

Cigarette and Tobacco Products Taxes

NEWSLETTER

New legislation takes effect January 1, 2013

Assembly Bill (AB) 1301 (Stats. 2012, Ch. 335), as related to the Cigarette and Tobacco Products Licensing Act of 2003, amends section 22958 of the STAKE Act that requires the Board of Equalization (BOE) to take action against a cigarette and other tobacco products retailer who violates laws related to sales of cigarettes or tobacco products to minors. AB 1301 also repeals section 22974.8 of the Business and Professions Code and adds a new section 22974.8 to require the BOE to suspend or revoke the license of a retailer as directed by the California Department of Public Health pursuant to the schedule for number of violations in section 22958(a). Section 22958(b) adds a two hundred fifty dollar (\$250) civil penalty imposed by the BOE in addition to the civil penalties assessed per the schedule in section 22958(a). The licensee would be provided with at least 10 days written notice of a pending suspension or revocation, and an opportunity to appeal the suspension or revocation and the two hundred fifty dollar (\$250) penalty; however, the grounds for appeal can only be to correct a mistake or clerical error. The BOE is prohibited from accepting or considering an appeal founded upon the grounds of whether a retailer violated the STAKE Act.

For copies of this bill, please write to the Legislative Bill Room, 1303 10th Street, Room B32, Sacramento, CA 95814, or you can view the bill at www.leginfo.ca.gov/bilinfo.html.

Electronic Registration



Electronic Registration (eReg) is a secure, convenient, and fast way to register online for an account or license with the Board of Equalization (BOE). eReg was implemented on June 18, 2012, and may be used to register for most BOE tax and fee programs. Cigarette and tobacco products retailers, wholesalers, distributors, manufacturers, and importers may use eReg to register and/or add a new location to an existing account. In addition, consumers who purchased cigarette and tobacco products through the Internet, via telephone, or by mail order may use eReg to register for an account number to receive tax returns to pay their excise and use taxes on their purchases.

With eReg, you will be able to register your business easily, quickly, and accurately. You will be able to obtain the required license and/or account for your business using just one online application. You may register at any time using any computer with Internet access or at one of our field offices using the eReg kiosks that are available for your use. Once registered, you will have the ability to view and print the registration information packet which includes the permit and/or license.

To begin the eReg process, simply visit the BOE website at www.boe.ca.gov; click on eServices, and begin the process to register your business. *You currently cannot renew your cigarette and tobacco products license online but this feature is coming in 2013.*

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Electronic Filing (eFiling) for cigarette manufacturers, importers, and distributors is now available



Starting with the October 2012 reporting period, cigarette manufacturers, importers (CM), and distributors (CR) may voluntarily choose to file tax returns and schedules electronically (eFile) via the BOE website. As many businesses already know, eFiling is a fast, easy, convenient, secure, and accurate way to report taxes. To help you prepare for eFiling, we have developed a Cigarette eFiling Guide, which is available online at www.boe.ca.gov/sptaxprog/cig_efile.htm.

As explained in the guide, eFilers will now be able to electronically file their returns using our eFile system and attach their schedule transactions in a few simple steps. Cigarette distributors may have the ability to download reports from the cigarette stamping machine database directly into the eFiling template.

If you are interested in participating in eFiling, contact our Taxpayer Information Section at 1-800-400-7115 (TTY:711), and select the Special Taxes option, or email us at BOECTeFile@boe.ca.gov.

New tax reports and schedules

The paper tax forms for cigarette manufacturers, importers, and distributors are changing as part of the BOE's eServices project to improve the efficiency of the BOE programs and reduce taxpayers' return filing workload. Two uniform schedules, one for receipts (BOE-810-CTI) and one for disbursements (BOE-810-CTF), will replace all former schedules, which consisted of:

- BOE-501-CAS, Schedule A—*Distributors' Record of Cigarettes Received*
- BOE- 501-CBS, Schedule B—*Sales of Cigarettes by Original Importer*
- BOE-501-CCS, Schedule C—*Out of State Sales of Cigarettes Report*
- BOE-501-CFS, *Cigarette Schedule F*
- BOE-501-MC, *Schedule MC—Manufacturer's Report of Cigarettes Released from Storage or Shipped Into California*

Beginning with the October 2012 reporting period, and in conjunction with the availability of the new eFiling option, the revised tax report form and schedules will be required to be filed by both paper filing and the electronic transmission of the report data.

Fiscal year 2012-2013 tax rate on other tobacco products

In accordance with section 30126 of the Cigarette and Tobacco Products Tax Law, the BOE at its April 26, 2012 meeting, approved a tobacco products tax rate of 30.68 percent. Distributors are required to apply this rate to all distributions of tobacco products, other than cigarettes, for the period July 1, 2012 through June 30, 2013.

Distributors: be sure to scan your product Universal Product Code (UPC) barcode and cigarette tax stamps

It is critical for cigarette distributors to scan UPC barcodes and cigarette tax stamps when applying the cigarette tax stamps to cigarette packs. Unscanned cigarette tax stamps are not valid and may cause problems for the cigarette vendor upon inspection by the BOE.

To properly scan cigarette tax stamps, you must keep your cigarette tax stamp machine synchronized with the state's database. This is true whether you use the high-volume cigarette tax stamp machine or the low-volume cigarette tax stamp machine.

If you are using a high-volume cigarette tax stamp machine, be sure to leave the power on even during non-stamping hours so that the machine can properly synchronize to the stamp vendor database. This will allow the cigarette tax stamp vendor to extract cigarette tax stamping information from the machine and download software updates as necessary.

If you are using a low-volume cigarette tax stamp machine, you must scan all cigarette tax stamps and barcodes in a batch mode. To properly scan cigarette tax stamps using your low-volume cigarette tax stamp machine, you must complete the following steps:

- 1) Scan or enter the Roll Barcode—using your barcode reader, scan the barcode of the roll being used.
- 2) Scan or enter the carton UPC—scan or manually enter the carton UPC code of the cigarette brand being stamped.
- 3) Scan the first cigarette tax stamp on the first carton and then proceed to the last carton of the same brand and scan the last cigarette tax stamp on that carton.

If your low-volume cigarette tax stamp machine is not working properly, please contact Form 10 Group immediately for technical assistance: 1-408-988-0110.

Can a mobile seller get a retailer's license for sales of cigarettes and tobacco products?

A recent legal ruling from the BOE states that if you operate from a catering truck, lunch wagon, or other mobile facility, you do not qualify for a California Cigarette and Tobacco Products Retailer's License and therefore, cannot sell cigarettes or tobacco products from your mobile location in California. A "mobile location" does not meet the definition of a retail location.

A retail location means either a building from which cigarettes or tobacco products are sold at retail, or a vending machine (Business and Professions Code section 22971, subdivision (q)).

A retailer shall have in place and maintain a license to engage in the sale of cigarettes or tobacco products. A retailer that owns or controls more than one retail location shall obtain a separate license for each retail location, but may submit a single application for those licenses.

If you currently possess a Cigarette and Tobacco Products Retailers' License for a mobile location, you will not be allowed to renew your license upon its expiration.

Sign up to receive email updates

Visit our website, www.boe.ca.gov/sptaxprog/etfd/index.htm, and subscribe to electronically receive notification of any changes affecting cigarette and tobacco product taxes, regulations, or procedures.

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 tax or fee issue? If you do, come share your ideas and concerns with our Board Members at the annual Taxpayers' Bill of Rights hearings. You may present your proposal orally or in writing.

The annual business and property taxes hearings for 2013 are scheduled for May 22 in Sacramento and July 17 in Culver City, both starting at approximately 1:30 p.m.

Although you are not required to make advance arrangements to speak, it will help us to prepare if you contact the Taxpayers' Rights Advocate Office at 1-888-324-2798 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 Advocate Office or visit them at www.boe.ca.gov (click on the tab "Your Rights" and choose "Taxpayers' Rights Advocate"), where you may also view the office's latest annual report.

More articles available online!

There are occasions when we have more articles than we have space for in this print version of the Cigarette and Tobacco Products Taxes Newsletter. The additional articles are available online at www.boe.ca.gov/pdf/pub204.pdf. This issue's supplemental articles are:

- Low-cost stamp validators are available;
- Interactive classes available for retailers of cigarette and tobacco products in California;
- Cigarette and tobacco products retailers: remember to retain your invoices and maintain your records;
- Electronic payment of taxes—One day late?;
- Know your rights;
- Civil behavior in trying times; and
- Ethics at work—"Thank you" is enough.

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SUPPLEMENTAL ARTICLES

Low-cost stamp validators are available

One of the benefits of the encrypted cigarette tax stamp is that it combines overt and covert counterfeit-resistant features in the printed design. The upgraded stamp integrates high-security inks and forensic security features that provide for immediate authentication by retailers and enforcement agencies.

To assist in authentication of the encrypted cigarette tax stamp, a special low-cost double filter validation device is available for purchase. These validators are specifically designed to match the color-shift feature on authentic tax stamps. This device provides a tool that is:

- Easy to use
- Small and light as a credit card
- Effective
- Hand-held
- Practical
- Reasonably-priced

Validators can immediately determine the authenticity of encrypted cigarette tax stamps.

To purchase a validator, please visit our website at www.boe.ca.gov/sptaxprog/casvpi.htm. Validators will be distributed by an authorized BOE vendor. Each validator is \$5.00 plus sales tax, shipping and handling. Credit card payment is required at time of purchase. Validators are shipped directly to the purchaser by the vendor.

Interactive classes available for retailers of cigarette and tobacco products in California

The BOE offers an interactive class for retailers who sell or plan to sell cigarettes and tobacco products in California. The class covers the BOE's Cigarette and Tobacco Products Licensing program and related tobacco tax laws. This class is designed to inform, answer questions, and help retailers understand state requirements and their responsibilities as a vendor of tobacco products in California. See our website at www.boe.ca.gov/sutax/cigtobclass.htm for further information and the class schedule for fiscal year 2012-2013.

Cigarette and tobacco products retailers: remember to retain your invoices and maintain your records

Please remember that you must retain purchase invoices for your resale stock of cigarettes and tobacco products for a period of four years. The most recent twelve months of invoices must be kept at the retail location for at least one year after purchase and shall be available upon request during normal business hours for inspection and copying by BOE staff or a law enforcement agency. Any retailer who fails, refuses, or neglects to retain

or make available invoices for inspection is in violation of the Cigarette and Tobacco Products Licensing Act and may be cited. The invoices that you receive from a wholesaler or distributor must include name, address, telephone number, and cigarette and tobacco products license number of the wholesaler or distributor.

Electronic payment of taxes—one day late?

Effective January 1, 2011, Senate Bill 1028 allows that until January 1, 2016, if your electronic tax payment associated with filing a return or prepayment is late by only one business day, you may be eligible to have the interest associated with the late payment reduced.

Interest is generally imposed on a monthly basis when a tax payment is late. Therefore, if payment is made one day late, interest is imposed for an entire month. If the Board, meeting as a public body, finds, taking into account all the facts and circumstances, that it is inequitable to compute interest on a monthly basis, interest will be computed on a daily basis from the date on which the tax or prepayment was due until the date of payment provided all of the following conditions are met:

- The payment of the tax or prepayment was made electronically.
- The payment of the tax or prepayment was made no more than one business day after the due date.
- The taxpayer was granted relief from all penalties that applied to that payment of tax or prepayment.
- The person files a request for an oral hearing before the Board.

Taxpayers may use [BOE-734, Request Oral Hearing Electronic Payments—One Day Late](#), to request the oral hearing.

Note: This does not apply to payments made pursuant to deficiency determinations, determinations where no return has been filed, jeopardy determinations or deferred payments for cigarette tax stamps.

Know your rights

As a taxpayer, you have many rights under the law, including the right to:

- Receive information and assistance to help you comply with the law;
- Be treated fairly and courteously, and receive prompt service; and
- Appeal a decision or claim a refund as allowed by law.

Of course, along with those rights, you have certain responsibilities, including the responsibility to:

- Keep informed about tax laws and regulations that affect your business;
- Report and pay taxes and fees when due; and
- Maintain adequate records.

For more information you may order [publication 70, Understanding Your Rights as a California Taxpayer](#).

Civil behavior in trying times

Some observers have noted that civility is decreasing in our society as our lives become more complex. 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 remotely 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 would like to remind you that BOE policy 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 may also use our online Customer Service Survey form at [How Are We Doing Survey—California State Board of Equalization](#) to express yourself.