



NEWS FOR TAX PRACTITIONERS

WHAT YOU NEED TO KNOW ABOUT CALIFORNIA BUSINESS TAXES AND FEES ADMINISTERED BY THE BOE

As a tax practitioner, having the latest tax and fee information enables you to advise your clients and prepare their returns more effectively. This semiannual newsletter helps you stay current with latest developments regarding the taxes and fees administered by the Board of Equalization (BOE).

For more information on any of the topics covered in this edition, please visit the Tax Practitioners Information Portal on our website at www.boe.ca.gov/industry/tax-practitioners.html.

Coming in 2016—Prepaid Mobile Telephony Services Surcharge

Sellers of prepaid wireless phone cards, plans, and services will be required to collect a new surcharge from purchasers of those items beginning January 1, 2016, and pay it to the BOE.

Information is currently available in the new industry guide on our website at www.boe.ca.gov/industry/prepaid_mts_surcharge.html. If your client sells prepaid wireless phone cards and services, email us at SUTD-MTS@boe.ca.gov and provide your client's name and seller's permit number so we can send them important information and instructions on this new surcharge.



Are Sales of Medical Cannabis Taxable?

Yes. In general, all retail sales of medical cannabis are taxable.

If your client grows or sells medical cannabis, they are required to register with the BOE for a seller's permit and file regular sales tax returns with us even if their sales are to customers that resell medical cannabis in the regular course of their business. Your clients can register online for a seller's permit by clicking on the "New Registration" link at the top of our home page at www.boe.ca.gov or in person at one of our field offices, which can be found at www.boe.ca.gov/info/phone.htm.

For more information, your clients may visit our industry guide *Medical Cannabis* on our website at www.boe.ca.gov/cannabis.

Use Tax Reported on Income Tax Returns

California allows certain taxpayers to report use tax due on nonbusiness purchases on their annual state income tax return filed with the California Franchise Tax Board (FTB). For purchases made prior to January 1, 2015, or reported on an income tax return covering a period that began prior to January 1, 2015 (e.g., fiscal year 2014/15), the law requires that use tax payments made with the annual return are first applied to franchise or income tax, penalties, and interest. The balance, if any, is sent to the BOE to be allocated to use tax owed. If the use tax owed is more than the amount sent to the BOE, the taxpayer may receive a bill for the difference from the BOE.

The application of payments for use tax reported on an income tax return has changed. Beginning with taxable years starting on or after January 1, 2015, the full amount of use tax reported and paid with a person's income tax return will be applied to the person's use tax liability. This means, as a general matter, use tax reported on a taxpayer's state income tax return will be applied first to the use tax liability, instead of unpaid franchise or income tax liabilities, penalties, or interest. In most cases, this eliminates a bill from the BOE for use tax reported and paid to the FTB.



Fiscal Year 2015-2016 Tax Rate on Other Tobacco Products

The Board Members approved an Other Tobacco Products tax rate of 28.13 percent for fiscal year 2015/16. The new tax rate is effective July 1, 2015, through June 30, 2016. All active tobacco products distributors (CP) and tobacco manufacturers/importers (TIM) with accounts were notified of the new rate by mail in May 2015. You can view the notice at www.boe.ca.gov/pdf/boe851.pdf.

The tobacco products tax is imposed upon the distribution of tobacco products, other than cigarettes, which includes all forms of cigars, smoking tobacco, chewing tobacco, and snuff, as well as any other articles or products made of, or containing, at least 50 percent tobacco.



Collecting Reimbursement for the Oil Spill Prevention and Administration Fee

A separately stated charge for reimbursement of the oil spill prevention and administration fee by a fee payer is considered excess fee reimbursement, except where the reimbursement is charged on a transaction or activity that results in the fee liability. All refinery and marine terminal operators were notified of this in June 2015. You can view the notice at www.boe.ca.gov/sptaxprog/pdf/L419.pdf.



Did You Know Our Online Services Include Relief Requests?

You can use our online services to request relief for your clients from one or more of the following:

- Penalties
- Penalties and interest due to a disaster
- Collection cost recovery fee
- Declaration of timely mailing
- Extension of time in which to file a tax or fee return
- Interest due to an unreasonable error or delay by the BOE or by the Department of Motor Vehicles

For more information on how to request relief go to our website at www.boe.ca.gov/electsrv/erelief/.

The Centralized Revenue Opportunity System (CROS)

We are in the process of creating a new, innovative, and customer-centered solution to replace our current legacy computer systems.

The new, efficient system will improve taxpayer service and benefit California businesses in many ways. Soon, we will select the technology partner who will work with us to design and build the new system. Next year, you may see some helpful technological changes. Visit our website at www.boe.ca.gov/cros/ for more details on this effort.



Are Tips Taxable?

Mandatory tips and gratuities are generally subject to sales tax when:

- An amount is automatically added to the bill without first consulting with the customer after the meal was served.
- The customer and the business agree to a suggested tip amount before the service or event.
- Menus, brochures, ads, or other materials state that tips, gratuities, or service charges will automatically be added to the bill.

However, tips and gratuities are generally not taxable when the customer voluntarily adds a separate amount to the bill, and the amount is distributed to the business' employees.

Examples include:

- When the check or bill has a blank "tip" area for customers to voluntarily write in an amount.
- When the check or bill suggests tips computed for the customer, but the "tip" area is left blank for the customer to voluntarily write in an amount.

Beginning January 1, 2015, if your client keeps records consistent with reporting amounts as tip wages to the IRS, we will presume those amounts are optional and not subject to sales tax. On the other hand, if your client's records show amounts to be reported as non-tip wages to the IRS, we will consider those amounts mandatory and taxable.

Keeping old menus is a great way for your clients to document their tip policies.

For more information about tips, see our publication 115, *Tips, Gratuities, and Service Charges*, on our website at www.boe.ca.gov/formspubs/pub115/, or visit the IRS website at www.irs.gov.

Spotlight on FTB!

Kudos to the California Franchise Tax Board (FTB) for their customer-friendly "Tax Professionals" webpage. This helpful site includes a special hotline and e-file help desk just for you! It also provides the latest news about income tax laws and events that affect the tax practitioner community.



Tax News is the FTB's monthly online publication designed to inform tax professionals about state income tax laws, regulations, policies, procedures, and

events that affect the tax professional community. The FTB periodically releases *Tax News Flashes* to quickly notify subscribers of urgent, time-sensitive information. You can sign up for the subscription service that delivers Tax News (that includes the Tax News Flashes service) to you via email. It's free and all the FTB needs is your email address. To subscribe, go to www.ftb.ca.gov, click on "News & Events," then scroll down to "Subscription Services," and click on the "Subscribe" link.

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Filing Dates for Sales and Use Tax Returns

The BOE assigns the filing frequency (i.e., quarterly with/without prepayments, monthly, fiscal yearly, calendar yearly) based on the taxpayer's anticipated monthly sales tax amount at the time of registration or subsequent reported amounts. When the due date falls on a weekend or state holiday, the due date is extended to the next business day. Find the filing due dates on our website at www.boe.ca.gov/sutax/fill_dates.htm.

For more information on due dates for prepayments and other filing instructions, please refer to form *BOE 367-SUT, Filing Instructions for Sales and Use Tax Accounts*.

Don't Miss an Issue!

You can sign up to receive an email alert when this newsletter is published. Go to our website at www.boe.ca.gov/info/enotify.htm. In the first section entitled "General," click on "BOE Updates." Then scroll down to the bottom of the page, enter your name and email address, and click "Submit Form."



Retailers of Trailers, Construction Equipment, and Farm Equipment Must Collect the California Tire Fee

Retailers of trailers, construction equipment, and farm equipment are required to register with the BOE and collect the California Tire Fee if they sell the following:

- Any trailer with new tires that will be pulled upon a highway or road.
- Any construction or farm equipment that includes new tires.
- New tires to retail customers as replacement tires for trailers, construction equipment, or farm equipment.

For information regarding the California Tire Fee and how to register for a tire fee account, please see publication 91, *California Tire Fee*, located on our website at www.boe.ca.gov/pdf/pub91.pdf.



Helpful Sales and Use Tax Videos

To view our informative videos, go to www.boe.ca.gov and click the "Find Information About Use Tax" link in the "How Do I..." section. There you'll find information about use tax including useful videos on how to report and pay.

The BOE also offers a number of free online seminars. There are helpful videos on registering, filing a return, making a payment, and more. Go to our online seminar page under "News and Events" at www.boe.ca.gov/info/VirtualSeminars/seminars_online.htm.



Motor Vehicle Fuel and Diesel Fuel Tax Rates

The state excise tax rates for gasoline and diesel fuel are adjusted annually by March 1 of each year. The rates per gallon in effect July 1, 2015, through June 30, 2016, are:

| | |
|---|-------------------|
| • Gasoline (Motor vehicle fuel) | 30 cents (\$0.30) |
| • Diesel fuel | 13 cents (\$0.13) |
| • Aircraft jet fuel ¹ | 2 cents (\$0.02) |
| • Aviation gasoline ¹ | 18 cents (\$0.18) |
| • IFTA and DI diesel fuel rate ² | 45 cents (\$0.45) |

¹ Excise taxes on aircraft jet fuel and aviation gasoline are not subject to annual adjustment.

² International Fuel Tax Agreement (IFTA) and International User Diesel Fuel Tax (DI) licensees.

For more information, please see our Tax Rates - Special Taxes and Fees webpage at www.boe.ca.gov/sptaxprog/tax_rates_stfd.htm.

Sales and Use Tax Noncompliance

Each year we identify the areas of the Sales and Use Tax Law with the highest taxpayer noncompliance. For the fiscal year ending June 30, 2014, those areas were:

1. Untaxed purchases from out-of-state vendors (e.g., not reporting use tax)*
2. Unsupported sales for resale (e.g., not obtaining a resale certificate)
3. Additional sales based on mark-up of cost
4. Estimated sales due to inadequate records
5. Recorded versus reported difference
6. Resale certificate deficiencies
7. Maintenance contracts
8. Errors in compiling returns
9. Difference between tax accrued and paid
10. Sales of take-out food disallowed
11. Withdrawal from resale inventory
12. Cost of tax-paid purchases resold

* This is the most costly and the most frequent category of noncompliance, representing one in seven taxpayer errors, and comprising nearly 20 percent of all net sales and use tax audit deficiencies (less refunds).

The top five industry classes with the highest sales and use tax noncompliance are:

- | | | |
|-----------|-----------------|-----------------|
| 1. Retail | 2. Food Service | 3. Manufacturer |
| 4. Mixed | 5. Wholesale | |

To find out more about common questions, or for help with specific industry classes, visit our industry and tax and fee guides at www.boe.ca.gov/industry.



New District Tax

The following district tax was approved by voters in March 2015.

| CITY/COUNTY | INCREASE | NEW RATE | START DATE |
|--|--------------|--------------|---------------|
| City of Weed (Siskiyou County) | 0.25% | 7.75% | 7-1-15 |

Contact Us

Tell us what topics you would like to see covered in your newsletter. You can mail your comments to us, call our Customer Service Center, or send a message through our website.

California State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0044

Tax Practitioner Hotline: 1-800-401-3661
Representatives are available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.

Website: www.boe.ca.gov/info/contact.htm

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