



New California Law Changes Use Tax Collection Requirements for Remote Sellers and New District Use Tax Collection Requirements for All Retailers

On April 25, 2019, Governor Newsom signed Assembly Bill No. (AB) 147 (Stats. 2019, ch. 5) which requires out-of-state retailers with no physical presence in California (remote sellers) to collect use tax if, during the preceding or current calendar year, the total combined sales of tangible personal property for delivery in California by the retailer and all persons related to the retailer¹ exceed \$500,000.

AB 147 also requires all retailers, whether located inside or outside California, to collect and pay the district use tax on all sales made for delivery in any district that imposes a district tax if, during the preceding or current calendar year, the total combined sales of tangible personal property in California or for delivery in California by the retailer and all persons related to the retailer exceed \$500,000. In other words, any retailer whose total sales of tangible personal property in California, including sales for resale, exceed the \$500,000 threshold is considered engaged in business in every district in California that imposes a district tax and is, therefore, required to collect the district use tax on taxable sales made for delivery in every taxing district, regardless of the amount of the retailer's sales to any individual district.

The new state use tax collection requirement is operative April 1, 2019. The new district use tax collection requirement is operative April 25, 2019.* For more information, please see our Special Notice, *New Use Tax Collection Requirements for Remote Sellers and New District Use Tax Collection Requirements for All Retailers – Operative April 1, 2019*, at www.cdtfa.ca.gov/formspubs/l632.pdf and our online guide, *Use Tax Collection Requirements Based on Sales into California Due to the Wayfair Decision* at www.cdtfa.ca.gov/industry/wayfair.htm.

* Pursuant to AB 147, the operative date of both requirements was April 1, 2019, but on June 27, 2019, the Governor signed Senate Bill (SB) 92 (Stats. 2019, ch. 34), which changed the operative date of the new district use tax collection requirement. For more information about this change, please see our Special Notice, *New Operative Date of April 25, 2019, for District Use Tax Collection Requirement Based on \$500,000 Sales Threshold*, at www.cdtfa.ca.gov/formspubs/l684.pdf.

Relief May Be Available to Marketplace Sellers Using Fulfillment Centers in California

Under a new law (Revenue and Taxation Code (R&TC) section 6487.07), out-of-state retailers (marketplace sellers) that are or were engaged in business in California solely because they used a marketplace facilitator to facilitate sales of merchandise for delivery in California and the marketplace facilitator stored their inventory in this state shall be relieved of certain taxes and penalties if they meet all of the following conditions:

- Did not register with the CDTFA under the Sales and Use Tax Law prior to December 1, 2018.
- Did not file sales or use tax returns or make sales or use tax payments prior to being contacted by the CDTFA.
- Voluntarily register with the CDTFA and, by September 25, 2019, file completed tax returns for all reporting periods for which a determination may be issued under R&TC section 6487.07, and either
 - Pay the tax due in full, or
 - Apply for a payment plan, but only if the final payment under the terms of the payment plan is paid no later than December 31, 2021.
- Are or were engaged in business in this state solely because they used a marketplace facilitator (as defined in R&TC section 6041) to facilitate sales for delivery in this state and the marketplace facilitator stored their inventory in this state.

If the above conditions are met, a “qualifying retailer” will not be assessed tax by the CDTFA for sales made prior to April 1, 2016, and will be relieved of penalties for sales made for the period April 1, 2016, to March 31, 2019.

For more information, please see our Special Notice, *Relief May Be Available to Marketplace Sellers Using Fulfillment Centers in California*, at www.cdtfa.ca.gov/formspubs/l681.pdf.

¹A person is related to a retailer if they have a relationship with the retailer described in Internal Revenue Code section 267(b) and the related regulations.

New Requirements for Marketplace Facilitators Beginning October 1, 2019

Beginning October 1, 2019, a marketplace facilitator is considered the seller and retailer for each sale facilitated through its marketplace (for example, Internet) for purposes of determining whether the marketplace facilitator is required to register with the CDTFA for a seller's permit or *Certificate of Registration – Use Tax*. Also, a marketplace facilitator that is registered with the CDTFA or required to register with the CDTFA for a seller's permit or *Certificate of Registration – Use Tax* is the seller and retailer for each retail sale it facilitates for a marketplace seller through its marketplace. As such, the marketplace facilitator will be required to pay sales tax or collect and pay use tax on each retail sale facilitated for a marketplace seller through its marketplace. For more information about this change, please see our online guide, *Marketplace Facilitator Act* at www.cdtfa.ca.gov/industry/MPFAct.htm.

Online Services Expanded

On August 12, 2019, we expanded our online services to include the following tax and fee programs:

- Alcoholic Beverage Tax
- Cigarette and Tobacco Products Tax
- Cigarette and Tobacco Products Licensing (Distributors, Importers, Manufacturers, and Wholesalers)
- Fuel Taxes (Aircraft Jet Fuel, Diesel Fuel including Interstate User Diesel Fuel Tax, International Fuel Tax Agreement (IFTA), Motor Vehicle Fuel, and Alternative Use Fuel)
- Oil Spill Response, Prevention and Administration Fees
- Timber Yield Tax
- Underground Storage Tank Maintenance Fee

We've recently updated our website to provide the latest online resources, tools, and guidelines for the tax and fee programs above. Please visit www.cdtfa.ca.gov/taxes-and-fees and choose your program type(s) from the list of Taxes and Fees.

Returns, schedules, and/or license renewals for these programs can now be filed in our new online services system. **You must log in with your username and password to access the account(s) and file online.** If you are the business owner for one of these accounts, a letter was mailed to you in August 2019, with the information you need to sign up, including a unique security code needed to gain access online.

If you **do not** currently have a username and password, please *Sign Up Now* at <https://onlineservices.cdtfa.ca.gov/>. Third-party representatives (tax preparer/CPA, representative, employee, other) will also need to set up a *Username* and *Password*, **and** request third-party online access to the account. You may provide a copy of the letter that was mailed to you or the third-party representative can follow the steps online to have a request for access sent to you. Video tutorials are available on our website at www.cdtfa.ca.gov/services/#Tutorials, including *How to Create a Username and Password* in the new system, *How to Gain Access to an Account*, and *How to File Online*.

Additional CDTFA-administered tax and fee programs will be incorporated into our new system in 2020. During the transition phase, our website will direct you to the correct login page based upon your account type.

Secondary Access

In August 2019, we added a new feature called Secondary Access. With Secondary Access, you can delegate permission(s) for another user, such as an employee, to perform work within online services on your behalf without providing any personal information. A secondary user will only have access to accounts granted to them, and you can grant them permissions up to the level of your access. If you are a business owner, you can log in with your username and password to add or remove access for your third-party representative to use this secondary logon feature.

Please note: This new feature was available automatically for third parties who gained access to an account on or after August 12, unless changed by the business owner. Third-party representatives with access to an account prior to August 12 will need the business owner to modify their access type in order to use this feature, and they can do so by logging in or contacting CDTFA.

Please visit our Video Tutorials page at www.cdtfa.ca.gov/services/#Tutorials to watch the video about *How to Grant Secondary Access*.

Sales and Use Tax – Online Schedule A and B Improvements

Schedule A now prepopulates the taxing districts reported in the previous reporting period in addition to any registered selling locations. Monthly, quarterly, and quarterly with prepayments filers also have the option to upload a Schedule A and/or B as an Excel spreadsheet available on our website. This option is commonly used by those who need to add ten or more district tax areas to the schedule, and reduces the time needed to complete these schedules online.

For more information and to obtain the Excel template(s), please visit www.cdtfa.ca.gov/taxes-and-fees/schedules.htm. When uploading a schedule, be sure to obtain the most current spreadsheet from our website with updated tax rates for each filing period.

Report Unlicensed Cannabis Retailers

Unlicensed cannabis retailers typically do not pay the required taxes and often sell products that are not tested for consumer safety. A licensed cannabis retailer is required to display a California seller's permit at its place of business. These permits include an account number that can be verified on our website at <https://onlineservices.cdtfa.ca.gov/?Link=PermitSearch>.

To report suspected unlicensed activities, please call our Tax Evasion Hotline at 1-888-334-3300. You may also file the complaint anonymously online at www.cdtfa.ca.gov/rptfraud.htm.

California Internet Sellers of Nicotine and Non-Nicotine Vape Products Must Hold a Cigarette and Tobacco Products License

If you are an Internet seller based in California and sell cigarettes or tobacco products to consumers in California, you are required to hold a *Cigarette and Tobacco Products Retailer License*. The same retailer license requirements also apply whether you sell cigarettes or tobacco products by mail, telephone, or make sales while not in the physical presence of your customer when the customer places an order. Similarly, if you make non-face-to-face sales as a wholesaler or distributor in California, you are required to hold either a *Cigarette and Tobacco Products Distributor License* or *Wholesaler License*. (See R&TC section 30101.7 for more information.)

Please note: Nicotine-free eLiquid and component parts of vaping devices are considered tobacco products for licensing purposes. For licensing purposes, tobacco products include the following: products containing, made of, or derived from tobacco; any electronic smoking or vaping device; or, any component, part, or accessory of a tobacco product, whether or not sold separately.

Retailers and wholesalers must purchase cigarette and tobacco products from California-licensed cigarette and tobacco products wholesalers or distributors. The cigarette and tobacco products tax is paid by the distributor upon the distribution of the cigarette and tobacco products in California. Retailers and wholesalers cannot purchase, possess, or sell untaxed cigarettes or tobacco products.

Prior to selling and delivering cigarettes or tobacco products to consumers in California, you must verify that your customers are 21 years or older. Customers who are U.S. Armed Forces active duty personnel with military ID must be at least 18 years of age.

Please review our *Tax Guide for Cigarettes and Tobacco Products* at www.cdtfa.ca.gov/industry/cigarette-and-tobacco-products.htm for more information about the types of licenses you may need or which products are tobacco products.

Additional Registration and Collection Requirements for Out-of-State Businesses Selling Certain Items into California Effective April 1, 2019

If you are an out-of-state seller required to register² with the CDTFA to collect use tax, you may have additional registration and fee collection requirements if you sell any of the following items into California:

- New tires or motor vehicles and equipment that include new tires
- Covered electronic devices (laptop, portable DVD, TV with LCD or plasma screens, etc.)
- Lead-acid batteries
- Lumber products or engineered wood products

²An out-of-state retailer is required to register for and collect use tax if they are considered engaged in business in California pursuant to Revenue and Taxation Code section 6203 and the U.S. Supreme Court's decision in *South Dakota v. Wayfair, Inc.* (Dock No. 17-494) (*Wayfair*).

For more information

See our online guide, *Use Tax Collection Requirements Based on Sales into California Due to the Wayfair Decision* at www.cdtfa.ca.gov/industry/wayfair.htm. You can find more information on the registration and collection requirements of applicable fees under the Special Taxes and Fees topic of the *Tax Matrix and Common Transactions* tab.

Sales to Foreign Missions and Consuls May Be Exempt from Sales and Use Tax

In general, tax does not apply to the sale or use of tangible personal property sold or leased to foreign missions or representative offices, foreign consular officers, employees, or members of their family if the mission, office, or such person has been identified by the U.S. Department of State, Office of Foreign Missions (OFM), or American Institute in Taiwan (AIT) as exempt from tax. The OFM and AIT issue *Tax Exemption Cards* to qualifying persons. The cards include a photograph and a description of the authorized bearer. Some Tax Exemption Cards authorize an unrestricted exemption from tax, and other cards authorize an exemption with some degree of restriction, such as minimum purchase requirement, excluded categories, or both. Tax Exemption Cards labeled “Official Purchases Only” are for use when making official purchases and the form of payment must be in the name of the foreign mission or representative office.

Tax Exemption Cards labeled “Personal Tax Exemption” are used by eligible foreign mission and representative office members and members of their family to obtain an exemption from sales or use tax on personal purchases. Personal Tax Exemption Cards are not transferable and must be used solely for the benefit of the individual identified and pictured on the card.

Retailers must retain invoices or other written evidence to support any transaction claimed as an exempt sale on its sales and use tax returns for sales to foreign consuls.

For vehicle sales or leases, the retailer must contact the OFM or AIT to obtain a letter stating that the vehicle sale or lease to the purchaser is eligible for the tax exemption and must retain a photocopy of the front and back of the Tax Exemption Card.

If you have any questions or concerns regarding this, please contact OFM at 1-415-744-2910 in San Francisco or 1-310-235-6296 in Los Angeles.

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 account for over 25 percent of all state revenue. California's essential services, such as public safety, transportation, health, libraries, schools, social services, and natural resource management programs, are directly supported by these taxes and fees.

Tax programs administered by the CDTFA are concentrated in two general areas – sales and use tax, and special taxes and fees.

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

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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