

# CALIFORNIA

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## SALES/USE TAX

J. E. Speed, Executive Director  
State Board of Equalization  
Sales and Use Tax Department  
450 N Street  
P.O. Box 942879  
Sacramento, CA 94279-0043  
800-400-7115

Internet Address – <http://www.boe.ca.gov>

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### Rates

|                | Sales  | Use    |
|----------------|--|--------|
| State          | 5.750%   | 5.750% |
| Uniform County | 1.250%   | 1.250% |
| Local          | The combined county and city sales/use tax rate is 1.25%. County district (transit) tax may apply with a range of 0.125% to 1.250%. A city district (transit) tax of 0.25% to 1.000% may also apply. |        |

### Sales/Use Basis

The lessor has the option of: (1) paying tax when purchasing property for lease or rent, or (2) charging tax on the rental stream. Use tax on rentals or leases is based on the total amount for which property is leased or rented without deduction for the cost of materials used, labor or service cost interest paid, losses, or any other expenses. Excluded are fees or taxes paid to the state, which have been included in the sales price of a motor vehicle. Lease payments are not subject to tax when the lessor or transferor has paid sales tax or use tax on the full purchase price. The lessor is responsible for collection of the tax from the lessee.

### Leases or Rentals

Leases or rentals of tangible personal property are included within the definition of the term sale and are subject to the sales tax on the rental charge. A lease of personal property affording the lessee an option to purchase the property results in a sale when the option is exercised. Tax applies to the amount required to be paid by the purchaser upon the exercise of the option. If the option price is nominal (does not exceed \$100 or 1% of the contract price, whichever is less), the transaction is considered as a sale rather than a lease and the entire tax is due at the time the agreement is signed. A taxpayer operating a leasing business may elect to pay the tax on the purchase price of the property and not charge the tax on the rental.

### Conditional and Credit Sales

A conditional sale is a sale in which the goods sold comes into the possession of the buyer, but legal title to the property is retained by the seller for security purposes. Title does not pass to the buyer until the full sales price of the property has been paid to the seller. The tax is due on the entire amount of an installment sale and must be paid in the month the sale occurs. Separately stated finance charges can be excluded. Under a layaway plan, the tax is due when the total price, excluding any separately stated finance charges, is paid and the tangible personal property is delivered to the purchaser; unless there is an agreement that title will pass at an earlier date.

### Lease - Purchase Agreements

The gross income under a lease purchase agreement is taxable in accordance with the rental classification until the conversion from a lease to a purchase. After the conversion, the payment is taxable under the retail classification. Gross receipts derived from the sale of the tangible personal property include conversion charges paid or incurred when the lease is converted to a purchase. Tax is due on the full option purchase price when the sale is made by the lessor.

A contract with a purchase option that does not exceed \$100 or 1% of the contract price, whichever is less, is considered a conditional sale and not a lease. Tax is due on the **entire** purchase price when the sale is made by the lessor.

## **Sale - Leaseback**

Generally, no sales tax applies to the transfer of title to, or the lease of, tangible personal property pursuant to a sale and leaseback transactions provided the following conditions are met. 1) The seller/lessee has paid California sales tax with respect to the original purchase of the property, and 2) the sale/ leaseback is consummated within 90 days of the original purchasers first functional use of the property.

Other California sale/leaseback transactions: Transactions treated as financing transactions are not subject to sales or use tax. A transaction structured as sales and leasebacks will be treated as financing transactions if: (1) the “lease” transaction would be regarded as a sale at inception if it qualifies as a “sale under a Security Agreement”, (2) the purchaser-lessor does not claim any deduction, credit, or exemption with respect to the property for federal or state income tax purposes, and (3) the amount which would be attributable to interest, had the transaction been structured originally as a financing agreement, is not usurious under California law.

In addition, transactions structured as sales and leasebacks will also be treated as financing transactions if all of the following requirements are met: (1) The initial purchase price of the property has not been completely paid by the seller-lessee to the equipment vendor; and (2) The seller-lessee assigns to the purchaser-lessor all of its right, title, and interest in the purchase order and invoice with the equipment vendor; and (3) The purchaser-lessor pays the balance of the original purchase obligation to the equipment vendor on behalf of the seller-lessee; and (4) The purchaser-lessor does not claim any deduction, credit or exemption with respect to the property for federal or state income tax purposes; and (5) The amount which would be attributable to interest, had the transaction been structured originally as a financing agreement, is not usurious under California law; and (6) The seller-lessee has an option to purchase the property at the end of the lease term, and the option price is fair market value or less.

Because of California’s complex treatment of sales/leaseback transactions, please refer to regulation 1660 for more detailed information.

## **Exemptions**

1. Sales nontaxable under U.S. and state constitutions.
2. Sales for resale (leasing/renting).
3. Rentals included in the measure of the use tax or rental of property outside the state.
4. Leases to the U.S. and its agencies.
5. Sales of aircraft for use as common carriers, to a foreign government or to a nonresident for use out of state, and such aircraft sold for leasing.
6. The sale or lease of aircraft to persons using them as common carriers, and sales to persons who will lease them to others for such use.
7. Sales and leases of pollution control equipment to or by the California Pollution Control Financing Authority.
8. Motor vehicle fuel in propelling aircraft, except aircraft jet fuel.
9. Cargo containers moved to a point outside the state within 30 days of delivery. (Repealed, effective 1/1/94)
10. Sales to common carriers, other than fuel and petroleum products, shipped by the seller through the purchasing carrier’s facilities for ultimate out-of-state delivery.
11. Sales of railroad freight cars for interstate or foreign commerce.

12. Occasional sales except the sale or use of vessels, aircraft, registered vehicles or vehicles requiring identification as off-highway vehicles.
13. New or remanufactured trucks, trailers, semi-trailers, camp trailers and housecars purchased by a nonresident and removed from the state within 30 days. New or remanufactured trailers or semi-trailers with an unladen weight of 6,000 lbs. or more if moved outside the state within 30 days or 75 days after delivery.
14. Watercraft sold or leased for use in interstate and foreign commerce involving the transportation of persons or property for hire, for use in commercial deep sea fishing outside California by persons regularly engaged in such fishing, or functionally used 80% or more of the time in the transporting for hire of property or persons to vessels or offshore drilling platforms located outside the state's territorial waters.
15. Gross receipts from the sale of tangible personal property, which is shipped outside California by the retailer according to the contract of sale.
16. Vehicle, vessels or aircraft transferred with business property sales of vehicles requiring registration when the retailer is other than a licensed manufacturer, remanufacturer, dealer, dismantler or lessor-retailer. This exemption does not apply to rentals payable under a lease.
17. A new business that has conducted business activities on or after 1/1/94, for less than three years, is exempt from state sales and use tax on equipment that is either purchased or leased. The equipment must be used primarily in manufacturing, processing, refining, fabricating, recycling, or research and development. The new business must fall under standard Industrial Classification Codes 2000 to 3999.

## **Registration Requirements**

Any person engaged in the business of making retail sales or leasing and/or renting tangible personal property must obtain a license by application to the State Board of Equalization. There is no registration fee required. The license is valid until surrendered. However, a \$50 fee is required for the renewal of a revoked or suspended license. A security deposit may be required from taxpayers if deemed necessary by the state to insure proper compliance with the law. The amount of the security deposit may not exceed twice the average liability for a quarterly taxpayer or three times that of one paying on a monthly basis or \$50,000, whichever is less. Security deposits will be released after a three year period in which the person has filed all returns and paid all tax to the state in a timely manner.

## **Reports & Payments**

Reports and payments are due quarterly the last day of each month following the period being covered by the return.

No discount is permitted for collection and prompt payment.

Reports are filed and tax is due based on the accrual basis. However, taxes on equipment leases are reported and paid on the cash basis. Tax remittances are to accompany the returns.

Mailing Address:                      State Board of Equalization  
   P.O. Box 942879  
   Sacramento, CA 94279-0001.

## **Electronic Funds Transfer (EFT)**

EFT is available at this time. The mandatory threshold is \$20,000 per month. The state will notify those taxpayers, which qualify for the mandatory program. A voluntary program is available at this time for taxpayers whose tax liability is less than the mandatory threshold. Upon approval of the State, the taxpayer may remit tax due by EFT but must do so for at least one year. Any person who collects use tax on a voluntary basis is not required to remit amounts due by EFT.

**Electronic Data Interchange (EDI)**

EDI is not available at this time.

**Accelerated Due Date for Larger Taxpayers**

If the Board of Equalization determines that the estimated taxable sales of a taxpayer are \$17,000 or more per month, it may notify the taxpayer that he/she will be required to make prepayments of the tax in the first two months of each quarter. The prepayments for the 1st, 3rd, and 4th quarters must be paid by the 24th day following the end of each of the first two months of the quarter, and should be for not less than 90% of the tax due for the month. The prepayment requirement can be met by paying an amount equal to one-third the tax liability reported for the prior year quarter return adjusted to reflect any tax revision.

The prepayments for the 2nd quarter must be paid by the 24th day following the end of the first month of the quarter, and should be for not less than 95% of the tax due for the month. The prepayment requirement can be met by first paying an amount equal to one-third the tax liability reported for the prior year quarter return adjusted to reflect any tax revision and a second prepayment of one-half the tax reported for the prior year quarter adjusted to reflect any tax revisions.

**Service/Maintenance Agreements**

Service and maintenance contracts are nontaxable if optional and taxable if mandatory.

**Sales Tax on Personal Property Tax**

Personal property taxes imposed on the lessor and passed on to the lessee are subject to tax. Effective 5/25/00, the taxable rental payments by lessees of tangible personal property do not include amounts paid for personal property taxes assessed against the property where a bank or financial corporation is the lessor. Also, effective 5/27/00, the use tax on the fair rental value of leases of Mobile Transportation Equipment does not include personal property tax assessed against personal property when the lessor is a bank or financial institution.

**Bad Debts**

A retailer is relieved from liability for sales tax or from liability to collect use tax on accounts found worthless and charged off for income tax purposes, or if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. The retailer may claim the bad debt deduction provided the sales or use tax was actually paid to the state. The deduction should be taken on the return filed for the period in which the amount was found worthless and charged off for income tax purposes or charged off if the retailer is not required to file an income tax return and the charge off was in accordance with generally accepted accounting principles. Bad debts must be claimed within three years and any bad debts that are subsequently collected must be included in the first return filed after such collection and the amount of tax thereon paid with the return.

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### EXEMPTION CERTIFICATES

| Exemption Forms                            | Resale Certificate<br>Certificate of Exemption - Printed Sales Messages<br>Direct Payment Permits<br>Certificate of Exclusion - 60% of Cost of Factory Built School Buildings<br>Certificate of Exemption - Food Products to Air Carriers<br>Blanket Exemption Certificate - Air Common Carriers Exempt Purchases<br>Manufacturer's Exemption Certificate<br>Manufacturer's Use Tax Declaration   |
|--|---|
| Exempt Organization<br>Certificate Numbers | <p>Format:        2            2 or 3    2 – 6<br/>Example:       SR            ARB     12 – 123456</p> <p>Note:    First two digits are based on the following:</p> <p>SR -    Single outlet sales tax accounts that do not require special tax returns.<br/>SRS -   Single outlet sales tax accounts (special seller's) that must complete Schedule B,<br/>         Detailed Allocation by County of 1% Local Tax.<br/>SRX -   Consolidated sales tax accounts operating within a single tax jurisdiction.<br/>SRY -   Consolidated sales tax accounts operating within more than one taxing jurisdiction.<br/>SRZ -   Consolidated sales tax accounts operating within more than one taxing jurisdiction<br/>         that must complete both Schedule B and C.<br/>SC -    Use tax accounts that do not maintain a place of business in this state but who<br/>         volunteer to collect use tax on sales made to in-state purchasers or for those that<br/>         maintain canvassers, solicitors, or salesmen in this state with no fixed place of<br/>         business in California.<br/>SU -    Consumer use tax accounts, where property purchased ex-tax out-of-state is<br/>         used at the address for which the account is established.<br/>SUS -   Consumer use tax accounts where property purchased ex-tax out-of-state is<br/>         used at the address for which the account is established and are required to<br/>         complete a local tax allocation schedule on the reverse of the tax return.<br/>SR -    Temporary sales tax accounts, including consolidated temporary accounts.</p> <p>Second set of letters shows the office administering the certificate. Eight digits identify the<br/>seller.</p> |
| Resale Certificate<br>Numbers              | Same as Exempt Organization Certificate Numbers above.  |

### UNIFORM SALES AND USE TAX CERTIFICATE MULTIJURISDICTION

Please refer to UNICERT.PDF for an example of this exemption certificate.

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### EXEMPTION DOCUMENTATION

| If Purchaser Claims This Exemption | Seller Should Obtain This Documentation  |
|------------------------------------|--|
| Exempt Organization                | Certificate of Exemption<br><br>Pass-through of exempt organizations' exemption to contractor permitted?<br><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  |
| Resale (By Retailer)               | Resale Certificate<br><br>Note: If purchaser is not required to hold a seller's permit because the purchaser sells only property of a kind the retail sale of which is not taxable or because the purchaser makes no sales in the state, the purchaser should make an appropriate notation to that effect on the certificate in lieu of a seller's permit number.<br><br>The MTC Uniform Sales and Use Tax Certificate - Multijurisdiction is also accepted. |
| Resale (By Contractor)             | Same as Resale By Retailer. <sup>(1)</sup>   |

<sup>(1)</sup>A contractor will be considered a retailer of materials if the contract explicitly provides for the transfer of title to the materials used in the contract prior to installation and separately states the sales price of the materials exclusive of the installation charge.

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## CALIFORNIA EXEMPT ORGANIZATIONS

| Category                                  | These Organizations Are Exempt  |  |
|---|---|--|
| Federal Government                        | United States Government and its Agencies<br>Foreign Governments  |  |
| State and Local Governments               | Not exempted  |  |
| Educational Institutions                  | Nonprofit Cooperative Nursery Schools <sup>(2)</sup>  |  |
| Religious Organizations                   | Not exempted  |  |
| Health Care Organizations                 | Not exempted  |  |
| Charitable Organizations                  | Not exempted  |  |
| Other Exempt Organizations <sup>(2)</sup> | Veterans' Organizations<br>Youth Sportsman Organization<br>Museums <sup>(3)</sup><br>Parent-Teacher Associations <sup>(1)</sup><br>The Friends of the Library<br>American Red Cross <sup>(4)</sup><br>Future Home Makers of America<br>Pop Warner Football<br>Distributive Education Clubs of America<br>Future Business Leaders of America<br>Vocational Industrial Clubs of America<br>American Youth Soccer Organization<br>California Youth Soccer Association, North<br>California Youth Soccer Association, South | 4-H Clubs<br>Boys' Clubs<br>Girls' Clubs<br>Special Olympics, Inc.<br>Collegiate Young Farmers<br>Future Farmers of America<br>Little League<br>Bobby Sox<br>Boy Scouts<br>Cub Scouts<br>Girl Scouts<br>Campfire, Inc.<br>Young Men's and Women's<br>Christian Association |

<sup>(1)</sup>Nonprofit and chartered by the California Congress of Parents, Teachers, and Students Inc.

<sup>(2)</sup>When purchases are made by these organizations of property for subsequent resale, the organization is considered the consumer and must pay tax on the item at time of purchase. Subsequent sale would then be exempt.

<sup>(3)</sup>Purchases by museums for display or resale are exempt. All other purchases for use in operating the museum are taxable.

<sup>(4)</sup>Specifically exempt from sales tax on purchases or sales.

## PROPERTY TAX

Richard C. Johnson, Deputy Director  
State Board of Equalization  
Property Taxes Department  
P.O. Box 942879  
Sacramento, CA 94279-0063  
(916) 445-1516

Internet Address – <http://www.boe.ca.gov/>

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### **Rates**

No state levy. Under the provisions of Proposition 13, the tax rate on real property cannot exceed 1% of full cash value. Although this limitation does not apply directly to personal property the tax rate for personal property cannot be higher than the real property tax rate. Therefore, personal property is subject to the real property tax rate in effect for the previous year. For equipment, which has sales/use tax due on rentals, assessment base adds the tax for valuation purposes.

### **Basis**

The full cash value of property by year of acquisition.

### **Exemptions**

Exemptions are too numerous to list. Inventory is exempt. Both lessor and tax-exempt lessee must file timely forms to avoid this tax.

### **Assessment**

Effective 1/1/97, the assessment date is January 1. Prior to 1/1/97, the assessment date was March 1. This will bring the lien date of state assessed and locally assessed property in sync. The statutory date to file is between January 1 and the last Friday in May. However, the majority of tax returns are due April 1. Each county may impose a return due date as early as April 1 and no later than the last Friday in May. Assessments are made by county assessors and in few cases, city assessors. All leased personal property located in a county and assessed against one taxpayer may be aggregated by the county assessor and placed on the taxroll as a single assessment. By ordinance passed by local boards of supervisors, county assessors are authorized to recognize loss in value resulting from calamities through the property tax relief program. The loss in value must exceed \$5,000. The damaged property will retain its lower value, with reduced taxes, once the reduction is granted, from the day of the disaster until the property is restored, repaired, or reconstructed. Property owners who have suffered damage, such as from a fire, should file a claim with their county assessor for a reduced tax assessment. State law usually requires that a claim and supporting information be filed within 60 days of the date of the disaster. Property owners are urged to contact their county assessor as soon as possible after the calamity to file a claim or obtain additional information.

### **Returns**

Lessors report the property to counties as owner. Lessees also report such but generally as users only for information purposes. A business property statement that requires information on costs of taxable property as of January 1, has fluctuating county due dates ranging from April 1 to the last Friday in May.

Effective 1/1/97, a taxpayer is no longer required to file a personal property tax statement if the aggregate cost of the personal property is less than \$100,000 for the initial assessment year or any subsequent years. Prior to 1997, the threshold for filing was any aggregate cost of \$30,000 or more for the initial year and \$100,00 or more for the subsequent years.



## Payments/EFT

Secured personal property taxes are payable in two installments, with the first installment due on 11/1 of the assessment year and becoming delinquent on 12/10, and the second installment due on 2/1 of the year following the assessment year and becoming delinquent on 4/10. Taxes from a supplemental assessment, if the bill is mailed between 7/1 and 10/31, are due on the mailing date and are delinquent 12/10 and 4/10 and, if the bill is mailed between 11/1 and 6/30, the first installment is delinquent on the last day of the month following the month in which the bill is mailed and the second installment is delinquent on the last day of the fourth month following the date the first installment became delinquent.

Unsecured personal property taxes are due 1/1 and become delinquent on 8/31 if on the assessment roll on 7/31. Taxes added thereafter become delinquent on the last day of the month succeeding the month in which the assessment was added to the unsecured roll. Penalty for late payment or nonpayment of secured property is 10%. Unsecured property penalty 10% on 9/1 additional 1.5% each month starting 11/1. County tax collectors may require any taxpayer making property tax payments of \$ 50,000 (Prior to 1997, \$ 100,000) or more to make any subsequent payments by means of Electronic Funds Transfer (EFT).

Effective 1/1/99, taxpayers may substitute credits against future property tax liabilities for the payment of tax equals and accrued interest by California cities and counties. A substituted credits is available on the execution of a written settlement agreement between the taxpayer and the affected county or city and county. Interest on the substituted credit may continue to accrue until the credit is fully offset against future tax liabilities.

## Special Treatment

### Pass-Through Exemption to Lessor from Tax Exempt Organization (Lessee)

True Lease

Yes<sup>(1)</sup>

Conditional Sale

Yes<sup>(1)</sup>

<sup>(1)</sup>Property must be used exclusively for exempt organizations and exemption of taxes must benefit the lessee.

Taxpayers owning private railroad cars must file a report annually by April 30 with the State Board of Equalization. The lien date on private railroad cars is January 1. The tax is due on 10/1 and is delinquent if not paid by 12/10. The tax rate applied to private railroad cars by the State Board of Equalization is the average rate for general property taxes throughout the state. The rate for the 1998-99 tax year is \$1.063 per \$100 of assessed value.

## Sales Tax on Personal Property Tax

Personal property taxes imposed on the lessor and passed on to the lessee are subject to tax. Effective 5/25/00, the taxable rental payments by lessees of tangible personal property do not include amounts paid for personal property taxes assessed against the property where a bank or financial corporation is the lessor. Also, effective 5/27/00, the use tax on the fair rental value of leases of Mobile Transportation Equipment does not include personal property tax assessed against personal property when the lessor is a bank or financial institution.