered by the BOE, please visit our website at www.boe.ca.gov/index.htm or sign up online to receive our new Special Taxes and Fees Newsletter at www.boe.ca.gov/news/newsletters.htm and select *Get BOE Updates*.

New legislation takes effect January 1, 2011

The following is a summary of the changes in law that the Legislature enacted during the 2010 legislative session. These changes affect the cigarette and tobacco products tax programs administered by the BOE. For copies of these bills, please write to the Legislative Bill Room, 1303 10th Street, Room B32, Sacramento, CA 95814, or you can visit their website at www.leginfo.ca.gov/bilinfo.html.

- **Assembly Bill 2496 (Stats. 2010, ch. 265)** enhances the licensing requirements under the Cigarette and Tobacco Products Licensing Act (Licensing Act) by adding requirements that manufacturers and importers must fulfill to obtain and maintain a Licensing Act license. It is intended to allow for better enforcement with respect to Internet sales and other delivery of cigarettes and tobacco products in this state, to strengthen the Attorney General and BOE's ability to diligently enforce the Model Statute¹ and Tobacco Directory Law, and to provide retailers relief from any financial hardship resulting from the loss of cigarettes and tobacco product inventory when it becomes illegal to sell a product because it has been removed from the Tobacco Directory. AB 2496 permits a licensed retailer to possess, transport, and sell cigarettes removed from the Tobacco Directory for 60 days before products become subject to seizure and destruction.

Additionally, AB 2496 gives BOE Investigations Division staff authority to conduct inspections at any site where evidence of activities involving evasion or other violations of the Licensing Act may be discovered. The bill also prohibits wholesalers and retailers from obtaining packages of cigarettes to which a stamp is affixed in violation of the Licensing Act and stipulates that cigarettes not listed in the Tobacco Directory cannot be legally stamped, sold, or purchased for use in California. It also expands the violation provisions of the Licensing Act that may result in the exclusion of a manufacturer's product from the Tobacco Directory.

¹Article 3 (commencing with Section 104555), Chapter 1, Part 3, Division 103 of the Health and Safety Code.

- **Assembly Bill 2733 (Stats. 2010, ch. 607)** requires that a licensed retailer (licensee) ensures that during a period of license suspension or revocation, cigarettes and tobacco products are not displayed for sale. The licensee also is required to post a notice of suspension or revocation at entrances and cash registers and is prohibited from gifting the product during the suspension or revocation period. The bill imposes additional fines and penalties for these violations.
- **Senate Bill 1028 (Stats. 2010, ch. 316)** permits the members of the BOE, meeting as a public body, until January 1, 2016, to find, subject to certain conditions, that it is inequitable to compute the interest on a late payment of a tax or a fee on a monthly basis and to instead compute the interest due on a daily basis, if the payment is made one business day after the payment was due. This bill also specifies that these provisions apply only to electronic payments or prepayments of taxes, fees, and surcharges.

Remember to check the California Tobacco Directory

It is illegal to put a state tax stamp on cigarettes, pay the tax on roll-your-own tobacco, or sell cigarettes and roll-your-own products unless the manufacturer and the brand family are authorized for sale and listed in the California Tobacco Directory (Directory) (<http://ag.ca.gov/tobacco/directory.php>). Please refer to the Directory for a list of manufacturers and brand families that are certified as being in compliance with California law. Violations of the law are subject to civil and criminal penalties, and products not listed on the Directory can be seized as contraband.

Five year contract awarded to SICPA Product Security, LLC for cigarette tax stamps and equipment

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, et seq.). The new contract is for a set term of five years and contains optional provisions to extend the term up to an additional four years (in two-year increments).

The BOE and SICPA have developed an implementation plan for the roll-out of some improvements and system software upgrades that

For additional information you may download regulations, forms and publications from our website or you may call our Taxpayer Information Section to talk to a Board of Equalization representative.

BOE website and Board Member contact information: www.boe.ca.gov

Taxpayer Information Section
800-400-7115
TDD/TTY 800-735-2929

Taxpayers' Rights Advocate
888-324-2798

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are called for in the contract, including a new look to the cigarette tax stamp. For the latest information regarding the new cigarette tax stamp contract, visit www.boe.ca.gov/info/fact_sheets/cig_tax_stamp.htm.

Maintaining your cigarette distributor account

- **Removing authorized purchasers:** Please remember to keep your list of authorized purchasers current. Remove former employees and employees who are no longer responsible for ordering stamps for your cigarette distributor account from your list of authorized purchasers. To remove an authorized purchaser, please submit a request in writing to Cigarette Tax Stamp Program (Stamp Desk), MIC:41, Compliance Branch, State Board of Equalization, P.O. Box 942879, Sacramento, CA 94279-7077. Your request should state your business name, cigarette distributor account number, authorized purchaser's name, authorized purchaser's email address, and the name and signature of the distributor's principal owner or authorized representative.
- **To purchase cigarette tax stamps:** You must be a licensed cigarette distributor and have a stamping machine. You must then register as a cigarette tax stamp purchaser.
- **To register as a cigarette tax stamp purchaser:** You must complete and submit a BOE-400-ACTS, *Application for Licensed Cigarette Distributor to Register Cigarette Tax Stamp Purchaser*. If you have more than one cigarette distributor account, you must submit separate applications for each account. The registration requirement protects you by making sure that only authorized representatives can make purchases that will be charged to your account. Your application must designate a specific person to make purchases for you. If you wish to authorize more than one person to make stamp purchases, you must submit a separate application for each person. Each authorized purchaser will have a unique user ID and password.
- **Changes of mailing or email addresses:** You must inform the Stamp Desk, in writing, of any changes to your business or email address.
- **Changes to your data communications network:** The high-volume stamp machines are synchronized with SICPA's Data Management System on a daily basis through a high-speed data line. If you plan to make changes to your data communications network or switch Internet service providers, please call SICPA Product Security's Customer Support line at 703-440-7791. Staff can help you with any changes or adjustments that need to be made to the stamping machine. If you have specific questions regarding cigarette tax stamps or need to make changes to your authorized purchasers, please contact the Stamp Desk in writing at the address above or telephone: 916-341-6923 or fax: 916-327-6235.

Notify the BOE if you move, change ownership, or sell your business

Your cigarette and tobacco products retailer license is valid only for the type of ownership and location specified on the license. The license is not assignable or transferable. Any person with a license as a retailer who ceases doing business, who never commenced business, or whose license is suspended or revoked, must notify the BOE immediately by writing to the State Board of Equalization, Special Taxes and Fees Division, P.O. Box 942879, Sacramento, CA 94279-0088 and make arrangements to surrender the license.

If you are purchasing a business which was licensed to sell cigarettes and tobacco products, the BOE recommends that you obtain a detailed list of the inventory, including purchase invoices indicating

the excise tax has been paid on all cigarette and tobacco products in the inventory.

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 orally 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.

Know your rights

As a taxpayer, you have many rights under the law, including the right to:

- Receive information and assistance to help you comply with the law
- Be treated fairly and courteously, and receive prompt service
- Appeal a decision or claim a refund as allowed by law

Of course, along with those rights, you have certain responsibilities, including the responsibility to:

- Keep informed about tax laws and regulations that affect your business
- Report and pay taxes and fees when due
- Maintain adequate records

For more information about your rights you may order publication 70, *Understanding Your Rights as a California Taxpayer*.

CIVIL BEHAVIOR IN TRYING TIMES

Some observers have noted that civility is decreasing in our society as our lives become more complex. 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 Board of Equalization 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 would like to remind you that BOE policy prevents our employees from accepting gifts of any type. So if you are 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.