



CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

INFORMATION UPDATE

The article, *Clarifying the Wholesale Cost Basis of Tobacco Products for Out-of-State Licensed Tobacco Products Distributors in Certain Transactions*, appearing on page 3 of this issue has been superseded by our September 2020 Special Notice [L-778](#).



TAX INFORMATION BULLETIN

Cannabis Donations

On October 12, 2019, Governor Newsom signed [Senate Bill 34](#) (Stats. 2019, ch. 837) (SB 34), which provides that, once operative (discussed below), the cultivation tax will not apply to medicinal cannabis that a cultivator designates for donation in the California Cannabis Track-and-Trace (CCTT) system to a cannabis retailer. Further, under specified circumstances, use tax will not apply to medicinal cannabis or medicinal cannabis products donated by cannabis retailers to medicinal cannabis patients, or by any licensee to a cannabis retailer for subsequent donation to a medicinal cannabis patient.

Additionally, SB 34 provides that cannabis licensees authorized to make retail sales may provide free medicinal cannabis or medicinal cannabis products to medicinal cannabis patients or their primary caregivers, when specified requirements are met. SB 34 clarifies that the cannabis excise tax does not apply to specified transactions.

This bill is operative when the Department of Food and Agriculture completes necessary changes to the CCTT system, or on March 1, 2020, whichever occurs first, and will be in effect for five years from the operative date. We will issue a special notice and our *Tax Guide for Cannabis Businesses* at www.cdtfa.ca.gov/industry/cannabis.htm will be updated as we receive more information.

Sign Up to Receive Cannabis Updates

To ensure you receive the latest news on cannabis tax compliance and related issues such as CDTEFA-issued special notices, news releases, and proposed regulatory changes, please sign up for the CDTEFA Cannabis Outreach email listserv at www.cdtfa.ca.gov/subscribe.

New Sales and Use Tax Rate Operative January 1, 2020

The tax rate change listed below applies only within the indicated city limits. The new tax rate, tax code, and acronym will be available to view and download as a spreadsheet prior to January 1, 2020, on our [California City & County Sales & Use Tax Rates](#) webpage. Go to our website at www.cdtfa.ca.gov, and select [Tax and Fee Rates](#), then choose [Sales and Use Tax Rates](#) (scroll down to [Download](#) for the spreadsheet).

To find the specific tax rate for your area or business location, go to our [California City & County Sales & Use Tax Rates](#) webpage and select [Find a Sales and Use Tax Rate by Address](#) under the *Current Tax Rates* section. (The new rate will not be available here until January 1, 2020.) For assistance, you can call our Customer Service Center at 1-800-400-7115 (CRS:711). Customer service representatives are available to assist you Monday through Friday from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.

| DISTRICT TAX RATE INCREASING | | | | |
|---|----------|---------|------------|----------|
| Citywide | New Code | Acronym | Prior Rate | New Rate |
| City of Arcadia (located in Los Angeles County) | 754 | ACDA | 9.500% | 10.250% |

Cannabis Tax Rates

Excise Tax: We are responsible for determining a mark-up rate every six months. As required by law, we performed an analysis of statewide market data to determine the average mark-up rate between the wholesale cost and the retail selling price of cannabis and cannabis products. Based on this analysis, effective January 1, 2020, the mark-up rate will be 80 percent. We will notify you with a special notice anytime the mark-up rate changes.

Cultivation Tax: Beginning January 1, 2020, we are required to adjust for inflation the cultivation tax rates for all harvested categories (flowers, leaves, and fresh cannabis plants). Please see our special notice, *Cannabis Rate Changes Effective January 1, 2020*, at www.cdtfa.ca.gov/formspubs/L720.pdf for additional information.

For current cannabis tax rates, visit our *Special Taxes and Fees Rates* webpage at www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm and select *Cannabis Taxes*.

Cannabis Tax Regulations

We recently adopted [Regulation 3700](#), *Cannabis Excise and Cultivation Taxes*, which clarifies the Cannabis Tax Law regarding the administration of the cannabis excise and cultivation taxes, including the definition of “wholesale cost.” Please see our special notice, *Changes to Cannabis Excise and Cultivation Taxes Regulation* at www.cdtfa.ca.gov/formspubs/l719.pdf, for more information on Regulation 3700.

Additionally, we adopted emergency [Regulation 3702](#), *California Cannabis Track-and-Trace*, which requires distributors and retailers to

enter the wholesale cost and retail selling price of cannabis or cannabis products into the California Cannabis Track-and-Trace system.

For more information on emergency Regulation 3702, please see our special notice, *New Emergency Regulation for Cannabis Distributors and Retailers Requires California Cannabis Track-and-Trace* at www.cdtfa.ca.gov/formspubs/L594.pdf.

Sales and Purchases of Specified Diapers and Menstrual Hygiene Products Are Exempt from Sales and Use Tax

Recently enacted [Senate Bill 92](#) (Stats. 2019, ch. 34) provides an exemption from the sales and use tax for sales and purchases of specified diapers and menstrual hygiene products beginning January 1, 2020, through December 31, 2021. Retailers of these items should not charge or collect sales or use tax on sales of these items during this time.

For more information, please see our special notice, *Diapers and Menstrual Hygiene Products Are Exempt from Sales and Use Taxes Effective January 1, 2020, through December 31, 2021*, at www.cdtfa.ca.gov/formspubs/L695.pdf.

New Offer in Compromise Pre-Qualifier Tool

The Offer in Compromise (OIC) Pre-Qualifier Tool is a new feature for individuals who do not have and will not have in the foreseeable future the ability to pay the full tax or fee balance they owe. The tool allows taxpayers to enter their financial information to calculate a preliminary offer amount and guide them to complete a [CDTFA-490, Offer in Compromise Application](#), when appropriate. To access the OIC Pre-Qualifier Tool, go to www.cdtfa.ca.gov/OIC.

An OIC is a proposal to pay the CDTFA an amount that is less than the full tax or fee liability due. For more information about the Offer in Compromise Program, please visit www.cdtfa.ca.gov/legal/offer-in-compromise.htm. Additionally, [publication 56, Offer in Compromise](#) answers several of the most commonly asked questions.

Local and District Tax Guide for Retailers Is Now Available

We are pleased to announce that our online tax guide, *Local and District Tax Guide for Retailers*, is now available! This guide contains helpful examples about important local tax and district tax information for retailers including lessors, construction contractors, those with multiple locations, those making sales over the Internet, those making sales into California from out-of-state, and more.

Check out the guide on our website at www.cdtfa.ca.gov/industry/localanddistricttaxes.htm.

New Reporting Requirement for Retailers of Jet Fuel at Airport Locations

Beginning January 1, 2020, if you are a retailer of aviation fuel or jet fuel, you must report your sales of fuel by airport location. The Federal Aviation Administration (FAA) adopted a rule clarification limiting the proceeds from taxes imposed on jet fuel by state and local governments to airport-related expenses. With this new rule in effect, aviation and jet fuel retailers are required to report their sales of jet fuel by airport location.

New Reporting Requirement

If you are a retailer of jet fuel at an airport, you will need to track and report your sales of jet fuel by airport location on a new supplementary form called CDTFA-531-JF, *Aircraft Jet Fuel Retailers – Sales by Airport Location*, for return periods beginning January 1, 2020. When filing your customary fuel retailer's return online, you will be prompted to complete this form, which will be available by February 1, 2020. You will report the amounts of jet fuel sold by airport location, including total taxable jet fuel sales and the amount of tax collected. The return will also include a separate line for taxable sales of jet fuel at non-airport locations. Reporting an amount on the new form will not change any other part of your return. You will continue to report your transactions as you currently do and also report them on the new form for jet fuel sales.

For more information, please see our special notice, *New Reporting Requirements for Sales of Jet Fuel at Airport Locations*, at www.cdtfa.ca.gov/formspubs/L712.pdf.

Sales and Use Tax Exemption Requirements for Trucks Used Exclusively in Interstate or Foreign Commerce

Beginning January 1, 2020, [Assembly Bill 321](#) (Stats. 2019, ch. 226) amends Revenue and Taxation Code (R&TC) section 6388.5 to also apply to certain new, used, and remanufactured trucks. The exemption applies to trucks delivered to both California residents and non-residents in California that are removed from the state within a specified time and afterwards, exclusively used out-of-state or in interstate or foreign commerce. The expanded sales and use tax exemption will be operative from January 1, 2020, through December 31, 2023.

For more information, please see our special notice, *Sales and Use Tax Exemption Expanded to Include Trucks Used Out-of-State or in Interstate or Foreign Commerce*, at www.cdtfa.ca.gov/formspubs/L721.pdf.

Partial Tax Exemption for Zero-Emission Technology Transit Buses

On July 30, 2019, Governor Newsom signed [Assembly Bill 784](#), (Stats. 2019, ch. 684) (AB 784). Beginning October 9, 2019, through December 31, 2023, AB 784 provides a partial sales and use tax exemption on eligible sales and purchases of zero-emission technology transit buses sold to qualifying purchasers. Qualifying purchasers include cities, counties, transportation or transit districts, and other public agencies that provide transit service to the public. To qualify for the partial exemption, the purchaser

must be purchasing a zero-emission technology transit bus that is eligible for the California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP).

For more information about this partial tax exemption, please see our special notice, *Partial Sales and Use Tax Exemption for Zero-Emission Transit Buses* at www.cdtfa.ca.gov/formspubs/l716.pdf, and our online guide, *Motor Vehicle Dealers* at www.cdtfa.ca.gov/industry/used-vehicle-dealers.htm.

The California Air Resources Board (CARB), in partnership with CALSTART, administers the HVIP to encourage the use of hybrid and zero-emission trucks and buses in California by providing discounts to certain vehicle purchasers on eligible vehicles. To find out more information about HVIP, visit their website at www.californiahvip.org.

Changes Affecting Sellers of Prepaid Mobile Telephony Services (MTS) and Telecommunication Service Suppliers

Governor Newsom recently signed [Senate Bill 96](#) (Stats. 2019, ch. 54), which changes the collection requirements by prepaid MTS sellers and service suppliers of the Emergency Telephone Users (911) Surcharge that provides access to the 911 emergency system. Instead of a percentage-based surcharge, the 911 Surcharge will change to a flat rate of no more than 80 cents, as determined annually by the Office of Emergency Services. For the period January 1, 2020, to December 31, 2020, the 911 Surcharge Rate is 30 cents. Beginning January 1, 2020, prepaid MTS sellers and service suppliers will have the following collection requirements:

- Sellers of prepaid MTS must collect the 911 Surcharge on each **purchase** of prepaid MTS for each **retail transaction** in California.
- Service suppliers must collect the 911 Surcharge on each **access line** a service user subscribes to for use in California each month or partial month.

In addition, service suppliers that were filing returns on a quarterly or yearly basis will be changed to a monthly reporting basis starting with their January 2020 return. For more information, please see our special notice, *Changes to the Emergency Telephone Users (911) Surcharge Effective January 1, 2020*, at www.cdtfa.ca.gov/taxes-and-fees/l703.pdf.

Collection of Local Charges by Sellers: Recently enacted [Senate Bill 344](#) (Stats. 2019, ch. 642) extends prepaid MTS sellers' requirement to collect, report, and pay local charges, when applicable, on their retail sales of prepaid MTS through December 31, 2020.

Sellers of prepaid MTS (other than service suppliers) are required to have an active prepaid MTS account to collect, report, and pay both the 911 Surcharge and any applicable local charges.

Please see our *Tax Guide for Sellers of Prepaid Mobile Telephony Services (MTS) and Telecommunication Service Suppliers* at www.cdtfa.ca.gov/industry/seller-servicesupplier.htm for more information about the 911 Surcharge and/or how local charges apply.

Clarifying the Wholesale Cost Basis of Tobacco Products for Out-of-State Licensed Tobacco Products Distributors in Certain Transactions

We have clarified the wholesale cost basis of tobacco products when an out-of-state California licensed tobacco products distributor sells tobacco products to wholesalers, retailers, or consumers located in California. For more information, see our special notice, *Clarifying the Wholesale Cost Basis for Out-of-State Licensed Tobacco Products Distributors Effective October 1, 2019*, at www.cdtfa.ca.gov/formspubs/l698.pdf.

CAEATFA Exclusion Extended through December 31, 2025

The California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) sales and use tax exclusion per Revenue and Taxation Code (R&TC) [section 6010.8](#), is extended through December 31, 2025. Persons that obtain approval from CAEATFA can use the sales and use tax exclusion on eligible projects involving:

- Alternative energy sources
- Advanced transportation technologies
- Advanced manufacturing
- Recycled feedstock

For more information about the CAEATFA sales and use tax exclusion, please see our *CAEATFA Sales and Use Tax Exclusion* webpage at www.cdtfa.ca.gov/taxes-and-fees/caeatfa.htm.

Do You Owe the Backup Tax on Diesel Fuel or Motor Vehicle Fuel?

If you purchase diesel fuel or motor vehicle fuel (fuel) and place that fuel into the fuel tank of a motor vehicle in this state and do not qualify for an exemption, you owe a backup tax. Persons purchasing untaxed fuel are responsible for paying the backup tax to us.

International Fuel Tax Agreement and Diesel Fuel Interstate Users are required to report all gallons used to operate their qualified motor vehicles during the reporting period. Diesel fuel purchased without payment of excise tax must be included in the total gallons being reported. Gallons of diesel fuel purchased during the reporting period without payment of the excise tax cannot be reported as tax-paid gallons to reduce the net taxable gallons for which tax is due. Improper reporting of fuels purchased without payment of tax will result in the disallowance of tax-paid gallons and additional tax liability, along with applicable penalties and interest.

If you have questions about whether the backup tax applies or how to pay it, please contact our Customer Service Center at 1-800-400-7115 (CRS:711).

Taxpayers' Rights Advocate Office

Each year, our Taxpayers' Rights Advocate produces an annual report to highlight important new projects, spotlight current issues, and give examples of the services the Advocate Office provides.

This past fiscal year, we made many improvements to programs that are part of the Taxpayers' Bill of Rights. We also discovered many opportunities for additional enhancements to our services. Read about it in the *2018-2019 Taxpayers' Rights Advocate's Annual Report*, available soon at www.cdtfa.ca.gov/tra.

If you have questions about your rights, or if you have not been able to resolve a problem through normal channels, the Advocate Office can be reached toll-free at 1-888-324-2798 or by visiting www.cdtfa.ca.gov/tra.

How to Handle Excess Sales Tax Reimbursement

As a retailer, you may inadvertently collect excess sales tax reimbursement (too much sales tax) from your customers. Excess sales tax reimbursement occurs when you collect sales tax on an amount that is not taxable; you collect sales tax on an amount in excess of the amount subject to tax; you use a tax rate that is higher than the rate imposed by the law; or you overstate the reimbursement on a billing as the result of a mathematical or clerical error. When you collect excess sales tax reimbursement you are allowed the opportunity to return the amount to your customer. The following steps should generally be taken when you refund or credit the excess sales tax reimbursement:

- You should inform your customers in writing of any excess tax reimbursement collected.
- You should retain any documentation provided by your customer for refunds or credits to the account.

If you have already refunded excess sales tax reimbursement to your customer, please be sure to keep records on file, such as receipts, cancelled checks, or books of their account showing credit to your customer.

If you are unable to identify the customer who was charged excess sales tax reimbursement, or the customer does not acknowledge your notice in writing, the excess sales tax reimbursement you collected must generally be paid to the state on your sales and use tax return. Specific rules and additional information may be obtained from Regulation 1700, *Reimbursement for Sales Tax* at www.cdtfa.ca.gov/lawguides/vol1/sutr/1700.html.

About the CDTFA

Mission: We make life better for Californians by fairly and efficiently collecting the revenue that supports our essential public services.

What We Do: The California Department of Tax and Fee Administration (CDTFA) administers California's sales and use, fuel, tobacco, alcohol, and cannabis taxes, as well as a variety of other taxes and fees that fund specific state programs. CDTFA administered programs collect over \$70 billion annually which in turn supports local essential services such as transportation, public safety and health, libraries, schools, social services, and natural resource management programs through the distribution of tax dollars going directly to local communities.

Tax programs we administer are concentrated in two general areas – sales and use, and special taxes and fees.

To best serve our customers, we have offices throughout the state, along with offices located in New York, Chicago, and Houston. While our team is spread out geographically, we are united in working together to serve taxpayers.

For More Information

All telephone numbers are toll-free.

Internet

www.cdtfa.ca.gov
www.taxes.ca.gov

Customer Service Center

1-800-400-7115
(CRS:711)

Seller's Permit Verification

1-888-225-5263
www.cdtfa.ca.gov

Taxpayers' Rights Advocate

1-888-324-2798
www.cdtfa.ca.gov/tra

Tax Evasion Hotline

1-888-334-3300

State Legislation

<https://leginfo.legislature.ca.gov/>

More Articles Available Online

There are occasions when we have more articles than we have space for in this print version of the *Tax Information Bulletin*. The additional articles are available online at www.cdtfa.ca.gov/taxes-and-fees/tax-bulletins.htm.

New and Revised Publications Available Online

For new and revised publications, see our website at www.cdtfa.ca.gov/formspubs/pubs.htm.

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