

# USE TAX: Guide to Reporting Out-of-State Purchases

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[www.boe.ca.gov](http://www.boe.ca.gov)

August 2011

Use tax has been in effect since July 1, 1935. Use tax is intended to protect California sellers who would be at a competitive disadvantage when out-of-state retailers sell goods to California customers without charging tax.

Sales tax generally applies to the sale of merchandise in the state. Use tax applies to the use, storage, or other consumption of those same items when a similar purchase was made from outside the state. The use tax is set at the same rate as the state's sales tax and must be paid directly to the Board of Equalization (BOE) or on your Franchise Tax Board (FTB) Income Tax Return.

## Use tax is your responsibility.

Payment of use tax is generally the responsibility of the purchaser. Many out-of-state companies are "engaged in business," or have a physical presence in California and must register with the BOE to collect use tax on their retail sales to California customers. Some out-of-state companies will voluntarily register with the BOE and collect tax as a courtesy to their California customers. However, if a company is not "engaged in business" in California, it will generally not charge California tax.

It is your responsibility to report and pay use tax for purchases you make from out-of-state companies that don't charge you tax.

## Exemptions from use tax

Generally, the same types of items that are subject to sales tax are subject to use tax. Use tax does not apply to items specifically exempt from sales tax such as prescription medicines and most food items purchased at a grocery store.

## How do I pay use tax?

- File BOE-401-DS (located on our website), or
- Report use tax on your FTB Income Tax Return

## Who is not eligible to file BOE-401-DS or report tax on the FTB Income Tax Return?

The following taxpayers are required to report purchases subject to use tax directly to the BOE and may not report use tax on their income tax return:

- Businesses that have a California seller's permit.
- Businesses that are not required to hold a California seller's permit, but receive at least \$100,000 in gross receipts.
- Individuals or businesses that have a California consumer use tax account.

## Did you purchase from one or more of these common out-of-state retailers?

- Mail order catalog
- Internet retailer
- Television shopping network
- Online auction

If yes, you will need to check your records to determine whether or not you paid tax.

## Did you make purchases of the following items from out-of-state retailers without payment of tax?

- Books
- Electronics
- Computer equipment
- Manufacturing equipment
- Other \_\_\_\_\_

If yes, you will need to report and pay use tax on these purchases.

## Where do I look in my records for these purchases?

- Email receipts
- Sales invoices
- Purchase orders
- Credit card statements
- Bank statements
- Other \_\_\_\_\_

These records will help you determine whether or not you owe use tax.

## For More Information

### Internet

[www.boe.ca.gov](http://www.boe.ca.gov)

### Taxpayer Information Section

800-400-7115

TTY:711

Customer service representatives are available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.

California State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0001

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# California Businesses: How to Identify California Use Tax Due

This fact sheet explains how to examine your records to establish the use tax due on your purchases of physical merchandise (for example, supplies, furniture, fixtures, and equipment) from out-of-state sellers. If your business purchases items for *use, storage, or consumption* in California from a seller located outside California that does not collect and report the California use tax, you may owe California use tax. The use tax rate is the same as your local sales tax rate.

The use tax is intended to protect California sellers who otherwise would be at a competitive disadvantage when out-of-state sellers make sales of physical products to California customers without charging tax. The use tax also assures that all businesses in the state contribute fairly to the funding of state and local programs whether they choose to make purchases in California or outside the state.

## When do you owe use tax on your purchases from out-of-state vendors?

You generally owe California use tax when you purchase physical merchandise from out-of-state sellers for *use, storage, or consumption* in California. If the out-of-state seller does not collect and report the California use tax on your purchase, then you must generally pay the use tax directly to the Board of Equalization (BOE).

If an out-of-state seller charges you California tax, you should be sure to obtain a receipt. The receipt must describe the item and show the purchase amount, the tax amount, the seller's name, address, and California seller's permit number (or use tax registration number), and your name and address.

While out-of-state sellers often apply tax at the statewide rate (currently 8.25 percent), you are liable for use tax at the full rate in effect at the California location where you will first use the merchandise. When that location is within a special tax district, the full tax rate in effect for the district applies (statewide tax rate + district tax rate[s]). If the seller charged you tax at a rate lower than the rate in effect for your location, you generally owe the remaining use tax. Tax rate information is available from our Taxpayer Information Section at 800-400-7115 or on our website at [www.boe.ca.gov](http://www.boe.ca.gov)

## How do you review your purchase invoices for California use tax due?

Generally, if sales tax would apply when you buy physical merchandise in California, use tax applies when you make a similar purchase from a business located outside the state.

### Sales and Use TAX FACTS

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For additional information you may download regulations, forms and publications from our website or you may call our Taxpayer Information Section to talk to a Board of Equalization representative.

BOE website and Board Member contact information:  
[www.boe.ca.gov](http://www.boe.ca.gov)

Taxpayer Information Section  
800-400-7115  
TDD/TTY 800-735-2929

Taxpayers' Rights Advocate  
888-324-2798



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Examine your purchase invoices from out-of-state retailers in detail to make sure the retailer collected California use tax when it was due and that it was the correct amount (see previous section). Review of the general ledger asset accounts and Federal Income Tax Return depreciation schedules may assist you in identifying purchases that may be subject to use tax.

The California use tax is generally the liability of the purchaser and must be paid either directly to the BOE or to the seller from whom the physical merchandise was purchased, if such seller holds a seller's permit or a Certificate of Registration—Use Tax. If you believe that your out-of-state seller may have paid use tax on your purchase, thereby relieving you of responsibility for all or part of your California use tax liability, you may contact your out-of-state seller to verify their tax payment to the BOE.

**Are "Shipping and Handling" charges subject to California use tax?**

Shipping charges are generally exempt from tax provided they are:

1. For delivery directly to the purchaser by common carrier, contract carrier, or US Mail;
2. The invoice clearly lists delivery, shipping, freight, or postage as a separate charge; and
3. The charge is not higher than your *actual cost for delivery*.

If any of the three requirements are *not* met, the shipping charge is generally taxable. If "handling" is charged with shipping, the handling portion of the charge is subject to tax. (See publication 100, *Shipping and Delivery Charges*)

**Additional information available from our Taxpayer Information Section or website.**

<i>Regulations</i>	<i>Publications</i>
1628 Transportation Charges	71 California City and County Sales and Use Tax Rates
1684 Collection of Use Tax by Retailers	79 Documented Vessels and California Tax
1685 Payment of Tax by Purchasers	79A Aircraft and California Tax
1686 Receipts for Tax Paid to Retailers	100 Shipping and Delivery Charges
1823 Application of Transactions (Sales) Tax and Use Tax	
1827 Collection of Use Tax by Retailers	

**Taxpayers' Rights Advocate**

Call toll-free for help with problems you have not been able to resolve through normal channels: 888-324-2798.

*Note: The statements in this fact sheet are general and are current as of April 2009. The sales and use tax law and regulations are complex and subject to change. If there is a conflict between this publication and the law or regulations, decisions will be based on the law and regulations.*

## California Use Tax

Anyone receiving at least \$100,000 in gross receipts from a business in a single calendar year may be required to register with the Board of Equalization (BOE) to report and pay use tax. Use tax applies to items purchased from out-of-state sellers. If your business purchases items for use, storage or consumption in California, from a seller located outside of California that does not collect and report California use tax, you may owe California use tax. The use tax rate is the same as your local sales tax rate. Essentially, if you buy from an out-of-state seller that does not collect and report sales tax, you may owe use tax. The attached enclosure, published by the BOE, explains how to identify items for which you may need to pay California use tax

To register with the BOE, and to efile California use tax, go to <http://www.boe.ca.gov/electsrv/efiling/sutd.htm>. You can find additional information about use tax on the BOE website. If you have already efiled your federal income tax return and have not yet filed a use tax return, you may receive a letter from the BOE notifying you of your requirement to do so. In that letter, the BOE supplies you with an Express Login and an Account number (that is, they've gone ahead and registered you). Go to [https://efile.boe.ca.gov/boe/express\\_login\\_code.jsp](https://efile.boe.ca.gov/boe/express_login_code.jsp) to login with the information supplied in the BOE letter. If you receive the BOE letter, *you must efile even if you do not owe any use tax.*

### Options for paying use tax

**Note:** By the end of 2010, the majority of sales and use tax accounts will transition from paper to e-filing based on their account type and reporting basis. Taxpayers will be notified well in advance of the effective date of the transition of their account.

Situation	Choices
Individual (no business income)	<ul style="list-style-type: none"> <li>• Pay on 540; or</li> <li>• Report and pay on Form BOE-401-DS, <b>Individual Use Tax Return</b></li> </ul>
Individual (with a business not required to register)	<ul style="list-style-type: none"> <li>• Pay on 540;</li> <li>• Report and pay on Form BOE-401-DS, <b>Individual Use Tax Return</b>; or</li> <li>• Register on Form BOE-404-A, <b>Use Tax Registration</b>, and pay annually on Form BOE-401-A, <b>State, Local, and District Sales and Use Tax Return</b>, or Form BOE-401-EZ, <b>Short Form – Sales and Use Tax Return</b> (optional). (May report personal purchase on 540 or may include with business purchase)</li> </ul>
Individual (business required to register)	<ul style="list-style-type: none"> <li>• Register on Form BOE-404-A, <b>Use Tax Registration</b> and pay annually on Form BOE-401-A, <b>State, Local, and District Sales and Use Tax Return</b>, or Form BOE-401-EZ, <b>Short Form – Sales and Use Tax Return</b>; or</li> <li>• May report personal purchase on 540 or may include with business purchases</li> </ul>
Business entity (currently hold seller's permit)	<ul style="list-style-type: none"> <li>• Pay with sales tax return</li> </ul>
Business entity (no seller's permit, required to register)	<ul style="list-style-type: none"> <li>• Register and pay annually on Form BOE-401-A, <b>State, Local, and District Sales and Use Tax Return</b>, or Form BOE-401-EZ, <b>Short Form – Sales and Use Tax Return</b></li> </ul>
Business entity (no seller's permit, not required to register)	<ul style="list-style-type: none"> <li>• Report on business return;</li> <li>• Pay on Form BOE-401-DS, <b>Individual Use Tax Return</b>; or</li> <li>• Register and pay annually on Form BOE-401-A, <b>State, Local, and District Sales and Use Tax Return</b>, or Form BOE-401-EZ, <b>Short Form – Sales and Use Tax Return</b></li> </ul>