

Seizures

Seizures of cigarettes or tobacco can occur for many reasons, including:

- Counterfeit, counterfeit-stamped, unstamped, or out-of-state stamped cigarettes.
- Cigarettes “Not for Sale in U.S.”
- Cigarettes not listed in the Attorney General’s CA Tobacco Directory.
- Untaxed Tobacco:
 - Products purchased from an unlicensed out-of-state supplier.
 - Products not supported by valid purchase invoices.



The Cigarette and Tobacco Products Licensing Act provides broad authorities to the Board of Equalization, including the seizure of untaxed cigarette and tobacco products.

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Products will also be seized if:

- Cigarettes or tobacco products are sold while a cigarette and tobacco license is suspended or revoked.
- There is continued unlicensed sales of cigarettes or tobacco.

Note: Products seized for continued unlicensed sales or during a period of suspension or revocation are deemed forfeited to the State.



The Act also authorizes the Board to seize cigarette and tobacco products from retailers who make unlicensed sales or sales while their license is suspended or revoked.

Top Two Reasons for Cigarette Seizures in FY 2008-09

- Unstamped cigarettes.
- Cigarettes not listed on the California Tobacco Directory.



The top two reasons the Board seized cigarettes in fiscal year 2008-2009 were for possession of unstamped cigarettes and for possession of cigarettes not listed on the California Tobacco Directory.

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What happens if products are subject to seizure?

- The BOE inspector will take a physical inventory of what is to be seized and list the products seized on the *Receipt for Property Seized* form. The form includes:
 - Date and time of seizure
 - Name and signature of BOE inspector seizing the product
 - Name of the owner of items seized (i.e., sole proprietor, LLC, corporation, etc.) and business address where seizure occurred



If a seizure of product is necessary, the Board will physically take control of the product and provide you with a Receipt for Property Seized. The receipt will include the date and time of seizure, a list of the items seized, the name and signature of the Board inspector, and the owner's name.

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When inspectors seize cigarette or tobacco products, the BOE is required to notify business owners in writing:

- That their product was seized.
- When it occurred.
- What was seized.
- Their petition rights.

This information is mailed to the business owner(s) with the *Notice of Seizure and Forfeiture*.

When a seizure is made, the Board of Equalization is required to notify the business owner in writing. A “Notice of Seizure and Forfeiture” letter will be mailed to notify the owner a seizure occurred, the date of the seizure, a description of the products seized, and an explanation of their right to petition for the release of the product.

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The Notice will be mailed to:

- The business mailing address for sole proprietors.
- The business mailing address and personal residence of each partner in a partnership.
- The business mailing address and agent of service as listed with the Secretary of State for a corporation or LLC.

A petition form for the release of property seized is included with the *Notice*.

If your business is a sole proprietorship, the Notice will be mailed to your business mailing address. If your business is a partnership, it will be mailed to your business mailing address and personal residence of each partner. For corporations, the Notice is mailed to the corporation's business mailing address and the agent of service as recorded with the Secretary of State. Included in the Notice is a petition form for the release of the property seized.

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To request the return of property seized, a Verified *Petition for Release or Recovery of Property* must be filed in writing within **20 days** from the date of the *Notice of Seizure and Forfeiture*.

Note: The Board of Equalization is not legally permitted to return seized cigarettes or tobacco products unless they were erroneously or illegally seized.



To request the return of property seized, you must file a Verified Petition for Release or Recovery of Property in writing within 20 days from the date of the Notice of Seizure and Forfeiture. It is important that you read and understand all seizure-related correspondence sent to you by the Board of Equalization. If you have any questions, please don't hesitate to get in touch with a Board representative.

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- If cigarettes or tobacco products are seized due to continued “unlicensed” sales or sales during a period of suspension or revocation, a BOE-881, *Property Receipt* is issued.
- The inspector will fully explain the reason for this type of seizure.

Note: Products seized under these circumstances are deemed forfeited to the State and may not be petitioned for their return. Products legally forfeited to the State are not returnable.



If your products are seized due to continued unlicensed sales or sales made while your license is suspended or revoked, you will receive a Property Receipt listing the items seized. Products seized under these circumstances are deemed forfeited to the State. Products legally forfeited to the State are not returnable.

Public Notice of Seizure

The BOE is required to publicly notice the seizure of cigarette or tobacco products when:

- The seizure is 61 or more cartons of cigarettes,
- The wholesale cost of tobacco products seized is equivalent to 61 cartons of cigarettes, or
- The combined value of cigarettes and tobacco products seized is equivalent to 61 cartons of cigarettes.

Notice of Seizure Website:

www.boe.ca.gov/news/seizurecigtoboprod.htm

The Board is required to provide a public notice of seizure of cigarettes or tobacco products

- when the seizure of cigarettes is more than 60 cartons,
- when the wholesale cost of tobacco products seized is equivalent to 61 cartons of cigarettes,
- or when the combined value of cigarettes and tobacco products is equal to 61 cartons of cigarettes.

This public notice is posted on the Board's website.

What happens to seized product?



- Seized property is stored in a secured area as evidence.
 - When the petition process is complete and no further action is necessary, the evidence custodian will destroy forfeited products.
 - The time between seizure and destruction of property seized will vary depending on the circumstances of the seizure and/or length of petition process.
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When product is seized, it is stored in a secured area as evidence. Once the petition process is complete and no further action is necessary, the product will be destroyed to a point it is no longer marketable. The product is not resold or reintroduced into the marketplace.