CIGARETTE AND TOBACCO PRODUCT INSPECTIONS

CALIFORNIA STATE BOARD OF EQUALIZATION

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(Names updated 2015)

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Why are you inspecting my business?
We are conducting a routine inspection of your business to see if you are following state laws that control the sale of cigarettes and tobacco products in California.

What are you looking for?
We will check to see if:

- You have a Board of Equalization (BOE) license to sell cigarettes and tobacco products, and any other business permits or licenses you may be required to have.
- You bought your cigarettes and tobacco products from a BOE-licensed cigarette and tobacco products seller (sales between retailers are prohibited) and have supporting purchase invoices for your inventory.
- The cigarettes in your inventory:
  - Have valid California tax stamps attached,
  - Do not include flavored cigarettes (menthols are exempt), and
  - Are listed on the California Tobacco Directory as legal to sell in California (roll-your-own tobacco must also be listed on the Tobacco Directory).
- The cigarette packs in your inventory comply with the “low ignition propensity” fire safety requirements of California.
- The California excise tax on your other tobacco products was paid.

These inspections are authorized by state laws known as the California Cigarette and Tobacco Products Licensing Act of 2003 (Division 8.6 of the California Business and Professions Code), Cigarette and Tobacco Products Tax Law (Part 13, Division 2 of the Revenue and Taxation Code), and the California Cigarette Fire Safety and Firefighter Protection Act (Division 12 of the California Health and Safety Code).

What will happen during the inspection?
Our inspectors will enter your business, identify themselves to you or your employees, and show their BOE identification. They will ask you to:

- Show them your personal identification.
- Show them your entire cigarette and tobacco product inventory.
- Provide all of your cigarette and tobacco product purchase and sales invoices (or register tapes) for the last 12 months, which are required to be kept at your business location.
- Identify where your cigarette and tobacco product purchase and sales invoices (or register tapes) are located. These records are required to be kept for four years.

The inspectors will examine the cigarettes and tobacco products at your business location and any place such as other buildings or in storage containers where you may keep additional products. They will electronically scan the tax stamps on cigarettes in your inventory and review your purchase and sales invoices to see whether those invoices reconcile with your inventory.

You will also be given a copy of publication 78, Sales of Cigarettes and Tobacco Products in California, which provides additional information about this program.

What happens if the inspectors find products that I can’t legally sell?
The inspectors may seize any untaxed, counterfeit, or otherwise illegal cigarette or tobacco products they find. They will:

- Explain the reason for the seizure,
- Give you a detailed receipt listing the products seized,
- Provide you with their contact information, and may also
- Issue you a citation.
Any cigarette brands or roll-your-own (RYO) tobacco products not listed on the Attorney General’s California Tobacco Directory may be subject to seizure. Retailers and wholesalers should always check the Tobacco Directory before buying cigarettes and RYO tobacco from BOE licensed distributors. The California Tobacco Directory website is located at www.oag.ca.gov/tobacco/directory.

Note: When cigarettes or RYO tobacco are removed from the Tobacco Directory, retailers are allowed to possess, transport, and sell tax-stamped cigarettes or RYO tobacco for 60 days from the effective date of their removal.

Can I get seized products back?
You have the right to ask that your products be returned. If our inspectors seize any products during the inspection, we will mail you a notice listing the products and describing your right to challenge their seizure. We will include a Verified Petition for Release or Recovery of Property form with the notice.

Under state law, seized cigarettes or tobacco products can only be returned if we seized them by mistake or illegally. To ask for return of your products can only be returned if we seized them with the notice.

What happens if my license is suspended or revoked?
During the period of suspension or revocation, you are prohibited from displaying for sale, selling, or gifting cigarettes or tobacco products. If you fail to appear in court, a bench warrant will be issued against you and your cigarette and tobacco license may be suspended or revoked and penalties imposed.

The Cigarette and Tobacco Products Licensing Act provides for civil penalties to be imposed by the BOE in addition to any other criminal penalties that may be imposed by the courts (see publication 161, Criminal Citations Include a Civil Administrative Process). After the court rules on your criminal citation, you will receive a Notice of Violation in the mail from the BOE that will list all your violations, explain your appeal rights, and provide you with other pertinent information.

What happens if I get a citation?
Your complaint will be handled by an Investigations Division supervisor or manager, who will contact you. If you are unable to resolve the problem with the supervisor or manager or prefer to have your complaint handled outside the division, you may contact the BOE Taxpayers’ Rights Advocate Office.

The Taxpayers’ Rights Advocate Office helps taxpayers who have not been able to resolve a matter through normal channels, when they want information about procedures related to a particular situation, or when there appears to be a violation of their rights. You may call the office toll-free at 1-888-324-2798 or contact them at www.boe.ca.gov/info/emailtra.htm. The office will independently investigate your inspection complaint and respond.

Can I file a complaint if I have concerns about the inspection or the inspector’s behavior?

Yes. If you believe the inspector was unprofessional or violated your rights, you may file a complaint by:
- Calling the Investigations Division at 1-916-324-0105.
- Writing to: www.boe.ca.gov/info/complaint.htm or Investigations Division, MIC:42 Board of Equalization P.O. Box 942879 Sacramento, CA 94279-0042

Be sure to fully explain your concerns in detail. Your complaint will be handled by an Investigations Division supervisor or manager, who will contact you. If you are unable to resolve the problem with the supervisor or manager or prefer to have your complaint handled outside the division, you may contact the BOE Taxpayers’ Rights Advocate Office.

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For More Information
If you have any questions about the inspection, you may contact our Investigations Division at 1-916-324-0105. For more information regarding cigarette and tobacco products licensing, call the Customer Service Center at 1-800-400-7115; select the option for Special Taxes and Fees.

The BOE also offers a free class regarding its Cigarette and Tobacco Products Licensing program. The class covers license requirements, recent law changes, the inspection process, records maintenance, application of penalties, and much more. To see the class schedule, click on the “Helpful Tax Seminars” link on the BOE’s website or call 1-916-322-8536.

The following related publications are also available from our website, www.boe.ca.gov, or by calling our Customer Service Center at 1-800-400-7115 (TTY:711). Some of these publications are also available in the following languages: Arabic, Chinese, Korean, Punjabi, Spanish, Tagalog, Thai, and Vietnamese.

63 Cigarette Distributor Licensing and Tax Stamp Guide
70 Understanding Your Rights as a California Taxpayer
78 Sales of Cigarettes and Tobacco Products in California—License Requirements for Retailers
93 Cigarette and Tobacco Products Taxes
152 Cigarette and Tobacco Product Inspections
161 Criminal Citations Include a Civil Administrative Process
New California Counterfeit-Resistant Cigarette Tax Stamp

Master Settlement Agreement

Flavored Cigarettes Banned in the United States

Can Retailers Purchase Cigarette and Tobacco Products over the Internet or from an Unlicensed Supplier?

Tax evasion hurts all of us . . .

To report suspected tax evasion, call our Tax Evasion Hotline at 1-888-334-3300 or the Investigations Division at 1-916-324-0105.

To contact your Board Member, see:
www.boe.ca.gov/members/board.htm