



NEWS FOR TAX PRACTITIONERS

WHAT YOU NEED TO KNOW ABOUT CALIFORNIA SALES AND USE TAX

ARTICLE INDEX

- Stay Up-to-Date on Tax Rate Changes
- Tax Evasion by Electronic Sales Suppression Devices
- New Manufacturing Exemption
- New Law Makes All Sales of Counterfeit Goods Taxable
- Collecting the Lumber Fee
- Mobile Food Trucks
- Tax Guides
- Be Sure Returns are Filed and Paid by Due Date
- Don't Forget to Report Use Tax!
- California Film and Television Tax Credit Program
- Tax Repayment Available for Qualified Itinerant Veteran Vendors
- What Information Do You Need From Us?



As a tax practitioner, you need the latest tax information to advise your clients and prepare their tax returns. This newsletter will help you stay current on today's hot topics in sales and use tax and keep you up-to-date throughout the upcoming tax year.

For more information on any of the topics covered in this edition, please visit our website at www.boe.ca.gov.

ARTICLES

Stay Up-to-Date on Tax Rate Changes

Sales and use tax rates can change throughout the year due to city and county voters approving special district taxes. These special district taxes are added to the overall state rate, increasing the total tax rate for that city or county. When these changes occur, we send out notices to all registered sellers in the counties and cities where the rate(s) is changing. In fact, there will be a number of district tax rate changes beginning April 1, 2015, as voters approved over 30 ballot measures adding, increasing, or extending special district taxes in the November 2014 election. In addition, one district tax is set to expire on that date as well.

Remember, when determining sales and use tax rates, zip codes alone should not be relied upon. A zip code is used for postal delivery and may include addresses both inside and outside a city's limits. This often results in different tax rates for different locations within the same zip code, which may cause businesses that use zip code software to determine tax rates to collect and pay an incorrect amount of tax.

We offer several tools you can use to look up tax rates by city, county, or even a specific address. Go to our website at www.boe.ca.gov to access online tools and resources relating to city and county tax rates, or click on the "[Find a TAX RATE by Address](#)" to determine the tax rate for a particular address. You can keep up-to-date on the current tax rates for your clients' businesses by regularly checking our California City and County Sales and Use Tax Rates webpage www.boe.ca.gov/sutax/pam71.htm. We also have a list of county and city tax rates at-a-glance that you or your clients can print out to have on hand at www.boe.ca.gov/pdf/boe95.pdf.

You can also sign up to receive updates automatically, go to the "[How Do I](#)" column, click on the "[More](#)" arrow, and select "[Sign up for BOE updates](#)" under the "Additional Information" column.



Tax Evasion by Electronic Sales Suppression Devices

Did you know that some businesses use illegal sales suppression software, often called “zappers,” to evade paying tax by falsifying their electronic records? Sales suppression software erases sales transactions, which enables users to avoid paying income tax, sales tax, and other point-of-sale (POS) fees collected on retail sales. Using such technology to deliberately falsify records for the purpose of evading taxes is a crime and punishable by law.

It is also a crime for anyone to knowingly sell, purchase, install, transfer, or possess sales suppression software programs or other electronic devices used to hide or remove sales and to falsify records for commercial gain. Violators may be sentenced to up to three years in county jail, fined up to \$10,000, and required to pay all illegally withheld taxes, plus interest and penalties.

We are working collaboratively with other state and federal law enforcement agencies to exchange information and investigate underground operations. We are taking an assertive approach to identifying and prosecuting all cases of tax evasion, including those based on falsified POS data.

If a business is audited, we have the ability and technology to detect unlawful sales suppression. If an auditor detects the use of sales suppression software, the auditor may disregard reported sales amounts and establish the actual sales based on some or all of the following sources:

- Credit card sales
- Third-party electronic sales information
- On-site observation of sales

We have established a website that allows California taxpayers to assist with identifying tax evasion by providing information on possible tax violations www.boe.ca.gov/trace. You can help your clients by ensuring they do not employ these devices or otherwise alter their recordkeeping systems and they accurately report their taxable sales.



New Manufacturing Exemption

A new law allows certain businesses to purchase or lease manufacturing or research and development equipment at a reduced sales and use tax rate for transactions occurring on or after July 1, 2014. These businesses must be engaged in manufacturing activities, or in conducting research and development of biotechnology, or physical, engineering, and life sciences. To be eligible under this law, the business must meet all three of the following requirements:

- Be primarily engaged in a qualifying line of business, also known as a “qualified person”;
- Purchase “qualified tangible personal property”; *and*
- Use that qualified property at least 50 percent of the time in qualifying manufacturing or research and development activities.

The partial exemption reduces the statewide tax rate (currently 7.50 percent) by 4.1875 percent to 3.3125 percent, exclusive of any applicable district taxes. This exemption only applies to the state general fund portion of the sales and use tax rate, and not to any local, city, county, or district taxes.

For example:

You are a manufacturer of wooden furniture in California. You plan to expand your operations to meet the growing demands of your customers. As a result, you need to purchase new manufacturing equipment that includes a table saw, a drill press, and a lathe. You want to know if your purchases will qualify for the Manufacturing and Research and Development exemption when purchasing this new equipment.

First, you need to find out whether your company qualifies for the partial exemption. You have been in business for several years as a manufacturer of wooden furniture. You determine your company’s North American Industry Classification System (NAICS) code to be 337122. Since this NAICS code is classified as a manufacturer, your company qualifies for the partial exemption.

Next, you examine whether the equipment you are purchasing qualifies for the partial exemption. You are purchasing machinery and equipment that has a useful life greater than one year. You plan to use the equipment at least 50 percent of the time for manufacturing purposes. Therefore, you have determined that your purchases qualify for the partial exemption.

Now that you have determined that both your business and purchases qualify for the partial exemption, you are ready to start buying equipment. You will need to download the Partial Exemption Certificate for Manufacturing and Research and Development Equipment www.boe.ca.gov/pdf/boe230m.pdf. Fill it out, print it, and sign it.

Then give it to the retailer of the equipment at the time you make your purchase.

The retailer will charge you a reduced sales tax rate thereby saving you 4.1875 percent in sales tax on the purchase of your equipment.

Businesses that make qualifying sales or leases must obtain a timely exemption certificate from the qualified person. Then, the vendor will be able to claim the deduction for sales subject to the partial exemption on their sales and use tax return.

Purchasers do not need to be prequalified by the California State Board of Equalization (BOE) as a qualified person. When qualified persons make qualifying purchases outside California, they must provide the seller with a timely exemption certificate to obtain the reduced tax rate if that seller is registered to collect California use tax. We have exemption certificates available in the [Forms & Pubs](#) section, under [Sales and Use Tax webpage](#) www.boe.ca.gov/sutax/certforms.htm. If a qualified person made qualifying purchases and did not pay California use tax directly to a seller registered with the BOE, they must report the use tax at the partial rate on their sales and use tax return.

Qualifying purchases are limited to \$200 million in a calendar year per qualified person or combined reporting unit. The exemption will not apply if, within one year from the date of purchase, the business used the property in a manner not qualifying for the exemption, converted the property from an exempt use to a non-qualifying use, or removed the qualifying property from California.

For more information, please see our Manufacturing Exemption webpage at www.boe.ca.gov/sutax/manufacturing_exemptions.htm.

New Law Makes All Sales of Counterfeit Goods Taxable

If a person is convicted in trafficking counterfeit goods, then all of their sales and purchases of those counterfeit goods will be considered taxable. This applies whether they are a manufacturer, wholesaler, distributor, or a retailer of the counterfeit goods. A person may no longer claim a resale deduction for the sale of counterfeit goods, and any purchases made of counterfeit goods for subsequent resale will also be taxable.

Counterfeit goods commonly refer to property with a counterfeit mark. In general terms, a counterfeit mark is a mark that is identical with or substantially indistinguishable from a mark registered with the United States Patent and

Trademark Office. In California, it is illegal for any person to willfully manufacture, intentionally sell, or knowingly possess for sale, counterfeit goods.

The new law provides BOE investigators with another tool to use in their efforts to stop the sale of counterfeit goods ([AB 2681](#)). The BOE may bill the convicted trafficker of counterfeit goods for unpaid sales or use tax within one year after the last day of the calendar month following the date of conviction. By billing convicted counterfeit goods traffickers, the BOE is discouraging the criminal sale of counterfeit goods and leveling the playing field for all businesses.

If you suspect counterfeit goods are being sold, please visit our TRaCE Task Force webpage at www.boe.ca.gov/trace.



Collecting the Lumber Fee

As of January 1, 2015, lumber retailers with less than \$25,000 in sales of qualifying lumber and engineered wood products in the previous calendar year are not required to collect the lumber products assessment from their customers during the subsequent calendar year.

However, as a convenience to their customers, the retailer may voluntarily continue to charge and collect the lumber products assessment and report and pay it to the BOE. If they chose to continue to charge and collect the assessment, no action is required on their part. We will continue to provide the lumber schedule when filing their return.

If the retailer is not required to collect the 1 percent lumber products assessment and does not want to continue voluntarily collecting it from their customers, they must take the following actions:

- Notify the BOE to remove the lumber schedule from their account. Retailers may call our Customer Service Center at 1-800-400-7115 (TTY:711), or contact the nearest BOE office to request that the lumber schedule be removed. To find the nearest BOE office, enter "[Field Office](#)" in BOE's website search box at www.boe.ca.gov.

- Notify customers that they are now required to report and pay the lumber products assessment on their purchases directly to the BOE. To easily notify their customers of this change, they can download and print our flyer [L-403, Lumber Products Assessment Flyer](#) located on our California Lumber Products Assessment page at www.boe.ca.gov/industry/lumber_products.html. From this page, select the [Retailers](#) tab, and find the link for the brochure under the heading “[Certain Retailers No Longer Required To Collect Lumber Assessment](#).” The flyer should be visibly posted at the retail location to notify customers of their obligation to report the tax.

For more information, please see our California Lumber Products Assessment page at www.boe.ca.gov/industry/lumber_products.html.

Mobile Food Trucks

Mobile food truck operators face several challenges in accurately reporting their taxes. The mobile nature of their business makes it difficult for them to know and collect the correct rate of tax for each sales location at the time of sale.

As with all retailers, mobile food truck vendors are required to report and pay tax on sales of taxable items at the tax rate for the location in which the sales were made. For sales occurring prior to July 1, 2014 to be considered tax-included, the retailer was required to post a notice to customers (or include provisions in a sales agreement or receipt) stating that tax is included in the listed menu price. If such a notice was not posted, the listed menu prices were presumed to not include tax, and the vendor was required to report and pay tax measured by the prices charged.

To help make calculating and reporting taxes for mobile food truck vendors easier, we amended our regulations in 2014 to presume that sales tax is included in the price of taxable items sold by mobile food vendors if the tax is not added separately. This change allows vendors to charge the same tax included price for each menu item no matter where they are (without additional signage), which will eliminate the need to recalculate sales tax at each stop where the tax rate changes. This presumption does not apply when mobile food vendors make sales as caterers hired



by a private party to provide food and/or drinks on that party's premises (or premises provided by the private party). However, the mobile food truck vendor must still keep track of what sales were made at each location. When filing returns, mobile food truck vendors must calculate and report tax included sales using the proper tax rates of the various sales locations.

We have a considerable amount of information on our website to assist your clients. They can start with our publication 287, *Tax Guide for Mobile Food Vendors*, or our *Tax Guide for Caterers* at www.boe.ca.gov/industry/caterers.html.



Tax Guides

We have several tax guides for specific industries as well as new permit and license holders on our website. These guides are a one stop shop for information on key tax and fee issues relevant to specify types of businesses, and for the new seller. We even have one just for you at www.boe.ca.gov/industry/tax-practitioners.html.

Be Sure Returns are Filed and Paid by Due Date

When a business registers with us and obtains a seller's permit, they are notified of their reporting basis (for example, quarterly, monthly, or yearly) and sales and use tax return due dates. Know your client's reporting basis and due dates. Returns must be filed by the due date and include full payment of taxes due to avoid the accrual of interest on the amount owed and penalties. Even if your client cannot pay the full amount due, make sure they file their return on time. We offer a convenient, secure, easy to use online filing system that walks the filer through the process and completes the calculations. Our electronic filing system can also be used to request an extension if additional time is needed to file any tax return. For those who forget, filing due dates can be found on our website at www.boe.ca.gov/sutax/fill_dates.htm.

Don't Forget to Report Use Tax!

Use tax is similar to sales tax, although it is the responsibility of the purchaser rather than the seller. Out-of-state sellers engaged in business in California are required to

collect and report use tax on their taxable sales to California customers. However, there are sellers outside of California who may not collect and report the tax. In those instances, it is the responsibility of the purchaser to report and pay the use tax on their personal income tax return or use tax return. Generally, the use tax is the same as the sales tax rate. The majority of consumer households in California owe at least a small amount of use tax, usually from:

- Purchases made outside of California where California sales or use tax was not charged and the merchandise purchased was used in California; *and*
- Purchases of merchandise made over the Internet, and phone or mail orders, where California sales or use tax was not charged.

The easiest way to know if use tax is due is to review purchase receipts to see if a tax was charged. If not, you may owe use tax. More information is available at www.boe.ca.gov/sutax/usetax.htm.



California Film and Television Tax Credit Program

The California Film and Television (Film & TV) Tax Credit Program, administered by the California Film Commission (CFC), allows qualified taxpayers a tax credit against income and/or sales and use taxes liabilities based on qualified expenditures for films and television shows produced in California. Assembly Bill 1839 established a “New” Film and TV Tax Credit Program with a number of key changes from the existing program. If a business is qualified, the CFC will issue a Tax Credit Certificate to them. You can visit the CFC website at www.film.ca.gov/incentives.htm for up-to-date information regarding the Film and TV Tax Credit Program, such as eligibility requirements, application dates, and tax credit allocation percentages.

Key Changes to the Film and TV Tax Credit Program:

- Increases tax credit program funding to \$330 million per fiscal year and extends the program for 5 years;
- Expands eligibility to big budget feature films, one-hour TV series (for any distribution outlet), and TV pilots;
- Eliminates budget caps for studio and independent films; *and*

- Replaces the current lottery with a ranking system based on a “jobs ratio” and other criteria.

Your clients or their assignees may make an irrevocable election to apply for the tax credit against your assignee’s sales and used tax liabilities. In order for your assignee to use the credit, the tax credit must first be assigned on your client’s California franchise or income tax return prior to making the election. The rules for assigning credits are administered by the California Franchise Tax Board (FTB). Visit the FTB online at www.ftb.ca.gov for more information.

Tax Repayment Available for Qualified Itinerant Veteran Vendors

A new law allows qualified itinerant veteran vendors to file a [BOE-101, Claim for Refund or Credit](#), to receive a repayment of sales tax, interest, and penalties paid to the BOE from April 1, 2002 to March 31, 2010. This repayment only applies to sales of items for \$100 or less (excluding alcoholic beverages), for which the qualified itinerant veteran vendors did not collect sales tax reimbursement from their customers.

Qualified itinerant veteran vendors are those who:

- Received an honorable discharge, or were released from active duty under honorable conditions from the United States Armed Forces;
- Are sole proprietors with no employees;
- Have no permanent place of business in this state; *and*
- Are unable to obtain a livelihood by manual labor due to a service connected disability.

Refund requests must be submitted to the BOE before January 1, 2016. The repayment amount will be reduced by any amounts previously refunded, credited, or paid to the qualified itinerant veteran vendor. The law places a limit on the total amount of money available to make repayments. Therefore, if the total amount of approved claims exceeds the authorized limit, the BOE will prorate the repayment amounts due to each qualified itinerant veteran vendor.

For more information, please see [Assembly Bill 919](#) or the Special Notice on our website at www.boe.ca.gov/news/L399.pdf.

What Information Do You Need From Us?

If there is a specific topic you would like us to include in our next newsletter, please mail your request to the State Board of Equalization, P.O. Box 942829, Sacramento, CA 94279-0044. You may also send a message through our website at www.boe.ca.gov/info/contact.htm, or call our Customer Service Center at 1-800-400-7115 (TTY:711).

Contact Us

www.boe.ca.gov

Customer Service Center

1-800-400-7115 (TTY:711)

Customer service representatives are available to assist you weekdays from 8:00 am to 5:00 pm (Pacific time), except state holidays.

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