



CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

TAX POLICY BUREAU  
450 N STREET, SACRAMENTO, CA 95814  
PO BOX 942879, SACRAMENTO, CA 94279-0092  
1-916-324-2830 • FAX 1-916-322-4530  
[www.cdtfa.ca.gov](http://www.cdtfa.ca.gov)

GAVIN NEWSOM  
Governor

YOLANDA RICHARDSON  
Secretary, Government Operations Agency

NICOLAS MADUROS  
Director

September 4, 2020

VIA INTERNET

Dear Interested Party:

Attached is a copy of Current Legal Digest (CLD) Number 1087 for your information and review. The CLD includes a new proposed annotation, revisions to two annotation and the deletion of forty-six existing annotations. After review, please submit any questions, comments, or suggestions for changes by October 5, 2020. You may complete the electronic CLD Comments Form at <http://www.cdtfa.ca.gov/taxes-and-fees/cldmail.aspx> or mail your written comments to:

California Department of Tax and Fee Administration (CDTFA)  
Annotation Coordinator, MIC: 50  
P. O. Box 942879  
Sacramento, CA 94279-0050

CLDs are circulated for 30 days, at which time any questions are addressed, and/or suggested modifications taken into consideration. After review of the final version by the CDTFA's Legal Administration, they are published in the Business Taxes Law Guide. At that time, the CLD becomes obsolete.

Sincerely,

Pamela Bergin  
Acting Assistant Chief Counsel

Attachment: Current Legal Digest 1087

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

CURRENT LEGAL DIGEST NO. 1087

September 4, 2020

\*\*\*\*\*

**Revise** the following annotation to add the words “no” and “a,” which were unintentionally omitted when the annotation was initially added.

245.1497 **Lecithin**. This product is sold in whole, bulk form. Lecithin is a food product whose sale is exempt provided that the label or package makes no indication that the product is sold as a dietary supplement or adjunct. 8/23/89. (Am. 2020-2).

**Revise** the following annotation to add the words “and after September 30, 2008” to clarify that the 12-month test for out-of-state purchases of vehicles, vessels and aircraft was reinstated operative October 1, 2008.

335.0021 **First Functional Use Out of State**. A ready-mix concrete truck was purchased by a lessor outside California. It was first functionally used outside California by the lessee and was so used for over 90 days before entry into California. [See note below.]

The subsequent use of the truck by the lessor in California is not subject to tax. Since the out-of-state lease of the mobile transportation equipment is considered as the lessor's own use, and not a sale or purchase under the Sales and Use Tax Law, the subsequent lease of such mobile transportation equipment by the lessor in California is not subject to sales or use tax. 9/12/88. (Am. 2006-1; Am. 2008-1).

(Note: For the period October 2, 2004 through June 30, 2007, and after September 30, 2008, under certain conditions any vehicle, vessel, or aircraft purchased outside of California and brought into the state within 12 months from the date of its purchase is presumed to be acquired for storage, use, or other consumption in California and subject to use tax.) (Regulation 1620(b)(5).)

\*\*\*\*

**Delete** Annotation 335.0071, **Portable Rock Crushers**, (5/17/78) because the backup material states that it is obsolete.

\*\*\*\*

**Delete** Annotation 360.0010, **Balloon Art**, (9/20/00) (2001-3) because it is no longer accurate.

\*\*\*\*

**Delete** the following annotations related to Regulation 1529, (A) Transactions under prior law (May 1, 1950 to Sept. 21, 1988). They are outdated and no longer accurate.

- 375.0020 Co-Producers, (8/23/66)
- 375.0040 Co-Producers, (12/4/69)
- 375.0050 Co-Producers, (10/15/79)
- 375.0054 Film Editing, (7/11/88)
- 375.0060 Independent Contractor, (9/29/64)

375.0070 Long-Term Studio Personnel—"Week", (5/5/75)  
375.0080 Non-Productions—Measure of Tax, (12/27/51)  
375.0090 Producer, (5/4/72)  
375.0100 Slide Films, (5/4/72)  
375.0120 Sobriety Tests, (12/7/51)  
375.0140 Television, (6/20/50)  
375.0160 United States—Pictures Produced for, (9/30/53)  
375.0180 Advertising Playlets, (5/17/50)  
375.0200 Animated Pictures, (8/30/65)  
375.0220 Cans, Reels, etc., (4/20/65)  
375.0230 Complete and Incomplete Productions, (5/7/81)  
375.0240 Complete Productions, Motion Pictures, (4/8/65)  
375.0260 Definition, (6/18/51)  
375.0261 Definition, (3/20/73)  
375.0280 Release Prints, (10/14/53)  
375.0300 Television Commercials, (12/22/85)  
375.0305 Trailers, (12/11/85)  
375.0310 Transfer by Producer, (4/24/69)  
375.0320 Video Tape Production, (9/10/59)  
375.0340 Videotape Television Program as a Production, (12/27/67)  
375.0360 Dupe Negatives—Development Charges, (3/22/65)  
375.0380 Film Stock for Use in Sound Recording, (4/2/57)  
375.0410 Printing, Cutting, Editing, (4/18/51)  
375.0420 Processing Charges, (7/2/53)  
375.0440 Recording Tapes, (2/18/60)  
375.0460 Sound Recording on Customer's Tape, (2/19/53)  
375.0500 Tape and Disc, (7/27/56)  
375.0510 Television Stations, (10/15/79)  
375.0520 Temporary Employees, (8/23/66)  
375.0540 Exhibiting in this State—As Constituting Taxable Use, (11/9/51)  
375.0560 Master Film Positives Retained in State, (6/23/53)  
375.0580 Out-of-State Production of Live Film—Filmed Commercials, (8/10/64)  
375.0620 Television—Films and Tapes Shipped to California Television Stations, (2/3/66)  
375.0640 Television—Films and Tapes Shipped to California Television Stations, (11/13/53)

\*\*\*\*

**Delete** Annotation 425.0028 **Drugs and Placebos Used in Clinical Trial**, because it conflicts with Regulation 1591(e)(4).

\*\*\*\*

**Delete** Annotation 425.0519.0800 because it is outdated and no longer accurate.

\*\*\*\*

**460.0171 Consumer Action Against Retailer for Refund of Excess Sales Tax Reimbursement Barred.** A consumer could not maintain a cause of action against a retailer for a refund of alleged excess sales tax reimbursement collected by that retailer because there must first be a prior legal determination by the CDTFA that excess sales tax reimbursement was collected and that a refund was owed. *McClain v. Sav-On Drugs* (2019) 6 Cal.5th 951.

\*\*\*\*

**Delete** Annotation 465.0214 **Protective Claims for Refund (9/18/95)** because it is no longer accurate.

\*\*\*\*

**Delete** Annotation 585.0500 **Insurance Company Sale of Salvage Auto** because it is no longer accurate. (1/28/64).

\*\*\*\*

**Delete** Annotation 800.0031 **Place of Sale, Delivery, and Use, (2/25/88)** because it is no longer accurate.

\*\*\*\*\*