



Use Tax - New Law on an Old Tax

In an effort to reduce the budget shortfalls of the state, California recently passed legislation to improve collection of its use tax, a tax that has been on the books since the 1930's. This tax was enacted to ensure that tax is collected on taxable purchases made by California buyers even if the seller was not legally obligated to collect the sales tax. The use tax was intended to put California retailers on an "equal footing with their out of state competitors" where were not required to collect sales tax. While the sales tax is imposed upon the retailer (although they may pass it on to the buyer), the use tax is legally imposed upon the buyer.

Use tax applies when a person or business in California purchases tangible merchandise to be used, consumed, given away, or stored in this state from a retailer outside of this state who **does not** collect California tax on the sale. In essence, use tax applies to purchases from retailers outside California in the same manner as a sales tax would apply when the same item is purchased from retailers in California. The rate and base for each tax is the same. Every state with a sales tax has a matching use tax at the same tax rate.

The new law requires "qualified purchasers" to register with the Board of Equalization ("BOE") and to report and pay by April 15 the use tax owed from the previous calendar year. The new requirements apply to purchases on which use tax was not paid to a retailer required to collect tax. A "qualified purchaser" is defined as a person meeting *all* of the following conditions:

1. The person receives at least \$100,000 in gross receipts from business operations per calendar year.
2. The person is not required to hold a seller's permit or be registered as a retailer for use tax reporting purposes.
3. The person is not a holder of a use tax direct payment permit.
4. The person is not otherwise registered with the BOE to report use tax.

A "qualified purchaser" may register for a use tax account by completing Form BOE-404-A, Use Tax Registration. Use tax returns must report the total sales price of tangible merchandise purchased that is subject to use tax during the preceding calendar year, and for which tax was not paid to a retailer required to collect the use tax. Because the new law is a registration requirement, qualified purchasers must still register and file returns even if no use tax is owed (because tax was paid on the purchases). Indeed, returns must be filed even if no purchases were made during the year.

Assets, other than vehicles, that are purchased outside California and remain outside of California for 91 days, are exempt from the use tax. Vehicles purchased outside of California must remain outside of California for 12 months to avoid use tax.

Further information can be found in the Frequently Asked Questions section on California's Board of Equalization website: <http://www.boe.ca.gov/sutax/useTaxRegFAQ.htm>.