

# Tax Information Bulletin

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California State Board of Equalization  
P.O. Box 942879, Sacramento, CA 94279-0001

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## Is your business affected by a regulatory change?

### Electronic Funds Transfers (EFT)

New Regulation 1707, *Electronic Funds Transfer*, clarifies the Board's current procedures regarding the electronic funds transfer process. EFT is a method for paying sales and use tax electronically. Regulation 1707 provides definitions of EFT terms and explains the conditions for mandatory and voluntary participation. The regulation also provides information on payment dates, filing returns, failing to pay by EFT, handling a zero amount due, and alternative methods in emergencies. Readers who are interested in the new regulation may also want to look at publication 80, *Electronic Funds Transfer Information Guide*. Both Regulation 1707 and publication 80 are available through our Information Center or online at [www.boe.ca.gov](http://www.boe.ca.gov). If you have any questions about our EFT program, please call our EFT Helpline, 916-327-4229.

### The allocation of local use tax for long-term leases of motor vehicles

New Regulation 1803.5, *Long Term Leases of Motor Vehicles*, implements and interprets the provisions of Revenue and Taxation Code section 7205.1 regarding the allocation of local tax on long-term leases of motor vehicles.

The regulation includes

- Provisions regarding determination of "place of use."
- Definitions of terms as used in this regulation such as *motor vehicle, long-term lease, lessor, dealer, leasing company and new motor vehicle dealer*.
- Operative dates.

Regulation 1803.5 incorporates provisions of Senate Bill 602 (Stats. 1995), Assembly Bill 1946 (Stats. 1998) and Senate Bill 2092 (Stats. 2002). Additional information can be found in publication 28, *Tax Information for City and County Officials*, and publication 34, *Tax Tips for Motor Vehicle Dealers*. If you have any questions or need further clarification, please contact the Board's Local Revenue and Allocation Section at 916-324-3000.

### Watch and jewelry repair

Regulation 1553, *Miscellaneous Repair Operations*, was recently revised to clarify the application of tax with respect to a repairer's charges for parts and labor.

## Sales and use tax rate in the City of Willits will increase October 1, 2003

The sales and use tax rate in the City of Willits will increase to 7.75% on October 1, 2003. Voters have approved a 0.50% City of Willits transactions and use tax which will increase the tax rate within the city limits from 7.25% to 7.75%.

*Note:* Willits is located in Mendocino County. The tax rate in areas of the county outside the city limits of Willits will remain at 7.25%.

### Who must collect tax at the new rate?

You must apply the new tax rate if you

- Are a retailer in the City of Willits and your merchandise is sold and delivered within the city.
- Are a retailer located outside the City of Willits who is engaged in business in the city and you sell merchandise for use in the city. You are considered to be engaged in business in the city if you (1) have any type of business location there, (2) deliver into the city using your own vehicles, or (3) have an agent or representative in the city for the purpose of taking orders, delivering, installing, selling, or assembling.

*Regulations continued page 2*

*Willits continued page 2*

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*Willits from page 1*

- Are a dealer of vehicles, vessels, or aircraft and sell those items to persons who will register or license them to an address located in the City of Willits.
- Collect tax on lease payments you receive for leased property used by the lessee in the City of Willits.

**Is there an exemption from the tax rate increase?**

In general, fixed-price contracts and fixed-price lease agreements entered into prior to October 1, 2003, are subject to the tax rates in effect at the time you and your customer entered into the contract or lease agreement. To qualify as "fixed-price," neither party can have the unconditional right to adjust the price for an increase in costs or terminate the contract or lease [Revenue and Taxation Code sections 7261(g) or 7262 (f)]. In addition, the tax amount or rate must be specifically stated in the contract or lease agreement. If the contract or lease qualifies as fixed-price, you should continue to report and remit the specified tax rate—that is, the rate in effect at the time you entered into the contract.

**Third Equalization District Office Has Moved**

*District Three represents taxpayers in San Bernardino, San Diego, Imperial, Orange, and Riverside counties.*

The Third Equalization District Office has moved from Torrance to a more convenient location in Long Beach. If you want to call on us—and we hope you do, just remember we have a new address and telephone number.

Third Equalization District Office  
100 W. Broadway, Suite 300  
Long Beach, CA 90802

Telephone: 562-983-7855  
Fax: 562-983-1858

**Restaurant owners – when should you pay tax on disposable items?**

Restaurants purchase a variety of disposable items, such as "to go" containers, paper napkins, plastic silverware, paper towels, and so forth. These items are commonly lumped together under the category of "supplies."



As explained below, it is important to understand which supplies can be purchased for resale, using a resale certificate, and which cannot.

You may issue a resale certificate to purchase disposable items that are considered sold along with your restaurant's sales of food or meals. They are considered nonreturnable containers and include items such as paper napkins, straws, paper place mats, paper plates, disposable silverware, "to go" containers, Styrofoam cups and paper/plastic "to go" bags.

You may not, however, issue a resale certificate for items that are considered consumed in the operation of your restaurant. You must pay tax on consumable supplies such as guest checks, paper towels, cleaning products, trash bags, and bathroom tissue.

Problems can arise when various supply products are acquired from the same vendor. Be sure that the resale certificate you give your supplier specifies the products purchased for resale. The resale certificate should not simply state "supplies" or include consumable supply items that you may be acquiring from the same vendor.

*Regulations from page 1*

**Repair Labor:** Charges for labor to repair or recondition an item to restore it to its original use are not taxable. For example, labor charges to reset a stone in a customer's ring are not taxable, since you are restoring the ring to its original use. However, if you created a different piece of jewelry from the ring materials—a pendant, for example—the labor charges are taxable.

**Repair Parts:** Jewelers and watch repairers are generally the consumer of repair parts and materials used in repairs such as crystals, findings, chain links, gold and gems used in repairing watches, clocks and jewelry. As consumers, jewelers and repairers are required to pay an amount for tax when they purchase repair parts and materials.

However, jewelers and repairers are sellers of parts and materials when

- They make a separate charge for the repair parts and materials, or
- The retail value of the parts and materials is more than 10 percent of the total repair charge. In this instance, the jeweler/repairer must separate parts and materials charges from any labor charges on their invoice.

When the jeweler/repairer is the seller of parts and materials, they may purchase those items without tax for resale.

For more information about how tax applies to charges by jewelers and watch repairers, see publication 64, *Tax Tips for Jewelry Stores*, at [www.boe.ca.gov/pdf/pub64.pdf](http://www.boe.ca.gov/pdf/pub64.pdf).

**Compressed natural gas sold at cardlock fueling stations**

There has been some confusion regarding the application of tax to sales of compressed natural gas (CNG) sold through a cardlock fueling station. CNG sales to consumers are exempt if the gas is considered delivered through a main, line, or pipes. For a supplemental article on this subject, please go online to [www.boe.ca.gov/news/tib03.htm](http://www.boe.ca.gov/news/tib03.htm).



## Are gift-wrapping charges and layaway sales taxable?

It's only September, but when it comes to planning for sales, the holidays are just around the corner. This is a good time to remind everyone of how tax applies to two common holiday transactions.

### Gift-wrapping charges

Whether you are solely in the business of wrapping gifts or offer gift-wrapping as a service to your customers when they buy your products, sales tax generally applies to your entire gift-wrapping charge, including your charges for labor and materials. Only charges for wrapping certain sales of nontaxable food are not taxable. For more information about how tax applies to gift-wrapping charges—including charges for wrapping combination packages of food and nonfood products, please order publication 106, *Gift-Wrapping Charges*. Call for a copy or go online to [www.boe.ca.gov/sutax/staxpubs.htm](http://www.boe.ca.gov/sutax/staxpubs.htm).

### Layaway sales

You should generally report the entire layaway sale when your customer takes possession of the item sold. Since the initial layaway payment is considered a deposit and not a sale, you would not report the deposit at the time it is taken. When you complete the sale and transfer the item to the customer, you should report the total amount received from the sale including any layaway fee charged. If the sale is canceled and the layaway fee forfeited, the fee is not taxable since no sale occurred.

*Example:* You sell a \$2,000 diamond ring to a customer on a layaway plan in September, accepting a deposit of \$200 plus a \$50 layaway fee. The customer pays you \$200 in October and \$100 in November. When the customer returns in December, he pays the balance due (\$1,500) and takes possession of the ring. You would report the sale as taking place in December with a taxable selling price of \$2,050.

## Are labor charges taxable?

There is a common misunderstanding that all labor charges are exempt from sales and use tax. However, in California charges for fabrication labor are generally taxable. Fabrication labor is work done to create, produce, or assemble a product. Examples include making curtains, assembling a bicycle, or altering a new dress.

Charges for fabrication labor are subject to tax even if the person doing the work did not sell or furnish the materials being used.

Note that charges for repair and installation labor are not taxable. Repair labor is work performed to return an item to its original working condition. Examples of repair and installation labor include replacing a worn part on an appliance, installing a stereo in a used car, and altering used clothing. Tax usually applies to charges for parts you supply in a repair job if the retail value of the parts is more than 10 percent of your total charges, or if you charge separately for the parts.

Determining how tax applies to labor charges can be difficult. Often, work done for a customer includes both fabrication and installation labor. In addition, there are different rules for work on houses, buildings and other real property. If you have questions about whether tax applies to your labor charges, order or download publication 108, *When is Labor Taxable?* or publication 9, *Tax Tips for Construction and Building Contractors*.

Make it  
Happen

### Annual Taxpayers' Bill of Rights hearings

#### The date for the Culver City hearing has been changed.

The Members of the Board want to hear from you if you have suggestions for improving services or any of the tax or fee programs we administer. You can present your proposal orally or in writing.

#### Culver City

Thursday, September 11, 2003  
1:30 p.m.

Board of Equalization District Office  
5901 Green Valley Circle, Suite 207

#### Sacramento

Wednesday, October 15, 2003  
1:30 p.m.

Headquarters Building  
450 N Street, 1st Floor Board Room



To notify us of a topic you wish to discuss or to send written material in advance, please contact the Taxpayers' Rights Advocate MIC:70  
P.O. Box 942879  
Sacramento, CA 94279-0070  
Call toll-free: 888-324-2798  
Fax: 916-323-3319

## How Are We Doing?



We are committed to providing top-quality public service. Please let us know how we are doing by sending us your comments or suggestions. Please go online to fill out a brief *Customer Survey Form*.  
<http://www.boe.ca.gov/info/survey.htm>

## New or revised reference material

### Sales and Use Tax Publications

- 44 Tax Tips for District Taxes (4/03)
- 51 Guide to Board of Equalization Services (4/03)
- 58-A How to Inspect and Correct Your Records (4/03)
- 61 Sales and Use Taxes: Exemptions and Exclusions (5/03)
- 70 The California Taxpayers' Bill of Rights (4/03)
- 74 Closing Out Your Seller's Permit (3/03)
- 79 Documented Vessels and California Tax (5/03)
- 79-A Aircraft and California Tax (4/03)
- 107 Do You Need a California Seller's Permit (5/03)
- 111 Operators of Swap Meets, Flea Markets and Special Events (5/03)
- 112 Purchases from Out-of-State Vendors (5/03)
- 113 Coupons & Sales Tax (5/03)
- 115 Applying Sales Tax to Tips and Related Charges (5/03)

### Recent translations

- 25-S Tax Tips for Autor Repair Garages and Service Stations (Spanish) (11/02 cover date)
- 33-GN Making Sales in California (German) (1/03 cover date)
- 33-TI Making Sales in California (Thai) (1/03 cover date)
- 73 Your California Seller's Permit (6/02 cover date)
- 73-S (Spanish) • 73-K (Korean) • 73-F (Farsi) • 73-V (Vietnamese)
- 76-F Audits (Farsi) (12/01 cover date)
- 52-S Vehicles and Vessels: How to Request a Use Tax Clearance for DMV Registration (Spanish) (4/02 cover date)
- 115-S Applying Sales Tax to Tips and Related Charges (Spanish) (5/03 cover date)

## How safe is the personal information I provide to the Board?

When applying for a seller's permit, you are required to provide certain information that allows for the administration of the state's Sales and Use Tax Law. This includes personal information such as your social security and driver license numbers. With the proliferation of identity theft, it is important you know that any information provided to the Board and any information the Board may obtain regarding you or your business is safe.

State laws that protect your privacy cover any records that you provide to the Board. There are times when information can be shared with other government agencies and with companies authorized to represent local governments. The privacy statutes also bind those agencies or companies.

While most of the information you provide us is confidential, some is subject to public disclosure, such as the information printed on your per-

mit, account start and closeout dates, and names of business owners or partners. Further, when you sell a business, we can give the buyer or other involved parties information regarding any outstanding tax liability. Finally, with your permission, we can release information regarding your account to anyone that you designate. Of course, you have the right to review your records.

If you would like further information on this subject, you may call our Disclosure Officer located in Sacramento at 916-445-2918, or you may request our publication 58-A, *How to Inspect and Correct Your Records*.

## Fast, Easy, Secure

### Pay Your Sales and Use Tax by Credit Card



Call 1-800-2PAY-TAX<sup>SM</sup>  
(1-800-272-9829)

or visit [www.boe.ca.gov](http://www.boe.ca.gov)  
and click on Electronic Services

Official Payments charges a 2.5% convenience fee for this service, which is not revenue to the Board of Equalization.

PAYMENT SERVICES PROVIDED BY:

OFFICIAL PAYMENTS CORP.



[www.officialpayments.com](http://www.officialpayments.com)

### For your protection, we will ask for more than your account number

If you call our Information Center to inquire about your account, or to make changes to your account, we will ask for more than your account number. We will also ask for other identifying information about you or your business to help ensure you are the permit holder and are authorized to access your account.

*Note:* Sellers who want to verify a seller's permit number used for a resale certificate can contact the Board and provide only the permit number to see if it is a valid number.

### For More Information All telephone numbers are toll-free.

<b>Internet</b>	<a href="http://www.boe.ca.gov">www.boe.ca.gov</a> ■ <a href="http://www.taxes.ca.gov">www.taxes.ca.gov</a>
<b>Information Center</b>	800-400-7115 Telephone devices for the deaf 800-735-2929 (TDD) ■ 800-735-2922 (Voice)
<b>Requests for Fax Copies</b>	800-400-7115 (Choose automated services.)
<b>Seller's Permit Verification</b>	888-225-5263 ■ <a href="http://www.boe.ca.gov">www.boe.ca.gov</a>
<b>Taxpayers' Rights Advocate</b>	888-324-2798 ■ <a href="http://www.boe.ca.gov">www.boe.ca.gov</a>
<b>Tax Evasion Hotline</b>	888-334-3300
<b>State Legislation</b>	<a href="http://www.leginfo.ca.gov">www.leginfo.ca.gov</a>