

Proposed Text of California Code of Regulations

Title 18. Public Revenues

Division 2. California Department of Tax and Fee Administration –

Business Taxes

Chapter 8.2. Lead-Acid Battery Fees

(A new chapter and regulations to be added to the California Code of Regulations)

Regulation 3230. California Battery Fee.

(a) In General. On and after April 1, 2017, a California battery fee is imposed on a person for each replacement lead-acid battery purchased from a dealer in a retail sale for storage, use, or other consumption in California, except as provided in subdivision (b). A dealer subject to the jurisdiction of this state shall collect the California battery fee from a purchaser at the time of the retail sale and may retain 1.5 percent (.015) of the fee collected as reimbursement for any costs associated with the collection of the fee. The California battery fee is one dollar (\$1.00) for each replacement lead-acid battery purchased from April 1, 2017, through March 31, 2022. The California battery fee is two dollars (\$2.00) for each replacement lead-acid battery purchased on or after April 1, 2022.

(b) Exclusions. The California battery fee does not apply to the following transactions:

- (1) A sale of a replacement lead-acid battery for which the California battery fee has previously been paid.
- (2) Sales of replacement lead-acid batteries for resale in the regular course of business.
- (3) A sale of a replacement lead-acid battery that is temporarily stored or used in California for the sole purpose of preparing the battery for use thereafter solely outside of California and that is subsequently transported outside the state and thereafter used solely outside of the state, as provided in subdivision (h)(2)(B) of Regulation 3210.
- (4) A sale of a lead-acid battery to a person who will incorporate it into new equipment for purposes of reselling the equipment with the battery, as provided in subdivision (h)(2)(C) of Regulation 3210.
- (5) A lead-acid battery provided as a replacement without charge under a vehicle or battery warranty or a vehicle service contract, as provided in subdivision (h)(2)(D) of Regulation 3210.
- (6) A sale of a replacement lead-acid battery described in subdivision (e)(3) of Regulation 3210 designed to be used as a stationary storage or standby battery in systems where the battery acts as either:

(A) Electrical storage for electricity generation equipment;

(B) A source of emergency power; or

(C) Otherwise serves as a backup in case of failure or interruption in the flow of power from the primary source.

(7) A sale of a lead-acid battery intended for use with or contained within a medical device, as provided in subdivision (h)(2)(E) of Regulation 3210.

(c) It is rebuttably presumed that a dealer's sale of a lead-acid battery to a person in California is a retail sale. If a replacement lead-acid battery is sold or used in a manner described in subdivision (b)(2) through (7), the dealer must obtain written certification from the purchaser, in accordance with Regulation 3240, stating that the lead-acid battery will be used in a manner or for a purpose entitling the dealer to regard the purchase as not subject to the California battery fee.

(d) Exemption for New Motor Vehicle Dealers. On and after January 1, 2020, if a new motor vehicle dealer sells or leases to a person a used vehicle into which the new motor vehicle dealer has incorporated a replacement lead-acid battery, the California battery fee shall not apply. A new motor vehicle dealer must maintain documentation to support the exemption. The terms "new motor vehicle dealer" and "used vehicle" have the same meanings as specified in Vehicle Code sections 426 and 665, respectively.

(e) Records.

(1) A dealer shall maintain and make available for examination on request by the Department all records necessary to determine the dealer's liability for the California battery fee and all records necessary for the proper completion of the dealer's returns in the manner set forth in California Code of Regulations, title 18, section 4901, Records. This includes, but is not limited to, purchase orders, bills of lading, receipts, invoices, shipping documents, job orders, contracts, customers' exclusion and exemption certificates (see Regulation 3240) or alternate written certifications, and other relevant documents.

(2) All records required to be maintained under this regulation must be preserved for a period of not less than four years unless the Department provides written authorization for their destruction within a lesser period.

Note: Authority cited: Section 25215.74, Health and Safety Code. Reference: Sections 25215.1, 25215.25 and 25215.45, Health and Safety Code; and Section 55302, Revenue and Taxation Code.