

APPLICATION FOR OUT-OF-STATE VOLUNTARY DISCLOSURE

Although your retail business is located outside of California, you may be required to collect and report California use tax when you make sales of tangible personal property that is used, stored, or otherwise consumed in this state. You are required to collect and pay the use tax if you are "engaged in business" in California as defined in California Revenue and Taxation Code section 6203, (see reverse).

The Board of Equalization (BOE) has established a voluntary disclosure use tax liability program for out-of-state retailers who wish to acknowledge their liability for California use tax. By voluntarily registering with the BOE under this program, you may be able to limit your liability for tax, penalties, and interest due for prior periods. Ordinarily, if you did not file a return, the BOE can send you a bill ("deficiency determination") for the amounts owed as late as eight years after the quarterly period in which the sales were made. Pursuant to Revenue and Taxation Code section 6487.05 (see reverse), if you qualify for the voluntary disclosure program, the billing period may be limited to three years. In addition, you may be relieved of applicable penalties (see below).

Please complete this form if you wish to apply for the voluntary disclosure program. By completing and signing this form, you are representing that:

- The retailer is located outside this state, and has not previously registered with the BOE.
- The retailer is engaged in business in this state, as defined in Revenue and Taxation Code section 6203 (see reverse).
- The retailer voluntarily registers with the BOE.
- The retailer has not been previously contacted by the BOE or its agents regarding the provisions of Revenue and Taxation Code section 6203.
- Failure by the retailer to register with the BOE, file returns, and pay tax was not due to negligence, intentional disregard of the law, or intent to evade the provisions of the California Revenue and Taxation Code.

Request for Relief of Penalty:

By signing under penalty of perjury, I request relief from penalty charges for the period(s) _____ and can attest to the fact that the person below meets the qualifications of Revenue and Taxation Code section 6487.05. I further attest that the person's previous failure to register with the BOE, file returns, and pay tax was not due to negligence, intentional disregard of the law, or intent to evade the provisions of the California Revenue and Taxation Code.

The BOE may grant relief from penalty charges, but not interest charges with this statement if it is determined that a person's failure to file a timely return or payment was due to reasonable cause and circumstances beyond the person's control. If you are relieved of the penalty charges, you must still pay the interest due on late return payments and prepayments. Your request for relief from penalty cannot be processed until the tax and interest have been paid in full.

CERTIFICATION

I certify (or declare), under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

BUSINESS NAME	SSN OR FEIN	ACCOUNT NUMBER (see note)
YOUR NAME	TYPE OF BUSINESS	
ADDRESS (street, city, state, zip code)		
TELEPHONE NUMBER	PERIOD OPERATED IN CALIFORNIA	
	From (month, day, year)	To (month, day, year)
TYPE OF OWNERSHIP		
<input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Non-Profit Corporation <input type="checkbox"/> Married Partnership <input type="checkbox"/> Other _____		
DESCRIBE YOUR BUSINESS OPERATIONS IN CALIFORNIA		

SIGNATURE	TITLE	DATE
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In addition to this application, please visit our website at www.boe.ca.gov to complete the electronic registration and obtain your California Certificate of Registration-Use Tax Account. (Note: Please enter the account number on this form in the "Account Number" field.) This application should be mailed within thirty (30) days of registration to: State Board of Equalization, Out-of-State Field Office, 3321 Power Inn Rd., Suite 130, Sacramento, CA 95826-3893, Telephone 1-916-227-6600, Fax 1-916-227-6641. You may not qualify for this program if your application is not submitted within the thirty (30) days.

FIELD OFFICE APPROVAL (For BOE Use Only)

FIELD OFFICE	NAME	DATE	VOLUNTARY DISCLOSURE PERIOD	ACCOUNT CHAR. CODE
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California Revenue and Taxation Code (excerpts):**6487.05. Deficiency determinations; unregistered out-of-state retailers.**

(a) Notwithstanding Section 6487, the period during which a deficiency determination may be mailed to a qualifying retailer is limited to three years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined. For purposes of this section, a “qualifying retailer” is a retailer that meets all of the following conditions:

(1) The retailer is located outside this state, and has not previously registered with the board.

(2) The retailer is engaged in business in this state, as defined in Section 6203.

(3) The retailer voluntarily registers with the board.

(4) The retailer has not been previously contacted by the board or its agents regarding the provisions of Section 6203.

(5) As determined by the board, the retailer’s failure to file a return or failure to report or pay the tax or amount due required by law was due to reasonable cause and was not a result of negligence or intentional disregard of the law, or because of fraud or an intent to evade the provisions of this part.

(b) If the board or its designee finds that the retailer’s failure to make a timely return or payment is due to reasonable cause and circumstances beyond the retailer’s control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the retailer shall be relieved of the penalties imposed pursuant to this part. Any retailer seeking relief of penalty shall file a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

History.—Added by stats. 1994, Ch. 903, in effect January 1, 1995.**6203. Collection by retailer**

(a) Except as provided by Sections 6292 and 6293, every retailer engaged in business in this state and making sales of tangible personal property for storage, use, or other consumption in this state, not exempted under Chapter 3.5 (commencing with Section 6271) or Chapter 4 (commencing with Section 6351), shall, at the time of making the sales or, if the storage, use, or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the board.

(b) As respects leases constituting sales of tangible personal property, the tax shall be collected from the lessee at the time amounts are paid by the lessee under the lease.

(c) “Retailer engaged in business in this state” as used in this section and Section 6202 means and includes any of the following:

(1) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.

(2) Any retailer having any representative, agent, salesperson, canvasser, independent contractor, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, installing, assembling, or the taking of orders for any tangible personal property.

(3) As respects a lease, any retailer deriving rentals from a lease of tangible personal property situated in this state.

(4) (a) Any retailer soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities.

(b) This paragraph shall become operative upon the enactment of any congressional act that authorizes states to compel the collection of state sales and use taxes by out-of-state retailers.

(5) Notwithstanding Section 7262, a retailer specified in paragraph (4) above, and not specified in paragraph (1), (2), or (3) above, is a “retailer engaged in business in this state” for the purposes of this part and Part 1.5 (commencing with Section 7200) only.

(d) (1) For purposes of this section, “engaged in business in this state” does not include the taking of orders from customers in this state through a computer telecommunications network located in this state which is not directly or indirectly owned by the retailer when the orders result from the electronic display of products on that same network. The exclusion provided by this subdivision shall apply only to a computer telecommunications network that consists substantially of online communications services other than the displaying and taking of orders for products.

(2) This subdivision shall become inoperative upon the operative date of provisions of a congressional act that authorize states to compel the collection of state sales and use taxes by out-of-state retailers.

(e) Except as provided in this subdivision, a retailer is not a “retailer engaged in business in this state” under paragraph (2) of subdivision (c) if that retailer’s sole physical presence in this state is to engage in convention and trade show activities as described in Section 513(d)(3)(A) of the Internal Revenue Code, and if the retailer, including any of his or her representatives, agents, salespersons, canvassers, independent contractors, or solicitors, does not engage in those convention and trade show activities for more than 15 days, in whole or in part, in this state during any 12-month period and did not derive more than one hundred thousand dollars (100,000) of net income from those activities in this state during the prior calendar year. Notwithstanding the preceding sentence, a retailer engaging in convention and trade show activities, as described in Section 513(d)(3)(A) of the Internal Revenue Code, is a “retailer engaged in business in this state,” and is liable for collection of the applicable use tax, with respect to any sale of tangible personal property occurring at the convention and trade show activities and with respect to any sale of tangible personal property made pursuant to an order taken at or during those convention and trade show activities.

(f) Any limitations created by this section upon the definition of “retailer engaged in business in this state” shall only apply for purposes of tax liability under this code. Nothing in this section is intended to affect or limit, in any way, civil liability or jurisdiction under Section 410.10 of the Code of Civil Procedure.

History—Stats. 2000, Ch. 617 (AB 330), in effect September 24, 2000, operative January 1, 2001.