

**Amend Sections 5027 and 22255 of the Business and Profession Code to require certified public accounts and tax preparers that complete income and/or sales tax returns to complete required continuing education in the Sales and Use Tax Law.**

**Source: Sales and Use Tax Department**

**Existing Law.** Under specified provisions of the Business and Professions Code, the California Board of Accountancy (CBA) is charged with regulating the accounting profession for the public interest by establishing and maintaining entry standards of qualification and conduct within the accounting profession, primarily through its authority to license. Under these provisions, the CBA, among other things, certifies, licenses, and renews licenses of individual certified public accountants (CPAs) and public accounts (PAs), sets continuing education requirements, and monitors compliance with those requirements. Such licensees are required to comply with continuing education requirements adopted by the CBA as a prerequisite to the renewal of their licenses.

The California Tax Education Council (CTEC) is the organization that registers “tax preparers,” the second largest segment of tax preparation professionals serving California. Anyone who, for a fee, assists with or prepares a state or federal income tax return, excluding CPAs, attorneys and enrolled agents or their employees, must be registered with CTEC.

The CTEC is charged with providing a list of approved curriculum providers, approving providers of tax education, and verifying and registering tax preparers who must obtain a bond.

Under the law, neither the CBA or the CTEC require that the continuing education requirements of CPAs, PAs, or tax preparers include training in the area of the Sales and Use Tax Law.

Under the existing Use Tax Law, Chapter 3 (commencing with Section 6201) of Part 1 of Division 2 of the Revenue and Taxation Code, a use tax is imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer. The use tax is imposed on the purchaser, and unless that purchaser pays the use tax to a retailer registered to collect the California use tax, the purchaser is liable for the tax, unless the use of that property is specifically exempted or excluded from tax. The use tax is the same rate as the sales tax and is generally required to be remitted to the BOE on or before the last day of the month following the quarterly period in which the purchase was made, or to the FTB via the income tax return. A use tax liability is most commonly a result of a California consumer or business making a purchase of an item for its own use from an out-of-state retailer that is not registered with the BOE to collect the use tax.

**This Proposal.** This proposal would amend the Business and Professions Code to do the following:

- Amend Section 5027 to require a licensee who renews his or her CPA or PA license after January 1, 2013, and who prepares income tax returns filed with FTB or sales and use tax returns filed with the BOE, to include as part of their required continuing education, training in the Sales and Use Tax Law, as specified.

- Amend Section 22255 to require a tax preparer to demonstrate that he or she has, among other things, completed at least four hours of instruction in the Sales and Use Tax Law by an approved curriculum provider, as specified, and, with regard to continuing education, requires a tax preparer to complete training in the Sales and Use Tax Law annually as part of the four hours in required continuing education in California taxation.

**Background.** The collection of use tax relies heavily on the voluntary compliance of purchasers of tangible personal property. However, due to the general misconception that purchases from outside this state are "tax free" and that audit resources are insufficient to pursue all purchasers, the voluntary compliance rate has been very low. Untaxed purchases from out-of-state retailers remains the largest area of non-compliance the BOE's audit staff encounters.

The BOE is the state agency responsible for administering the provisions of the use tax. However, in an effort to increase voluntary compliance by purchasers not registered with the BOE, legislation enacted in 2003, SB 1009, (Alpert, Ch. 718) required the Franchise Tax Board (FTB) to add a line to the state's income tax forms allowing taxpayers to self report their use tax liabilities to the FTB. Recent legislation (SB 86, Ch. 14, Stats. 2011) has further simplified use tax reporting by allowing certain purchasers to use a "look-up table" for calculating the use tax liability to report on the income tax return filed with FTB.

This proposal addresses continuing education requirements for CPAs and registered tax preparers only and would not apply to enrolled agents or attorneys. There are approximately 54,000 licensed CPAs and 24,000 registered tax preparers in this state. However, there are less than 1,000 enrolled agents in California. Therefore, the continuing education requirements contained in this proposal would apply to a very large percentage of professionals who prepare and file tax returns.

*Section 5027 of the Business and Professions Code is amended to read as follows:*

5027. The board shall by regulation prescribe, amend, or repeal rules including, but not limited to, all of the following:

- (a) A definition of basic requirements for continuing education.
- (b) A licensee who plans, directs, or approves any financial or compliance audit report on any governmental agency shall complete a minimum of 24 hours of qualifying continuing education in the area of governmental accounting and auditing or related subjects during the two-year license renewal period.
- (c) A licensee who provides audit, review, other attestation services, or issues compiled financial statement reports shall, during the two-year license renewal period, complete a minimum of 24 hours of qualifying continuing education in the area of accounting and auditing related to reporting on financial statements.
- (d) A licensee with a valid permit to practice public accountancy shall, within a six-year period, complete a continuing education course on the provisions of this chapter and the rules of professional conduct.
- (e) A licensee who prepares tax returns pursuant to Part 1 (commencing with Section 6001), Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001) of Division 2 of

the Revenue and Taxation Code and renews his or her license after January 1, 2013, shall include as part of his or her continuing education, training in the Sales and Use Tax Law as set forth in Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(f) ~~(e)~~ A licensee on inactive status shall complete the continuing education course required by subdivision (d) prior to reentering public practice.

(g) ~~(f)~~ A delineation of qualifying programs for maintaining competency.

(h) ~~(g)~~ A system of control and compliance reporting.

In exercising its power under this section for the interests of consumer protection, the board shall establish standards which will assure reasonable currency of knowledge as a basis for a high standard of practice by licensees. The standards shall be established in a manner to assure that a variety of alternatives are available to licensees to comply with the continuing education requirements for renewal of licenses and taking cognizance of specialized areas of practice.

*Section 22255 of the Business and Professions Code is amended to read as follows:*

22255. (a) The council shall issue a "certificate of completion" to the tax preparer when the tax preparer demonstrates that he or she has (1) completed not less than 60 hours of instruction in basic personal income tax law, theory, and practice by an approved curriculum provider within the previous 18 months; and (2) completed not less than four hours of instruction in the Sales and Use Tax Law, as set forth in Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, by an approved curriculum provider within the previous 18 months, and (3) provides evidence of compliance with the bonding requirement of Section 22250, including the name of the surety company, the bond number, and the bond expiration date. Of the required 60 hours, 45 hours shall be concerned with federal tax curriculum and 15 hours shall be concerned with state tax curriculum.

(b) A tax preparer shall complete on an annual basis not less than 20 hours of continuing education, including 12 hours in federal taxation, four hours in California taxation, including continuing education in the Sales and Use Tax Law, as set forth in Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, and ~~an additional~~ four hours in either federal or California taxation from an approved curriculum provider. The council shall issue annually a "statement of compliance" when the tax preparer demonstrates that he or she has (1) completed the required 20 hours of continuing education, and (2) provides evidence of compliance with the bonding requirement of Section 22250, including the name of the surety company, the bond number, and the bond expiration date.

(c) An individual who possesses a minimum of two recent years experience in the preparation of personal income tax returns may petition the council to review the experience and determine if it is the equivalent of the required qualifying education. The council may provide that individual with a "certificate of completion" if it is determined that the experience is the equivalent of the required hours. Tax preparation performed in situations that violate this chapter, by an individual who is neither registered nor exempted, may not be used toward the qualifying experience needed for registration as a tax preparer.