



## Bankruptcy information on the BOE website

As a result of the downturn of the economy, many business owners have been forced to close their businesses or are suffering extreme financial hardships. This can sometimes leave the owner of the business with mounting debt including owing outstanding taxes or fees. Filing bankruptcy is an option that some business owners explore. The Board of Equalization (BOE) recognizes that our taxpayers need additional information regarding bankruptcy. In response, we have added a new feature to our website. A link is now available on the left hand panel of our homepage, [www.boe.ca.gov](http://www.boe.ca.gov) for taxpayers who are in bankruptcy, or are contemplating bankruptcy. The link, [www.boe.ca.gov/legal/legalbankruptcy.htm](http://www.boe.ca.gov/legal/legalbankruptcy.htm) will take you to information regarding what happens with a BOE account or permit and associated liability when a taxpayer files for bankruptcy. The new page includes information on where to serve legal documents, and answers frequently asked questions such as:

- How can I contact the BOE about my bankruptcy?
- I filed bankruptcy. Why am I still receiving notices from the BOE?
- Do I have to file tax returns while in bankruptcy?

Many other bankruptcy questions can be answered by accessing this useful resource. If you are unable to find an answer to your question, the page provides contact information for the Special Operations Branch Bankruptcy Unit, which handles all bankruptcy related matters.

## Online business registration coming soon

The BOE will be offering a new service called eReg that will allow businesses to register for a permit or license online for the tax and fee programs administered by the BOE.

The new eReg system will be implemented in early 2012. eReg will provide you an easy, quick, and accurate method of registering your business. No more filling out paper applications! The new system will also create efficiencies and generate cost savings for California.

eReg will guide you through the process whether or not you know what type of registration you require. Answers to questions regarding your business activity will determine the appropriate registration type(s) required.

As we approach implementation, details regarding the new system will be available on our website, [www.boe.ca.gov](http://www.boe.ca.gov)

## BOE investigator imposters

Be on the lookout for impersonators presenting themselves as BOE representatives or investigators. Several retailers have reported that suspects have entered their store, identified themselves as BOE representatives, asked for information that must be retrieved from another area of the store, and then stolen cash, cigarettes, and other tobacco products.

BOE staff routinely visit businesses to verify whether businesses have the proper permits and licenses. During these visits, BOE representatives may review business records or evaluate the business operation to ensure owners are reporting accurately. On occasion, BOE representatives may collect payments for liabilities or fees that are due to the BOE.

If a BOE representative visits your business, they WILL:

- Identify themselves and show BOE identification and business card,
- Explain the nature of the visit and verify required permits and licenses,
- Update BOE account information for any changes, educate business owners and answer any questions,
- Perform a cursory review of the business operations and compare to reported amounts to provide guidance on proper reporting,

## BOARD MEMBERS

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- Provide a BOE issued receipt if funds are collected for outstanding liabilities or fees owed,
- Provide information about owners' legal rights, and
- Provide a detailed inventory for any seized cigarette or other tobacco products found to be non-tax paid, or otherwise non-compliant.

A BOE representative will NOT:

- Charge money or fees for services rendered or sell or endorse any products,
- Ask you to provide security code information or collect any money from you without providing a BOE issued receipt, or
- Be overly aggressive.

If you believe the person visiting your office is suspect or if you have concerns, do not give out any personal or secure information to the suspicious individual. Immediately contact your local law enforcement agency. When it is safe to do so, contact BOE's hotline number at 888-334-3300 to report the incident. Please refer to our [Special Notice \(L-287\)](#) for more information.

## Sales tax charged on cold food products—is this correct?

Have you ever wondered why you are generally charged sales tax on your purchase of ice cream treats and other cold food products at a county fair?

Under [Regulation 1603](#), *Taxable Sales of Food Products*, tax generally applies to sales of food products when sold within, and for consumption within, a place the entrance to which is subject to an admission charge, except for national and state parks and monuments, marinas, campgrounds, and recreational vehicle parks.

Generally, the sales of all food items is taxable when consumed on the premises where admission is charged including the following examples:

- Ice cream bars, popsicles, and various frozen treats
- Popcorn, kettle corn, potato chips, and various snacks
- Noncarbonated beverages, cold sandwiches, and salads sold at amusement park restaurants even if purchased to-go

When food products are sold within a place the entrance to which is subject to an admission charge, it will be presumed, in the absence of evidence to the contrary, that the food products are sold for consumption within the place. Obtaining and retaining evidence to rebut the presumption and support any claimed tax exemption is the responsibility of the retailer. Such evidence may consist, for example, of supporting documents which provide proof that the sales were of canned jams, cake mixes, spices, cooking chocolate, or other items in a form in which it is unlikely that such items would be consumed within the place where sold.

For additional information, please refer to [Regulation 1603](#), *Taxable Sales of Food Products*, or call our Taxpayer Information Section at 800-400-7115.

## Underground storage tank maintenance fee

The underground storage tank maintenance fee is imposed upon the owner of an underground storage tank (UST) for each gallon of petroleum placed into the tank. The owner of the UST is liable for the payment of the fee. This is true even if the owner does not operate the tank. The owner is liable for the fee even if the owner and operator have entered into an agreement that requires the operator to pay the fee to us.

Without documentation to the contrary, the BOE will generally presume the owner of the real property on which the tank is located is the owner of the UST. In some circumstances a lessee can be the owner of an UST for the purposes of the fee.

If you own an UST and are not registered to pay the underground storage tank maintenance fee, please complete the application for registration ([BOE-400-UST](#), *California Storage Tank Maintenance Fee Application*, available on our website).

For additional information please see [publication 88](#), *Underground Storage Tank Maintenance Fee*.

If you have questions regarding the underground storage tank maintenance fee please contact our Special Taxes and Fees Division at 916-324-2300.

Assembly Bill 291 (Ch. 569 Stats 2011) extends the temporary underground storage tank maintenance fee rate increase of \$0.006 per gallon for an additional two years, from January 1, 2012, to January 1, 2014. The total fee rate per gallon continues to be two cents (\$0.02).

## Winegrowers outside California

If you are a winegrower located outside California and ship wine to an end-user within California you are required to register as a Direct Wine Shipper with the Department of Alcoholic Beverage Control (ABC) and the BOE.

In general, if you sell, distribute, manufacture or import alcoholic beverages in this state you are required to register with ABC. Prior to contacting the BOE, you must first contact ABC, to obtain an alcoholic beverage license to operate in the state of California. For more information, please visit their website at [www.abc.ca.gov](http://www.abc.ca.gov).

BOE administers the Alcoholic Beverage Tax Laws in California. The alcoholic beverage tax is a per-gallon excise tax collected on the sale, distribution, or import of alcoholic beverages in California. All registered taxpayers, other than common carriers, must file a tax return on or before the 15th of the month following the period covered by the return. Revenues from the tax are deposited into the Alcohol Beverage Control Fund and are withdrawn for use by the State's General Fund or used to pay refunds under this program.

For additional information regarding your registration and reporting requirements, please visit our Alcoholic Beverages Tax Law webpage at [www.boe.ca.gov/sptaxprog/abtax.htm](http://www.boe.ca.gov/sptaxprog/abtax.htm) or contact us at 800-400-7115.

## Dyed diesel fuel notification requirements for sellers

The Diesel Fuel Tax Law requires that sellers of dyed diesel fuel provide notice to purchasers of dyed diesel fuel indicating the fuel is for nontaxable use only. If you sell dyed diesel fuel at a retail gas station or at a commercial cardlock facility, you are required to provide notice to your buyer stating:

**“Dyed diesel fuel, nontaxable use only, penalty for taxable use.”**

The notice must be posted by the seller of dyed diesel fuel on any retail pump where dyed diesel fuel is dispensed. The notice should be affixed on the face of the pump in a conspicuous place within easy sight of the person dispensing the dyed diesel fuel to ensure the purchaser of the fuel will see it prior to dispensing fuel from the pump into the fuel tank of the vehicle. The Internal Revenue Service (IRS) requires these notices to be affixed to the pump either on the face (on both sides if dyed fuel is dispensed from both sides of the pump) or on the side of the pump just above the nozzle housing. For sales other than from a retail pump, the notice is required to be included on the shipping papers, bills of lading, and invoices accompanying the sale or removal of dyed diesel fuel.

Any seller that fails to post or provide the required notice on any applicable retail pump or sales document is presumed to know that the fuel will be used for a taxable use and may be required to pay the diesel fuel tax and assessed a penalty on every gallon of fuel involved. The amount of the penalty is a minimum of \$1,000, increasing to \$10 per gallon when more than 100 gallons of dyed diesel fuel are involved.

For more information, please refer to [BOE-32A](#), *Special Notice: Dyed Diesel Fuel Notification Requirements*.

## Review your Internet purchases to determine if you owe use tax

You may owe use tax on Internet purchases if the seller is located outside California. Shoppers can often find bargains online, but may not realize the use tax liability they have incurred. Due in part to the large budget deficit, California has increased its use tax collection efforts. Penalty and interest charges may be due if this tax is not paid by purchasers in a timely manner.

### What is use tax?

If purchasing an item that would have been subject to tax if you bought that item in this state, then the purchaser of that item from an out-of-state retailer owes use tax on that item—unless the tax was paid at the time of purchase to a retailer registered with the BOE. Use tax is due if the purchaser uses, gives away, or consumes the item in California unless the item purchased is specifically exempt or excluded by law from tax. The use tax rate for any location is the same as the sales tax rate.

### Do you know about the tax gap?

The tax gap is the difference between the tax owed and the amount paid. The BOE is increasing its efforts to reduce the tax gap. A significant part of the tax gap is the result of Internet transactions that involve out-of-state sellers and in-state purchasers, neither of whom is required to register with the BOE. A business cannot be compelled to collect tax unless the business has a physical presence in the state, or is otherwise legally engaged in business in that state.

## Have you heard of the Internet Tax Freedom Act?

Some consumers have the mistaken belief that purchases made on the Internet are not subject to tax because of the Internet Tax Freedom Act. This 1998 law placed a moratorium on charging taxes on Internet access fees. It does not provide an exemption from tax for purchases made on the Internet.

## How do I report and pay the use tax?

Examine your purchase invoices from out-of-state retailers to make sure the retailer collected California use tax and the amount collected was correct. California's income tax returns include a line to report and pay use tax for individuals and businesses not required to have a seller's permit. You can also report and pay use tax by completing [BOE-401-DS, Use Tax Return](#). For more information, please review [publication 123, California Businesses: How to Identify California Use Tax Due](#). Special rules apply to use tax due on purchases of vehicles, vessels, and aircraft.

## 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 policy or procedure? 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 dates and times for the 2012 business and property tax hearings, normally held in Sacramento and Culver City, were not yet set when this article went to press, but you may check our website or contact the Taxpayers' Rights Advocate at 888-324-2798 for details.

Although you are not required to make advance arrangements to speak, it would help us to prepare if you contacted the Taxpayers' Rights Advocate Office 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 Taxpayers' Rights Advocate Office or visit us at [www.boe.ca.gov](http://www.boe.ca.gov) (click on the tab "Your Rights" and choose "[Taxpayers' Rights Advocate](#)"), where you can also view the office's 2010-11 annual report, which will be available soon.

## Civil behavior in trying times

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 BOE employee that seems like a threat—even a statement made in jest—will be referred to our Internal Affairs Section for investigation.

## Ethics at work—"thank you" is enough

We'd like to remind you that BOE policy generally 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](http://www.boe.ca.gov/info/survey.htm) to express yourself.

## For More Information

*All telephone numbers are toll-free.*

### Internet

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

### Taxpayer Information Section

800-400-7115 (TTY:711)

### Requests for Fax Copies

800-400-7115  
(Choose automated services)

### Seller's Permit Verification

888-225-5263  
[www.boe.ca.gov](http://www.boe.ca.gov)

### Taxpayers' Rights Advocate

888-324-2798  
[www.boe.ca.gov](http://www.boe.ca.gov)

### Tax Evasion Hotline

888-334-3300

### State Legislation

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