



**CDTFA**  
CALIFORNIA DEPARTMENT OF  
TAX AND FEE ADMINISTRATION

# Construction and Building Contractors

## Preface

This publication is designed for building construction contractors, subcontractors, and restaurant equipment contractors. It provides basic information on the California Sales and Use Tax Law and applicable regulations.

If you cannot find the information you are looking for in this publication, please visit our website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov) or call our Customer Service Center at 1-800-400-7115 (CRS:711). Customer service representatives are available Monday through Friday from 7:30 a.m. to 5:00 p.m. (Pacific time), except state holidays.

This publication complements [publication 73](#), *Your California Seller's Permit*, which includes general information about obtaining a permit; using a resale certificate; collecting and reporting sales and use taxes; buying; selling; and keeping records. Also, please refer to our website or the [For More Information](#) section of this publication for the complete list of California Department of Tax and Fee Administration (CDTFA) regulations and publications referenced in this publication.

We welcome your suggestions for improving this or any other publication. If you would like to comment, please provide your comments or suggestions directly to:

Audit and Information Section, MIC:44  
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*Please note:* This publication summarizes the law and applicable regulations in effect when the publication was written, as noted on the back cover. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this publication and the law, the decision will be based on the law and not on this publication.

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# Definition of Terms

## Construction contracts

A construction contract is a contract, whether on a lump sum, time and material plus tax, cost-plus a fee, or other basis, to:

1. Erect, construct, alter, or repair any building or other structure, project, development, or other improvement on or to real property, or
2. Erect, construct, alter, or repair any fixed works such as waterways and hydroelectric plants, steam and atomic electric generating plants, electrical transmission and distribution lines, telephone and telegraph lines, railroads, highways, airports, sewers and sewage disposal plants and systems, waterworks and water distribution systems, gas transmission and distribution systems, pipelines and other systems for the transmission of petroleum and other liquid or gaseous substances, refineries and chemical plants, or
3. Pave surfaces separately or in connection with any of the above works or projects, or
4. Furnish and install the property that becomes a part of a central heating, air-conditioning, or electrical system of a building or other structure, and furnish and install wires, ducts, pipes, vents, and other conduit imbedded in or securely affixed to the land or a structure.

Construction contracts do not include the sale and installation of property such as machinery and equipment. In addition, construction contracts do not include the furnishing of property if the person furnishing the property is not responsible for the final affixation or installation of the property.

## Construction contractors

Construction contractors are persons who perform construction contracts. Construction contractors may include general contractors, subcontractors and specialty contractors that engage in building trades such as:

- Carpentry
- Landscaping
- Bricklaying
- Cement work
- Steelwork
- Plastering
- Drywall installation
- Sheet metal work
- Roofing
- Tile and terrazzo work
- Electrical work
- Plumbing
- Heating
- Air-conditioning
- Elevator installation and construction
- Painting
- Installation of floor coverings, such as:
  - Linoleum
  - Floor tile
  - Wall-to-wall carpeting



## United States construction contractors

A United States construction contractor is a construction contractor who performs a construction contract for the United States government.

### **Materials**

Materials include construction materials and components, and other tangible personal property incorporated into, attached to, or affixed to, real property by contractors performing a construction contract. When combined with other tangible personal property, materials lose their identity to become an integral and inseparable part of the real property. Examples of materials are in [Regulation 1521, Construction Contractors, Appendix A](#), and include but are not limited to:

- Bricks
- Cement
- Doors
- Electric wiring
- Flooring
- Lumber
- Paint
- Piping
- Stucco
- Tile
- Windows

### **Fixtures**

Fixtures are items which are accessory to a building or other structure and do not lose their identity as accessories when installed. Examples of fixtures are in [Regulation 1521, Appendix B](#), and include but are not limited to:

- Air-conditioning units
- Awnings
- Furnaces
- Lighting fixtures
- Plumbing fixtures
- Prefabricated cabinets
- Venetian blinds

### **Machinery and equipment**

Machinery and equipment include property intended to be used in the production, manufacturing or processing of tangible personal property, the performance of services, or for other purposes (for example: research, testing or experimentation). Machinery and equipment are not essential to the fixed works, building, or structure itself. It incidentally may, on account of its nature, be attached to the realty without losing its identity as a particular piece of machinery or equipment and, if attached, is readily removable without damage to the unit or to the realty. Examples of machinery and equipment are in [Regulation 1521, Construction Contractors, Appendix C](#), and include but are not limited to:

- Drill presses
- Electric generators
- Lathes
- Machine tools
- Printing presses



### ***Time and material contract***

A time and material contract is a contract under which the contractor agrees to furnish and install materials and/or fixtures and provides a separate charge for the materials or fixtures and the installation or fabrication for these items.

### ***Lump sum contract***

A lump sum contract is a contract under which the contractor for a stated lump sum agrees to furnish and install materials and/or fixtures. A lump sum contract does not become a time and material contract when the amounts attributable to materials, fixtures, labor, or tax are separately stated in the invoice.

### ***Cost-plus-a-fee contract***

A cost-plus-a-fee contract is a construction contract where the contractor furnishes and installs goods in exchange for the cost of the goods (not a marked-up selling price) plus a fee, which may be a lump sum or a percentage of the costs.



# General Application of Tax to Construction Contractors (Other than United States Contractors)

Applying tax to the sale and use of tangible personal property that is furnished and installed in the performance of a construction contract generally depends on whether the property is considered “materials” or “fixtures” and the type of contract with the customer.

## **Materials**

Whether a construction contractor is the consumer or retailer of materials furnished and installed in the performance of a construction contract will depend on the type of contract. Construction contractors are generally the consumers of materials. However, under certain types of contracts, a contractor may be considered the retailer, rather than consumer, of the materials they furnish and install under the construction contract. This will be described later in this publication.

## **Lump sum contract**

Construction contractors are always the consumers of materials which they furnish and install in the performance of a lump sum contract. Tax applies to the cost of materials to the construction contractor. Either sales tax applies with respect to the sale of the materials to the construction contractor or use tax applies to the use of materials by the construction contractor.

When a construction contractor fabricates or processes materials prior to installation and is not acting as a seller of the materials, no tax is due on the processing costs; only the contractor’s actual material cost is subject to the tax. Where the contractor sub contracts the fabrication or processing of materials to an outside firm, the fabrication is considered part of the taxable cost of materials.

Generally, construction contractors who only furnish and install materials in lump sum contracts are not required to hold a seller’s permit. However, construction contractors may be required to register with us as qualified purchasers. (See [Required registration to report use tax – how to register and file a return.](#))

For more information on the requirements of holding a seller’s permit, please call our Customer Service Center at 1-800-400-7115 (CRS:711).

## **Time and material contract**

Under a time and material contract, the construction contractor is generally the consumer of materials, and tax is owed on the purchase price.

However, under the following circumstances, the construction contractor will be the retailer of the materials.

If the contractor bills their customer for an amount for “sales tax” computed on the marked-up billing for materials, it is considered a *time and material plus tax* contract. Contractors are the retailers of materials used in these contracts. The measure of tax is the amount on which tax reimbursement is charged.

The contractor will also be considered the retailer of the materials if the contract explicitly provides for:

1. The transfer of title to the materials prior to installation, *and*
2. Separately state the sales price of the materials from the installation charge.

If the sale occurs in California, sales tax applies to the contractor’s gross receipts from the sale of the materials. If the sale occurs prior to the time the property is brought into this state, the customer is generally considered the consumer and must pay the use tax based on the sales price. Contractors must collect the use tax from the customer and pay it to the State of California.



When you are the consumer of materials and fabricate materials prior to installation, no tax is due on your labor charges; only the actual material cost is subject to tax. When contractors sublet the fabrication or processing of materials to an outside firm, that labor is taxable to the contractor as part of the cost of materials.

In an instance when you are acting as a retailer of materials, your charge for the labor to prepare materials for installation is considered fabrication labor and is a step in the process of creating the item to be installed, according to [Regulation 1526](#), *Producing, Fabricating and Processing Property Furnished by Consumers—General Rules*. Your entire charge for materials and fabrication labor to your customer is subject to sales tax.

### **Fixtures**

Contractors are the retailers of fixtures which they furnish and install in construction contracts, and tax applies to their sales of the fixtures. Accordingly:

- If the contract states the selling price of the fixture, tax applies to that price.
- If no sales price is stated, such as in a lump sum contract, the taxable retail selling price is the cost price of the fixture to the contractor.
- If a contractor purchases a manufactured fixture, the cost price is the sales price of the fixture to them, including any manufacturer's excise tax or import duty imposed on the sale to the contractor.

### **Self-manufactured fixtures**

If the contractor manufactures the fixture, the *cost price* is considered to be:

- The prevailing price at which similar fixtures in similar quantities, ready for installation, are sold by the contractor to other contractors, or
- If similar fixtures are not sold to other contractors, then the *cost price* is deemed to be the amount stated in the price lists, bid sheets, or other records. If the sale price cannot be established in the above manner, the *cost price* is the combination of the following:
  - Cost of materials, including freight-in and import duties,
  - Direct labor, including fringe benefits and payroll taxes,
  - Specific factory costs attributable to the fixture,
  - Any manufacturer's excise tax,
  - Pro rata share of all overhead attributable to the manufacture of the fixture, and
  - Reasonable profit from the manufacturing operations, generally considered to be five percent of the sum of the preceding factors.

Additionally, jobsite fabrication labor and its prorated share of manufacturing overhead must be included in either the cost price or sales price of the fixture. Jobsite fabrication labor includes assembly labor performed prior to attaching a component or a fixture to real property.

### **Leased fixtures**

A construction contractor may furnish and install a fixture for a person, other than the owner of the realty, who intends to lease the fixtures in place as tangible personal property and pay tax measured by rental receipts. In this case, the contractor may take a resale certificate from the lessor at the time of the transaction, and the sale to the lessor will be considered a sale for resale.

### **Machinery and equipment**

Construction contractors are the retailers of machinery and equipment even though the machinery and equipment are furnished in connection with a construction contract. The sale of machinery and equipment by a construction contractor is subject to tax; the same as any sale of tangible personal property. If the contract only requires the furnishing and installation of machinery and equipment, the contract is not considered a construction contract and tax generally applies to the total contract price, less installation labor charges and other excludable charges.

If a lump sum contract includes the furnishing and installation of materials, fixtures, and machinery and equipment, tax applies to the retail selling price of the machinery and equipment in which similar quantities ready for installation are sold at retail. If no retail price for the machinery and equipment exists, then tax applies to the retail price determined from contracts, price lists, bid sheets, or other records.

If contractors manufacture the machinery and equipment and, if gross receipts cannot be established in the above manner, the gross receipts from the sale shall be a combination of the following:

- Cost of materials, including freight-in and import duties;
- Direct labor, including fringe benefits and payroll taxes;
- Specific factory costs attributable to the machinery or equipment;
- Any manufacturer's excise tax;
- Pro rata share of all overhead attributable to the machinery or equipment, including overhead attributable to manufacturing, selling, contracting, and administration; and
- Reasonable profit from the manufacture and sale of the machinery or equipment, generally considered to be five percent of the sum of the preceding factors.

*Please note:* Jobsite fabrication labor and its prorated share of manufacturing overhead must be included in the sale price of the machinery or equipment. Jobsite fabrication labor includes assembly labor performed prior to attaching the machinery or equipment to real property.

# Application of Tax to United States Construction Contractors

A United States construction contractor is a contractor who performs a construction contract for the U.S. government.

## ***Materials and fixtures***

U.S. construction contractors are the consumers of materials and fixtures furnished and installed in the performance of construction contracts with the U.S. government. There is no distinction between the application of tax to materials and fixtures. Either the sales tax or the use tax applies to sales to U.S. construction contractors, or use by the contractors. Contractors owe tax on the cost of fixtures that are self-manufactured, furnished, and installed in a U.S. government construction contract. The fact that the contract may provide principally for the manufacture or acquisition of tangible personal property is immaterial. The sales tax, but not the use tax, applies even though the contractor purchases the property as the agent of the United States.

*Please note:* Generally, U.S. construction contractors are not the retailer of materials and fixtures furnished and installed in U.S. government construction contracts.

## ***Machinery and equipment***

U.S. construction contractors are retailers of machinery and equipment furnished in the performance of a construction contract with the U.S. government. Sales to the U.S. government are generally exempt from tax. Tax does not apply to sales of machinery and equipment to U.S. contractors or subcontractors, provided title to the property passes to the U.S. government before the contractor makes any use of it. The contract must contain a clause which passes title to the U.S. before the contractor makes any use of the property.

Under these circumstances, the U.S. construction contractor may issue a resale certificate. If the contractor uses the machinery or equipment before passage of title to the U.S., then:

- The contractor is the consumer of the machinery or equipment, and
- Either sales tax or use tax applies to the sale to, or use by, the contractor of the machinery and equipment.



## Subcontractors

A subcontractor who has furnished and installed materials or fixtures for a prime contractor must pay tax on:

- The cost of the materials, and/or
- The retail selling price of the fixtures, in the case of non-U.S. contractors.

*Please note:* A subcontractor may not accept a resale certificate from a prime contractor for materials the subcontractor furnishes and installs in the performance of a construction contract.

Under most circumstances, subcontractors may not accept a resale certificate from a prime contractor for fixtures the subcontractor furnishes and installs. In the case where fixtures are furnished and installed by a subcontractor, the subcontractor is the retailer and the prime contractor is the consumer. Consequently, no additional tax is due under the prime contractor's contract with the real property owner. However, a subcontractor may furnish and install a fixture for a person, other than the owner of the realty, who intends to lease the fixture in place as tangible personal property and pay tax on the rental receipts. In this latter case, the subcontractor may accept a resale certificate from the lessor at the time of the transaction.





# Liability by Type of Contract

Construction contracts include:

- Lump sum contracts,
- Cost-plus-a-fee contracts,
- Time and material contracts, or
- Time and material contracts where the contractor is the retailer of materials.

The type of contract affects the application of tax to materials and fixtures furnished and installed by construction contractors. Additionally, the application of tax depends on whether or not the contract is a U.S. construction contract.

The following chart presents a synopsis of the application of tax to various construction contracts as they apply to U.S. construction contractors and construction contracts other than U.S. construction contractors.

Liability by Type of Contract					
Contractors Other Than United States Contractors					United States Construction Contractors
Kind of Item	How Acquired	Lump Sum or Cost-Plus-a-Fee	Time and Material	Time and Material under which the Contractor is the Retailer of Materials	Measure
<b>Materials</b>	Purchased without paying tax	Cost	Cost	Billed price	Cost
	Purchased tax-paid	None	None	Excess of billed price over cost	None
	By conversion of realty	None	None	Excess of billed price over cost	None
<b>Fixtures</b>	Purchased without paying tax	Cost	Billed price	Billed price	Cost
	Purchased tax-paid	None	Excess of billed price over cost	Excess of billed price over cost	None
	Manufactured from materials, purchased without paying tax, by installing contractor	Prevailing price to contractors or, if that cannot be established, the amount stated in the price lists, bid sheets or other records, or manufactured cost, including profit to contractor-manufacturer.	Billed price	Billed price	Cost
	Manufactured from tax-paid materials by installing contractor	Excess of prevailing price or manufactured cost, including profit over tax-paid cost of materials.	Excess of billed price over tax-paid material cost	Excess of billed price over tax-paid material cost	None

# Application of Tax to Different Type of Construction Contracts

This section provides guidance on the application of tax to various types of construction contracts. For examples not discussed in this publication, please refer to [Regulation 1521](#), Construction Contractors. If further information is needed, please contact our Customer Service Center at 1-800-400-7115 (CRS:711).

## **Contracts for the erection and installation of buildings on land or the repair and remodeling of buildings**

A construction contractor is generally the consumer of materials and the retailer of fixtures furnished and installed in construction contracts. Tax will apply according to the [Liability by Type of Contract](#) chart on the previous page.

### Repair contracts

A contract to repair a fixture in place, or a fixture the contractor is required to reattach to the realty is a construction contract. As with any construction contract, whether the contractor is a retailer or consumer will depend on the type of contract and whether they are replacing a fixture or merely repairing it.

#### **Considered a retailer when:**

- The contractor is replacing the fixture.
- The parts are furnished in the performance of a construction contract to repair a fixture when the sale price of the parts is billed separately from the repair labor.

#### **Considered a consumer when:**

- The parts are furnished in the performance of a lump sum construction contract to repair a fixture.
- A U.S. construction contractor furnishes parts in the performance of a construction contract to repair materials or fixtures.

### Sales of prefabricated buildings

A contract to furnish and install a prefabricated or modular building which is similar in size to, but is not a factory-built school building (relocatable classroom), is a construction contract. This is true whether the building rests in place by its own weight or is physically attached to realty. It is immaterial whether the building is erected upon or affixed to land owned by the owner of the building or is leased to the landowner or lessee of the land.

Tax applies to the total sales price of small prefabricated buildings, such as a shed or kiosk, which are furnished and installed but *not* physically attached to real property by the seller. When these buildings are required to be physically attached to real property, such as a concrete foundation, they are considered to be construction contracts.

### Factory-built school buildings

#### **Factory-built school buildings (relocatable classroom), effective September 13, 1990, include:**

- Any building which is designed or intended for use as a school building, and
- Is wholly or substantially manufactured at an offsite location for the purpose of being:
  - Assembled, erected or installed on a site owned or leased by a school district or a community college district.

A factory-built school building must be designed and manufactured in accordance with building standards adopted and approved pursuant to Chapter 4 (commencing with section 18935) of Part 2.5 of Division 13 of the Health and Safety Code and must be approved by the structural safety section in the Office of the State Architect.

The term "factory-built school building" does not include:

- Buildings licensed by either the [Department of Motor Vehicles](#) or the [Department of Housing and Community Development](#).
- Prefabricated or modular buildings which are similar in size to, but which are not, "factory-built school buildings."

It is immaterial whether the building is erected upon or affixed to land owned by the owner of the building or is leased to the landowner or lessee of the land.



**Consumer, effective September 13, 1990, means either:**

1. A school district or a community college district, or
2. A contractor who purchases a factory-built school building for the purpose of fulfilling an existing contract with a school district or a community college district to furnish and install the building.

The place of sale or purchase of a factory-built school building is the retailer's place of business regardless of whether the sale of the building includes installation or the building is placed upon a permanent foundation.

**Application of Tax**

1. Tax applies to 40 percent of the sales price of the building to the consumer excluding any charges for placing the completed building on the site. The sales price of the building includes charges for tangible personal property installed in the building by a subcontractor, provided the installation for such property is required in the prime contract for the building.
2. A separate contract to furnish and install tangible personal property in a factory-built school building after installation of the building is a construction contract. Any contract or subcontract for site preparation (for example: a foundation) is a construction contract. For the application of tax, see [Liability by Type of Contract](#).
3. The sale of a factory-built school building to a purchaser who will resell the building without installation is a sale for resale and the seller may accept a resale certificate from the purchaser. If the purchaser then sells to a contractor who has an existing contract to install the building on a school site, tax will apply as stated in number 1 above. If tax has been paid on the purchase price of a factory-built school building which is then resold for installation, a deduction for cost of tax-paid purchases resold prior to use may be taken as provided in [Regulation 1701, Tax-paid Purchases Resold](#).

For more information regarding the application of tax to mobilehomes, factory-built housing, and factory-built school buildings; see [publication 47, Mobilehomes and Factory-Built Housing](#).

## Restaurant equipment contractors

Tax applies to restaurant equipment contractors for construction contracts involving the furnishing and installation of materials, fixtures, and machinery and equipment in the same manner as other construction contracts. We, in conjunction with the Restaurant Equipment Contractors Association, have made a study of components involved in construction contracts for the furnishing and installation of restaurant equipment.

### 1. Materials

The following are some items which are considered to be materials when furnished and installed by construction contractors in performing contracts for the food industry:

- Carpeting, including padding and trim when affixed to the real property by glue, nails, etc.
- Doors
- Ducts installed in walls, ceilings, and floors
- Grab bars (for handicapped lavatories)
- Millwork
- Pass window frames and shelves
- Wall corner pieces and wall caps
- Wall covering materials (wallpaper, paneling, etc.)
- Wall flashing
- Wall mirrors

## 2. Fixtures

The following items are usually considered to be fixtures when furnished and installed by a construction contractor in performing a contract for the food service industry:

- Bolt-down counter stool bases, with stools attached thereto
- Bolt-down table bases with table tops affixed
- Custom fabricated cash stands
- Custom fabricated cocktail back bar superstructures
- Custom fabricated cocktail back bar
- Custom fabricated cocktail bars
- Custom fabricated counters
- Custom fabricated dish table assemblies
- Custom fabricated make-up tables
- Custom fabricated pot racks
- Custom fabricated scullery sink assemblies
- Custom fabricated seating assemblies/booth units
- Custom fabricated serving counters
- Custom fabricated service stands
- Custom fabricated soffits
- Custom fabricated walk-in coolers and freezers that are affixed to the real estate (either through a fastening to a building wall or when the walls are imbedded or coved into the building surfaces)
- Dispensers for soap, towels or toilet tissue
- Faucets
- Freezers (remote)
- Hoods
- Lighting fixtures
- Motors
- Plumbing fixtures
- Refrigeration compressors
- Refrigerators (remote)
- Safes (imbedded in concrete in the buildings)
- Water heaters (built into fixtures or into water systems)
- Water softeners (built into fixtures or into water systems)

Fixtures also include the following items which are built into fixtures or otherwise built into the realty and which may not be removed without damage to the items or the realty:

- Char-broilers
- Dish dispensers
- Dishwashers that are built into a dish table
- Disposals
- Drink dispensers
- Freezers
- Griddles
- Ice cream cabinets

- Ovens
- Refrigerators
- Roll warmers
- Scrap chutes
- Soda fountain systems
- Soup warmers
- Syrup rails

### **3. Machinery and equipment**

The following items are generally considered to be machinery and equipment. In order to maintain this classification, the machinery and equipment must be:

- Freestanding, or
- Affixed to the building, or built into it or built into another fixture, and can be readily removed without damage to the building, the unit, or other fixture:
  - Bar stools
  - Beverage and juice dispensers
  - Bulletin boards
  - Can openers
  - Chairs
  - Char-broilers
  - Chinaware, silverware, pots and pans, paper goods, and culinary items
  - Coffee makers
  - File cabinets
  - Flight-type dishwashers
  - Floor racks
  - Griddles
  - Hot water hoses
  - Ice bins
  - Ice cream cabinets
  - Ice-making machinery
  - Iced tea dispensers
  - Iced tea machine
  - Lockers
  - Microwave ovens (freestanding)
  - Milk dispensers
  - Mixers
  - Ovens
  - Portable bins and tables
  - Ranges
  - Reach-in freezers (self-contained)
  - Reach-in refrigerators (self-contained)
  - Roll covers
  - Safes
  - Salamanders (broilers)



- o Scales
- o Shelving units
- o Silverware boxes
- o Slicers
- o Table lamps
- o Tables
- o Time card racks
- o Time clocks
- o Toasters

## Cabinet contractors

A cabinet will be considered “prefabricated and, therefore, a fixture” when at least 90 percent of the total direct cost of labor and material in fabricating and installing the cabinet is incurred prior to affixation to the realty. If this is not the case, the component parts of the cabinet will be considered materials and tax will apply to the use of those materials the same as with other construction contracts.

To determine this 90 percent,

- The total direct cost of all labor and materials in fabricating the cabinet up to the point of installation will be compared to,
- The total direct cost of all labor and materials in completely fabricating and installing the cabinet.

If more than one cabinet is fabricated and installed under the contract, each cabinet will be considered separately.

*Example:* You contract to furnish and install an overhead cabinet that is attached to the wall and ceiling. You build the cabinet in your shop, except the doors are not attached until after the cabinet is affixed to the realty. Your direct costs are:

	<b>Material Cost</b>	<b>Fabrication Labor Prior to Installation</b>	<b>Installation Labor</b>	<b>Total</b>
Cabinet	\$2,750	\$3,500	\$850	\$7,100

Calculation:  $\frac{\$2,750 + \$3,500}{\$7,100} = 88.03\%$

Since less than 90 percent of the direct cost of labor and materials in fabricating and installing the cabinet is incurred prior to attaching it to the realty, the cabinet is considered materials and not considered a prefabricated fixture. In this example, you would pay tax on your purchase price of the materials, \$2,750.

## Countertops

Countertops are generally regarded as materials, even when prefabricated. However, there are some countertops, primarily countertops that have a sink built in or the sink is installed in the countertop prior to final installation of the countertop, which are considered fixtures. Regardless of the type of countertop, the 90 percent rule does not apply to contracts to furnish and install a countertop.

## On-premise electric signs

On-premise electric signs are specifically discussed in [Regulation 1521](#), *Construction Contractors*, and have their own tax treatment. An on-premise electric sign is: Any electrically powered or illuminated structure, housing, sign, device, figure, statuary, painting, display, message, placard, or other device or part thereof affixed to real property.

These on-premise electric signs must be used to advertise, or to provide data or information in the nature of advertising, for any of the following purposes:

1. To designate, identify, or indicate the name or business of the premises where the advertising display is located; or
2. To advertise the business conducted, services available, or goods produced, or available for sale on the property where the advertising display has been built.

An on-premise electric sign is a fixture and tax applies to the sale price of the sign. When furnishing and installing an on-premise electric sign in a contract which does not state the selling price of the sign, tax applies to 33 percent of the "contract price" of the on-premise electric sign that is furnished and installed by the contractor.

"Contract price" includes all charges for:

- Materials,
- Fabrication labor,
- Installation labor,
- Overhead,
- Profit, and
- Any other charges associated with the sale and installation of the sign.

If a contractor installs an on-premise electric sign supplied by a third party, the installation charges are not taxable. If a seller furnishes but does not install an on-premise electric sign, the seller is a retailer of the sign and tax applies to the total contract price for the sale of the sign.

#### **Example 1**

You were hired to furnish and install an on-premise electric sign for a lump sum contract price of \$20,000. You are required to report and pay tax on \$6,600 ( $33\% \times \$20,000 = \$6,600$ ) at the tax rate in effect at the location where the sign will be installed. The remaining \$13,400 ( $\$20,000 - \$6,600 = \$13,400$ ) is considered nontaxable installation labor.

#### **Example 2**

You were hired to furnish and install an on-premise electric sign for which you separately stated a sales price of \$15,000 for the sign and \$5,000 for installation labor. Because you have separately stated the selling price of the electric sign, tax applies to the sales price of \$15,000, at the tax rate in effect at the location where the sign will be installed.

You may also be required to provide documentation to support the charges for installation do not include taxable labor charges for fabrication of the sign.

*Please note:* The reporting method discussed in this section applies only for contracts to furnish and install on-premise electric signs. You may not use it to report and pay tax on the sale of a nonelectric sign. As stated above, this does not affect your responsibility to pay tax on the selling price of a sign when you sell a sign without installing it, or when you separately state the selling price of a sign you install.

## Signs (other than on-premise electric signs)

Generally, a contract to furnish and install a sign on real property is a construction contract. Large outdoor advertising signs built upon land are considered structures. Contractors who furnish and install these signs are consumers of the materials furnished and installed. Therefore, tax is due on the cost of the materials. Signs attached to buildings are generally considered to be fixtures. Because contractors are retailers of the fixtures, tax is due either on the retail selling price or the cost price of the fixtures depending on the type of contract. (See [Fixtures](#).)

## Solar cells, solar panels, and solar modules

Solar energy installations are specifically discussed in [Regulation 1521](#), *Construction Contractors*. A solar energy system is any solar energy device that provides for the collection and distribution of solar energy and, where applicable, the storage of solar energy.

A contract to furnish and install a solar energy system onto a structure or realty is a construction contract which involves furnishing and installing both materials and fixtures.

### 1. **Materials**

Photovoltaic (PV) cells, solar panels, and solar modules (including solar thermal panels and solar electric PV panels), are considered materials when they function in the same manner as other materials such as roofing, walls, or windows.

Examples of materials include:

- PV integrated skylights
- PV panels used as a roof on a parking lot shade structure
- PV integrated roofing tiles
- Wiring
- Wiring harnesses
- Strapping
- Mounting systems, which include rack framing brackets that are installed on roofs

### 2. **Fixtures**

Photovoltaic (PV) cells, solar panels, and solar modules (including solar thermal panels and solar electric PV panels), are considered fixtures when they are attached to a building or other structure and do not lose their identity as accessories when installed. Examples of fixtures include:

- Rack mounted solar panels installed on roofs
- Solar panels used in freestanding solar arrays
- Terminal boxes
- DC and AC disconnect boxes
- Inverters
- Transformers
- Batteries
- Pumps

A labor charge to attach solar panels purchased in a completed condition to a mounting system is not subject to tax. When furnishing and installing solar energy systems that include fixtures, construction contractors are required to hold a seller's permit.

A construction contractor may furnish and install solar panels that are considered fixtures for a person, other than the owner of the realty who intends to lease the fixtures (panels) in place as tangible personal property and elects to pay tax measured by rental receipts. In this case, the contractor may take a resale certificate from the lessor at the time of the transaction, and the sale to the lessor will be considered a sale for resale.

The partial tax exemption for leases of solar panels considered farm equipment and machinery may apply under certain circumstances. For additional information, see [publication 66, Agricultural Industry](#).

## Modular furniture

Contracts to furnish and install modular furniture are generally not construction contracts. [Regulation 1583, Modular Systems Furniture](#), provides guidelines for sales of modular systems furniture. *The regulation specifically states that a contract to sell and install modular systems furniture is a contract for the retail sale of tangible personal property and not a construction contract.* This is true whether or not the systems are affixed to realty. The regulation allows persons selling and installing the modular systems to claim ten percent of the total contract price as the charge for nontaxable installation labor. Total contract price does not include charges for freestanding furniture and other property not attached to panels or other components.

The ten percent deduction does not apply to contracts if:

- A subcontractor has contracted with the seller to assemble and install a modular system (the system components being provided by a prime contractor or others), or
- The contract is for reconfiguring an existing system.



It is important to report and separately account for taxable and nontaxable labor charges. For more information regarding sales of modular furniture, please call our Customer Service Center at 1-800-400-7115 (CRS:711).

## Landscape contractors

The installation of plants, trees, and lawns is considered an improvement to realty. Landscape contractors who enter into contracts for landscaping in which they furnish and install plants, trees, and lawns are construction contractors.

Sod and flowers are generally considered materials and the contractor is the consumer of these items.

Plants, trees, and shrubs are generally considered fixtures and the contractor is considered the retailer of these items when they are installed in connection with their services. Tax generally applies to the sales price of plants, trees, and shrubs. In the case of lump sum contracts, the selling price of the plants, trees, and shrubs is generally regarded as the cost price to the landscape contractor.

If nurseries install plants, trees, and shrubs which have been grown or produced by them under a lump sum contract, the cost price is considered to be the price at which similar plants or trees in similar quantities ready for installation are sold by the nursery to other contractors.

If the landscaper makes a taxable sale of fixtures, they may be entitled to a deduction for "tax-paid purchases resold prior to use" on their sales and use tax return if they:

- Purchase plants and trees (fixtures) from nurseries to install in a construction contract;
- Pay an amount as sales tax reimbursement on those purchases; and
- Make no use of them prior to installation (other than for retention, demonstration, or display while holding them for resale)

For additional information, see [Regulation 1701](#), *Tax-Paid Purchases Resold*.



## Construction of Certain Military and Veteran Medical Facilities

Beginning January 1, 2019, through December 31, 2024, Revenue and Taxation Code (R&TC) [section 6369.7](#) provides for a sales and use tax exemption for the sale and use of building materials and supplies purchased by a qualified person for use by that qualified person in the construction of a qualified facility.

A qualified person is either or both of the following:

- A “qualified nonprofit organization” which means an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code that constructs a “qualified facility” as a gift to the United States Department of Defense (USDOD), pursuant to section 2601 of Title 10 of the United States Code; or the United States Department of Veterans Affairs (USDVA), pursuant to section 8301 of Title 38 of the United States Code; or
- A contractor, sub-contractor, or builder working under contract with a “qualified nonprofit organization” to construct a “qualified facility.”

A “qualified facility” is:

- A medical facility located on a United States military base in California;
- A temporary residential facility for families or patients receiving care (including either or both inpatient and outpatient care) at a medical facility located on a United States military base in California;
- A USDVA medical center located in California; or
- A temporary residential facility for families of patients receiving care at or on behalf of a USDVA medical center located in California.

Building materials and supplies that may be purchased under this exemption include any machinery, equipment, materials, accessories, appliances, contrivances, furniture, fixtures, and all technical equipment or other tangible personal property of any other nature or description that:

- Are necessary to construct and equip a qualified facility;
- Become part of the completed qualified facility; and
- Are transferred to the USDOD or USDVA as a gift, as specified.

The exemption does *not* apply to purchases of tools or other construction equipment that are not specified above and meet the three listed criteria.

This exemption from tax only applies to sales and purchases made after the date the USDOD or USDVA accepts the qualified nonprofit organization’s offer to construct the qualified facility and on or before the date the USDOD or USDVA accepts the qualified facility.

If you are a contractor, subcontractor, or builder working under contract with a qualified nonprofit organization to construct a qualified facility, you may issue a [CDTFA-230-C-2, Exemption Certificate for Property Used in the Construction of a Qualified Facility](#), to your vendors for your qualifying purchases of building materials and supplies.

A purchaser that issues an exemption certificate for its purchases made pursuant to R&TC section 6369.7 who subsequently uses the items purchased in a manner not qualifying for the exemption will be liable for the payment of tax (calculated on the sales price of the property), plus any applicable interest.

# Procedures for Determining Tax Liability

## Method of purchasing

Depending on the type of property furnished and installed and the terms of the specific contract, a construction contractor may be a consumer of some property and a retailer of other property. For example:

- A construction contractor may be the consumer of materials used in performing a construction contract and pay tax on their purchases.
- A construction contractor may be a retailer by making over the counter sales of materials or because the terms of a particular contract make them the retailer of materials furnished and installed.

This raises the question of the most efficient method of purchasing. Usually, contractors will find it easier to set up their purchases based on the type of jobs they conduct. If most of their tax liability is related to their own self-consumption, they may prefer to purchase everything on a tax-paid basis. Then, when they make a retail sale of property, they may take a deduction for tax-paid purchases resold prior to use. (See [Regulation 1701](#), *Tax-Paid Purchases Resold*.)

On the other hand, it may be difficult to determine at the time of purchase whether the item purchased will be resold or consumed if the contractor is the retailer of most of the property purchased, either because of the:

- Type of property
- Terms of their construction contracts
- Volume of over-the-counter sales

In such cases, the contractor may prefer to issue a resale certificate to the vendor when the property is purchased and then report the use tax on items they consume. Contractors with complex operations will often purchase on the basis of the type of commodity, in which case they will purchase some items either on a tax-paid basis or ex-tax (without tax) basis. Whatever method is used, great care must be exercised in recording purchase data and determining tax liability.

## Purchasing on an ex-tax (without tax) basis

When construction contractors purchase items without tax, their liability will depend in part on the type of property purchased. The types of property are:

- Materials
- Fixtures
- Machinery and equipment
- Other types of tangible personal property

### ***Materials purchased without tax:***

- When materials are purchased by issuing a valid resale certificate and if the contractor uses the materials, liability for tax arises when the materials are committed to the fulfillment of a construction contract. Materials withdrawn from inventory and delivered to the jobsite constitutes such a commitment. The tax must be reported with the return for the period in which the commitment took place. It is not permissible under the law to wait until the job is completed before reporting and paying tax on the purchase price of materials consumed or sold during the performance of the contract.
- In the case of materials purchased without tax from out-of-state vendors for use (not resale) in California, the tax liability arises when the materials enter California.

### ***Fixtures, machinery, and equipment purchased without tax:***

- In the case of fixtures, machinery and equipment, or other tangible personal property sold by the contractor, liability for the tax generally arises when the fixture, machinery, and equipment, or other tangible personal property is installed, as this is when the sale takes place.

### ***Where merchandise is purchased without tax, contractors should consider the following points:***

- Have resale certificates been timely filed with the vendors for the materials, fixtures, and/or machinery and equipment purchased without tax and resold under the construction contract? When making purchases for resale, the resale certificate should be provided to the vendor at the time of purchase. (See [Regulation 1668, Sales for Resale.](#))
- Have proper exemption certificates been timely filed with the vendors for the materials, fixtures and/or machinery and equipment used or sold at an out-of-state point? (See [Materials and Fixtures Used Outside of California.](#)) When making exempt purchases, the claim for exemption should be made at the time of purchase. (See [Regulation 1667, Exemption Certificates.](#))

## Purchasing on a tax-paid basis

When merchandise is purchased on a tax-paid basis, contractors should see that the following points, among others, are covered:

- Have vendors charged tax on freight which might not be subject to the tax? (See [Regulation 1628, Transportation Charges.](#))
- Has any tax been paid to the vendor on any items (materials sold, fixtures, or machinery and equipment) upon which the contractor collected tax reimbursement?

## Recordkeeping

Great care must be taken when gathering data and preparing returns. Taxpayers must determine the points in their accounting and office procedures at which they will best be able to ascertain their correct tax liability.

### ***Important points to be covered are:***

All purchases, sales, or uses must be accounted for and analyzed for proper tax application. Contractors' records should be maintained in such a manner to be certain whether items were:

- Purchased tax-paid or without tax,
- Consumed,
- Sold as a taxable sale, or
- Sold or used as a nontaxable transaction.

Accurate record keeping will depend on the terms of the construction contract. If contractors manufacture their own fixtures, their tax liability will apply based on [Regulation 1521](#) and as explained in the section entitled [Construction Contractors \(Other than U.S. Government Contractors\)](#).

Duplicate accounting processes should be eliminated to avoid duplicate reporting of tax.

- Withdrawals from ex-tax inventory (purchased without tax) for the contractor's own use may be reconciled using requisition slips.
- You can support purchases subject to use tax by using purchase or cost records.

These are just some examples and contractors should develop procedures best suited to their particular operations. For additional questions not covered in this publication, please contact our Customer Service Center at 1-800-400-7115 (CRS:711).



## Construction Contractors' Use of Resale Certificates

Construction contractors are generally considered consumers of materials which they furnish and install in the performance of a construction contract to improve real property. Under such circumstances, the construction contractor should not issue a resale certificate on its purchases of materials.

However, as discussed earlier in this publication, the contractor will be deemed to be selling the materials if:

- A contractor bills their customer an amount for "sales tax" computed upon a marked-up billing for materials under a time and material contract.
- The contract (other than a U.S. government contract) explicitly provides for transfer of title to the materials prior to installation, and
- The sales price of the materials is separately stated in the contract.

When construction contractors sell (as opposed to consume) materials which they install in a construction contract, they are the retailers of the materials. They may issue a resale certificate to their supplier for materials and fixtures sold under a construction contract.

*Please note:* When subcontractors are retailers, they generally may not accept resale certificates from prime contractors for materials they furnish and install in a construction contract.

Construction contractors (other than U.S. construction contractors), including subcontractors, are generally the retailers of fixtures which they furnish and install and generally may not accept a resale certificate on their sale of the fixtures.

### ***Leased fixtures***

A construction contractor may accept a resale certificate for the furnishing and installation of a fixture from a person who:

- Is *not* the owner or lessor of the realty,
- Intends to lease the fixture in place as tangible personal property, and
- Pays tax measured by rental receipts.

In this case, the sale to the lessor will be considered a sale for resale.

## Materials and Fixtures Used Outside of California

Where you, as a contractor, have a contract to improve real property outside of California, your purchase of materials and sales of fixtures are not subject to tax provided you meet certain conditions.

Your purchases of materials in California are not subject to tax when *all* of the following conditions are met:

- You hold a valid seller's permit,
- You incorporate the property into real property located outside this state, and
- You certify in writing to the seller at the time of purchase that the property will be used in the specified manner.

Your sales of fixtures are not subject to tax when *all* of the following conditions are met:

- You are the retailer of the fixture,
- Title to the fixture transfers to the customer at the point of installation, and
- Title to the fixture transfers at a location outside of California.

*When you purchase materials under these conditions, you may either provide an exemption certificate as described in [Regulation 1667, Exemption Certificates](#), or issue a valid California resale certificate to the seller when purchasing materials and fixtures for use outside California. (See [Regulation 1668, Sales for Resale](#), and [publication 103, Sales for Resale](#).)*

## Sales in Interstate and Foreign Commerce

Sales of buildings without installation or erection are exempt from the tax when:

- The contract of sale provides that the seller shall deliver the buildings to the purchaser at an out-of-state destination, and
- The property is shipped to a point outside this state by means of:
  - Facilities which are operated by the retailer,
  - Delivery by the retailer to a carrier for shipment to a consignee at such point, or
  - Delivery by the retailer to a customs broker or forwarding agent for shipment outside this state.

Sales of buildings or other tangible personal property are also exempt if they are:

- Intended for installation in a foreign country,
- Irrevocably committed to be exported at the time of sale, and
- Actually delivered to the foreign country prior to any use of the property.

You must retain proof indicating that the property was delivered to a foreign destination.

For additional information, see [Regulation 1620, Interstate and Foreign Commerce](#), and [publication 101, Sales Delivered Outside California](#).



## Transportation Charges

In making purchases subject to tax, the transportation (freight) charges by the seller to the contractor may or may not be subject to tax, depending on the conditions of the sale. For example, where a prefabricated building is sold without erection or installation, and the building is shipped “directly to the purchaser” tax will not apply if all the following conditions are met:

- Freight charges are separately stated,
- Charges for the shipment of the building by an independent contract or common carrier, and
- The contractor’s charges for transportation do not exceed the actual cost of delivery.

Freight charges for delivery to the supplier (freight-in) are generally subject to tax. If the contractor’s charge includes a handling charge or a “shipping and handling” term, the amount of the charge that exceeds the actual cost of shipment is subject to tax.

Where tangible personal property is shipped by the seller’s own truck or facility, separately stated charges for delivery are subject to tax unless the sales agreement specifically provides that title to the goods passes at the seller’s place of business.

Construction contractors who bill their customers for sales tax on materials used on time and material contracts are “retailers” of the materials. Contractors generally deliver materials to jobsites using their own transportation facilities and separately charge to the customers for delivery. Generally, unless otherwise stated in the contract, title to the materials is transferred at time of delivery to the jobsite. Under such circumstances, the sales of materials and separately stated delivery charges are subject to sales tax. However, separately stated delivery charges are not subject to tax if title to the materials explicitly passes to the customer prior to delivery.

For further information on transportation charges, refer to [Regulation 1628](#), *Transportation Charges*, and [publication 100](#), *Shipping and Delivery Charges*.



## District Taxes

District taxes are either transactions (sales) or use taxes. The transaction (sales) tax is due from retailers on their taxable sales and district use tax is due from purchasers for their use of tangible personal property in a district. A retailer engaged in business in a district may be required to collect applicable district use tax. There are both citywide and countywide district taxes. District taxes may be imposed at various rates and more than one district tax may apply to a transaction.

### Construction contractors and district tax

District tax law provides that:

- Materials purchased before the effective date of a district tax and installed after that date may not be subject to the district tax.
- The contractor's jobsite is considered the place of business for purposes of determining the applicable tax.
- Certain fixed-price contracts may be exempt from district taxes enacted after the contract date.

Consequently, to determine if a contractor's sales or purchases are subject to district tax, you need to take into account:

- The date of purchase,
- The place at which the materials, fixtures, and equipment are delivered or installed, and
- Whether the construction contract qualifies as a fixed-price contract.

These points are discussed in more detail below.

### Property purchased prior to the operative date of a district tax

#### **Materials**

Materials purchased before the operative date of a district tax and installed after that date are not subject to the new additional district tax. This does not apply to:

- Materials purchased under a resale certificate, or
- Materials purchased without paying tax to out-of-state suppliers when the materials are consumed or sold after the effective date of the district tax.

#### **Fixtures**

District tax generally applies to fixtures installed on non-U.S. government contracts if the fixtures are installed after the operative date of the tax.

However, since contractors are considered the consumers of both materials and fixtures on U.S. government construction contracts, materials and fixtures are not subject to the district tax if they are:

- Purchased tax-paid before the operative date of a district tax, and
- Installed after that date.

#### **Machinery and equipment**

Generally, on both non-U.S. government and U.S. government contracts, the contractor is considered the retailer liable for tax on their selling price of machinery and equipment.

Machinery and equipment purchased under a resale certificate prior to the operative date of a district tax is generally subject to the district tax when sold after the operative date of the district tax.

## Installation or delivery location

The place of sale or place of first use determines whether district tax applies to a sale or purchase of tangible personal property. However, for materials not purchased under a resale certificate, district tax applies at the time of purchase. For purchases by construction contractors:

- District *transactions (sales)* tax applies when a contractor picks up materials or fixtures in a district even if the contractor intends to install it at a jobsite located outside the district.
- District *use* tax applies when materials or fixtures are installed at a jobsite in a tax district and they have been purchased without district tax or at a lower rate of district tax. Generally, the contractor is responsible for reporting and paying the tax.
- District tax will not apply if the sale occurs in a district, but the supplier ships the property to a location that is not in a taxing district where the property is installed.

The only exception to these general rules is certain purchases of fixtures. The law allows contractors a credit for district tax paid on *fixtures* that are subsequently installed at a location not in a taxing district.

For example, if you purchase air conditioning units in a district which has a total district tax rate of 1.5 percent and install them on a structure in a location, which has no district taxes, you are eligible for a credit of the 1.5 percent district tax paid at the higher tax rate on the purchase of the air conditioning units.

## Fixed price construction contracts

Purchases of materials, fixtures, and equipment under a qualified fixed-price contract are exempt from district tax increases. To qualify as an exempt fixed-price contract, a contract must:

- Be entered into prior to the effective date of the district tax,
- Be for a fixed amount,
- Have all parties obligated to the terms of the contract, and
- Have the sales tax amount or rate specifically stated in the contract.

This exemption also applies to the purchases which subcontractors make as part of a fixed-price prime contract. If you are unsure whether a construction contract qualifies as “fixed-price,” you may request a review of the contract by one of our offices.

If the total district tax rate in a location decreases after the parties enter into a fixed-price contract, there is nothing in the law that requires the payment of more tax than is due. Thus, the tax rate will be the new lower rate and not the rate in the fixed-price contract.

*Please note:* The exemption allowed for the purchase of materials, fixtures, and equipment under a qualified fixed-price contract does not apply to purchases of supplies such as tools, scaffolding, or welding gases, which are used on the construction site. Supply purchases are only exempt if made under a fixed-price supply contract entered into directly with the supplier prior to the effective date of the district tax.

## Construction contractors—examples

*If I am a contractor with a business in an area without district taxes and I install materials and fixtures that are delivered to a jobsite located in a district, am I liable for the district tax?*

Yes. Under the Transactions and Use Tax Law, your jobsite is considered your place of business. Consequently, if your jobsite is in a tax district, district tax is due on the cost of materials you use or on the selling price of the fixtures which you furnish and install.

*As a construction contractor, am I responsible for district tax on materials that I purchase prior to the operative date of a district tax and use after that date?*

No, unless you originally purchased the materials under a resale certificate and you are using them for a purpose other than that stated on the certificate.

*If I purchase construction materials after the effective date of a district tax, does district tax apply?*

Yes, if you are purchasing and picking up the materials in the district or materials are delivered to a jobsite in the district (if you are operating under a fixed-price contract, see [Fixed-price construction contracts](#)).

*If I purchase construction materials and fixtures from a vendor in a district for use outside the district, does the district tax apply?*

Yes, if you take delivery of the materials or property in the district. However, if you take delivery outside the district and use the property outside the district, district tax does not apply unless your jobsite is in another district. Under certain circumstances, you may be entitled to a credit for tax-paid purchases.

Unless materials are purchased under a resale certificate, the district tax applies to materials purchased and delivered within a special taxing district even though such materials may be purchased for installation outside the district. The district tax does not apply to property purchased from a retailer within the district, for use outside the district, when the property is shipped to a point outside the district as agreed to in the contract of sale, and is shipped directly by the retailer or delivered by the retailer to a carrier for subsequent delivery to the out-of-district location.

### **Credit against a use tax liability for materials purchased**

If *materials* are purchased tax-paid in an area with district taxes, the person liable for the use tax may only claim a credit against a use tax liability that is equal to the district tax rate in which the materials were installed (jobsite), but not at a tax rate exceeding the district tax where the materials were installed. Accordingly, if the contractor purchased materials, tax-paid, in a county with a total tax rate of 8.75 percent and installs the materials in a county with a tax rate of 8.25 percent the contractor does not have an additional district use tax liability. In this example, the sale to the contractor is a sales tax transaction and the contractor is considered the consumer of materials and would not be entitled to a credit of the .50 percent district tax difference paid for the materials at the 8.75 percent tax rate.

If a contractor purchased materials tax-paid in a county with a district tax rate of 7.75 percent and installs the materials in a county with a district tax rate of 8.75 percent, the contractor is liable for the additional 1.00 percent district use tax. If the contractor has a seller's permit, an adjustment can be made on Schedule A to allocate the district tax to the proper district of installation. If the contractor does not hold a seller's permit or is not otherwise required by law to report use tax in a different manner, the additional use tax liability can be paid by providing, in writing, all the following information:

1. A request that the correspondence be accepted as a return or a statement, regardless of how brief, indicating that you are attempting to file a return, and
2. The reporting period for which the correspondence (return) is filed, and
3. The amount of tax due for each district.

Your total reported use tax should be segregated by district based on where the materials were installed. This will assist us in allocating the use tax to the proper district.

Contractors with ongoing use tax amounts due should apply for a California Consumer Use Tax Account. You can register on our website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov), by selecting *Register*, and then select *Register or Apply for a New Business Activity or Location*. You can also register to report use tax in person at any of our [local offices](#). Please contact our Customer Service Center for assistance at 1-800-400-7115 (CRS:711).

### **Credit against a use tax liability for fixtures purchased**

If fixtures are purchased by a contractor tax-paid in an area with district taxes, the contractor, upon installing the fixtures at a jobsite without a district tax, or with a lower tax rate, is entitled to a credit for the *full amount* of the district tax of the district of purchase.

### **Finding the appropriate tax rate**

[California City & County Sales & Use Tax Rates](#) provides recent tax rate changes, the history of sales and use tax rates, the rates and effective dates of district taxes, and the combined sales, use, and district tax rate in certain cities and communities in California.

As an additional resource, we offer an online mapping tool on our website to determine the current sales and use tax rate for a specific address. Be sure the address information you enter is the address you intend. The tax rate given will reflect the current rate of tax for the address that you enter. To find a tax rate, see [Find Sales and Use Tax Rates by Address](#).

Some cities have developed a database of addresses available at [www.cdtfa.ca.gov/taxes-and-fees/cityaddresses.htm](http://www.cdtfa.ca.gov/taxes-and-fees/cityaddresses.htm) to assist retailers and consumers in identifying addresses located within the special taxing jurisdictions. In cooperation with these cities, our website provides links to their address databases. If you have questions about the addresses, you should contact the cities directly.



## Local Tax Allocation

Generally, the local tax portion of the sales or use tax is allocated to the place of sale or place of use of property. When a retailer registers with us, their physical location (storefront) is noted in our records for the purpose of distributing local taxes. However, the local tax on materials consumed and fixtures sold by construction contractors (when self-reporting the use tax) is generally reported according to the county location of the jobsite, rather than on the physical location of the contractor's business. This tax is generally allocated through the countywide pool unless a construction contractor obtains a permit or sub-permit for the jobsite location as discussed below.

In order to properly distribute the local tax, permits issued to construction contractors who report or intend to report over \$600 per year in local tax, are provided a schedule in their return for reporting the local tax due by jobsite in the appropriate county.

A construction contractor who enters into a construction contract equal to or greater than \$5,000,000 may elect to obtain a sub-permit for the jobsite of the qualifying contract, enabling the contractor to make a direct allocation of tax to the jurisdiction in which the jobsite is located rather than an indirect allocation through the countywide pool. The qualifying contract price applies to each contract or subcontract for work performed at the jobsite, not the total value of the prime contract.

## Required Registration to Report Use Tax – How to Register and File a Return

California law requires a qualified purchaser to register with us and annually report and pay use tax directly to us. Some construction contractors act only as consumers (not retailers) and are not required to register with us as sellers. However, some of these construction contractors may be required to register as “qualified purchasers.”

Qualified purchasers include businesses that are not required to have a seller’s permit and have at least \$100,000 in annual gross receipts from business operations. Gross receipts are the total of all receipts from both in-state and out-of-state business operations.

A qualified purchaser is required to file a return, and report and pay use tax on the total purchase price of tangible personal property 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. The return along with payment is due by April 15 of the following calendar year. For example, the return for 2019, along with payment, is due by April 15, 2020.

You can register on our website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov), by selecting *Register*, and then selecting *Register or Apply for a New Business Activity or Location*. Once you have registered, you may pay any use tax due by filing your return.

For additional information, see [publication 126](#), *Mandatory Use Tax Registration for Service Enterprises*.

## Other Tax Issues

### Consumer use tax account

If you make frequent taxable purchases from out-of-state sellers and are not required to register for a use tax account as a qualified purchaser, you may register with us and obtain a California Consumer Use Tax Account. You can register on our website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov) by selecting [Register](#), and then select [Register or Apply for New Business Activity or Location](#). You can also register to report use tax in person at any of our [offices](#). For assistance, please contact our Customer Service Center at 1-800-400-7115 (CRS:711).

### Farm equipment and machinery

In general, the sale of farm equipment and machinery is taxable. However, as provided in [Regulation 1533.1, Farm Equipment and Machinery](#), certain sales and purchases of farm equipment and machinery are partially exempt from sales and use tax. The partial tax exemption applies to the sale or purchase only if the farm equipment and machinery meets three conditions:

- Sold to a qualified person,
- Used primarily or exclusively in producing and harvesting agricultural products, and
- Defined as farm equipment and machinery.

If any one of the conditions is not met, the partial tax exemption does not apply. Certain types of construction contracts, such as the installation of a solar power system, may qualify for this partial exemption. It is important to note that if the solar power system is being furnished and installed by a construction contractor, [Regulation 1521, Construction Contractors](#), governs the application of tax to construction contracts. To the extent the construction contractor is regarded as a retailer under Regulation 1521, the partial exemption applies to the sale of such items. On the other hand, to the extent the construction contractor is regarded as the consumer under Regulation 1521, the partial exemption is not applicable to the construction contractor's purchases of materials for use in constructing a solar power system. Additionally, only certain structures are considered farm equipment for purposes of the partial tax exemption.

For additional information on the partial tax exemption, please refer to [Regulation 1533.1, Farm Equipment and Machinery](#), and [publication 66, Agricultural Industry](#). You may also call our Customer Service Center at 1-800-400-7115 (CRS:711).

### Construction contractors and American Indian reservations

For detailed information on applying tax to sales of construction materials, fixtures, and supplies to American Indians and sales to construction contractors by off-reservation retailers, see [publication 146, Sales to American Indians and Sales in Indian Country](#). Also refer to [Regulation 1616, Federal Areas](#), and [Regulation 1521, Construction Contractors](#).

### Bad debts

When construction contractors are considered the consumer of materials (or materials and fixtures in U.S. government contracts) that they furnish and install, they may not claim a bad debt deduction on their sales and use tax return. In cases where they are the sellers, bad debt losses should be treated in the same manner as those resulting from other types of retail sales.

The law allows a bad debt deduction for taxable sales you have made and reported on your sales tax return for which you were unable to collect payment. A retailer is relieved from liability for sales tax or from liability to collect use tax insofar as the measure of the tax is represented by accounts found worthless and charged off for income tax purposes. This includes circumstances where the retailer's income is reported on a related person's income tax return, and the bad debt is charged off on that return. If the retailer is not required to file income tax returns and the retailer's income

is not reported on another person's return, the account must be charged off in accordance with generally accepted accounting principles. A retailer may claim a bad debt deduction provided that the sales tax or amount of use tax was actually paid to the state.

This deduction should be taken on the return filed for the period in which the amount was found worthless and charged off for income tax purposes. If the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles.

If the amount of an account found to be worthless and charged off is comprised in part of nontaxable receipts such as installation labor and in part of taxable receipts upon which tax has been paid, a bad debt deduction may be claimed only with respect to the unpaid amount upon which tax has been paid.

*Example:* You contract to furnish and install materials and fixtures in a lump sum contract. Your material cost is \$2,000 and the fixture cost is \$5,000 with a total contract price of \$15,000. In a lump sum contract, you are the consumer of the materials and therefore you paid tax when purchasing the materials for installation. The retail selling price of the fixtures in a lump sum contract is the cost price to you (\$5,000). If this account is subsequently found worthless and charged off for income tax purposes and/or charged off in accordance with generally accepted accounting principles, the total bad debt that you are able to claim is \$5,000, which represents the taxable portion of the lump sum contract.

For additional information on bad debt deductions, see [Regulation 1642, Bad Debts](#).

## Supplies and tools for self-use

Contractors are the consumers of supplies which they use in their business. Tax applies to the sale of supplies and tools to contractors. Supply items include:

- Oxygen
- Acetylene
- Gasoline
- Acid
- Thread cutting oil
- Tools
- Parts for tools

Construction contractors should not purchase these items for resale.

## Sales of short ends or pieces

If you sell short ends or pieces, you can claim the deduction for tax-paid purchases resold prior to use if you:

- Paid sales tax on the material they were cut from,
- You did not use the short ends or pieces for any other purpose,
- The amount of the deduction does not exceed the price at which you sell the short ends or pieces.

## Miscellaneous

Items such as adhesives, clips, and screws could be classified as materials, fixtures, or equipment, depending on the use made of the product. For example, clips when used merely to prevent movement of the item while in production are considered supplies, but are considered materials if they attach an item to realty. However, if the clip is attached to a manufactured fixture or piece of equipment, then they would assume that identity.

## Lumber and engineered wood products

When you make out-of-state purchases of lumber products or engineered wood products for use in this state or from retailers who do not register to collect the Lumber Products Assessment, you must register with us to report and pay the assessment directly.

For information on lumber products or engineered wood products, see publication 256, *Lumber Products and Engineered Wood Products*.

### ***Manufacturing and research & development partial exemption***

Revenue and Taxation Code [section 6377.1](#) and [Regulation 1525.4](#), *Manufacturing and Research & Development Equipment*, provide a partial exemption from tax for certain sales, leases, or purchases of qualified tangible personal property purchased for use by a qualified person and used in a qualified manner. A qualified person means a person primarily engaged in those lines of business described in codes 3111 to 3399, inclusive, 221111 to 221118, inclusive, 221122, 541711, or 54712 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

For purposes of this partial exemption, qualified tangible personal property includes, but is not limited to:

- Machinery and equipment, including component parts and contrivances such as belts, shafts, or moving parts, and operating structures,
- Equipment or devices used or required to operate, control, regulate or maintain qualified machinery or equipment, including computers, data processing equipment and computer software with a useful life of one or more years,
- Tangible personal property used in pollution control that meets or exceeds standards established by this state or any governmental agency within this state,
- Special purpose buildings and foundations used as an integral part of the manufacturing, processing, refining, fabricating or recycling process, including research or storage facilities utilized during those processes. Buildings solely used for warehousing purposes before or after these processes are excluded,
- Beginning January 1, 2018, Assembly Bill (AB) 398 (Chapter 135, Stats. 2017) expands the partial exemption to include qualified tangible personal property purchased for use by a qualified person to be used primarily in the generation or production, or storage and distribution of electric power as described in NAICS codes 22111 to 221118, inclusive, or 221122. Qualified tangible personal property has also been expanded to include special purpose buildings and foundations used as an integral part of the generation or production or storage and distribution of electric power, and
- Beginning January 1, 2018, AB 398 also removes the exclusion from the definition of a “qualified person” for certain persons engaged in agricultural business activities previously excluded as an apportioning trade or business under RTC section 25128.

If a construction contractor is hired by a manufacturer to build a special purpose building, their sales or purchases of materials or fixtures that they furnish and install in the performance of a construction contract for a qualified person may qualify for the partial exemption. The contractor should obtain a partial exemption certificate from the qualified person. Contractors purchasing property from a retailer in this state or engaged in business in this state for use in the performance of a qualifying construction contract must timely furnish the retailer with a partial exemption certificate in order for the partial exemption to be allowed.

This partial exemption may be utilized by both prime contractors and sub-contractors provided the requirements of the partial exemption are met.

The partial exemption rate is currently 3.9375 percent. The partial exemption provides that sales of the qualifying property sold to a qualified person be taxed at a rate of 3.3125 percent (7.25 percent current statewide tax rate – 3.9375 percent partial exemption) plus any applicable district taxes.



### ***Required documentation***

If you are performing a construction contract for a qualified person, you should timely obtain an exemption certificate from the qualified person. Certificates are considered timely if they are taken at any time:

- Before the seller bills the purchaser for the property,
- Within the seller's normal billing or payment cycle, or
- At or prior to delivery of the property to the purchaser.

When you take a timely partial exemption certificate in the proper form and in good faith, the partial exemption certificate relieves you from the liability for the sales tax or the duty of collecting the use tax subject to the exemption.

Exemption certificates received from qualified persons must be maintained for a period of not less than four years from the date on which you claim the partial exemption.

### ***Partial exemption certificates***

There are two sample certificates available on our website for your use in documenting the partial exemption.

- [CDTFA-230-M](#), *Partial Exemption Certificate for Manufacturing, Research and Development Equipment*
- [CDTFA-230-MC](#), *Construction Contractors — Partial Exemption Certificate for Manufacturing, Research and Development Equipment*

Any document may be regarded as a partial exemption certificate as long as it contains the following:

- The signature of the purchaser, the purchaser's agent, or the purchaser's employee;
- The name, address, and telephone number of the purchaser;
- The purchaser's seller's permit number, or if the purchaser is not required to hold a seller's permit, a notation to that effect and the reason;
- A statement that the property purchased is:
  - To be used primarily for a qualifying activity, or
  - For use by a contractor performing a construction contract for a qualified person.
- A statement that the purchaser is:
  - A qualified person primarily engaged in manufacturing or research and development in biotechnology, engineering, or physical and life sciences, or
  - A contractor performing a construction contract for a qualified person.
- A statement that the property purchased is qualified tangible personal property;
- A description of the property purchased; and
- The date of execution of the document.

### ***Documenting the Exemption***

The qualified person is responsible for issuing the CDTFA-230-M as evidence that the construction is for a qualified property. A prime or general contractor will be responsible for issuing a CDTFA-230-MC to a supplier of materials or fixtures if purchased tax-paid. In addition, if the person furnishing and installing the materials is a subcontractor, the prime or general contractor will also need to provide the subcontractor with a copy of the CDTFA-230-M issued by the qualified person in addition to a CDTFA-230-MC issued by the prime or general contractor. Subcontractors will also need to issue a CDTFA-230-MC to their suppliers of materials or fixtures if purchased tax-paid.

### ***Documenting the Annual Limit***

The partial exemption has an annual limit of \$200 million in qualifying purchases by a qualified person. All materials consumed by a contractor or subcontractor; or fixtures, machinery or equipment sold by a contractor or subcontractor, count against the \$200 million annual limit of the qualified person. All construction contractors, including subcontractors must provide cost information for any and all items sold or used in the performance of a qualifying construction contract for purposes of tracking the qualified person's \$200 million yearly exemption limit.

## FOR MORE INFORMATION

For additional information or assistance, please take advantage of the resources listed below.

### CUSTOMER SERVICE CENTER 1-800-400-7115 (CRS:711)

Customer service representatives are available Monday through Friday from 7:30 a.m. to 5:00 p.m. (Pacific time), except state holidays. In addition to English, assistance is available in other languages.

### OFFICES

Please visit our website at [www.cdtfa.ca.gov/office-locations.htm](http://www.cdtfa.ca.gov/office-locations.htm) for a complete listing of our office locations. If you cannot access this page, please contact our Customer Service Center at 1-800-400-7115 (CRS:711).

### INTERNET

[www.cdtfa.ca.gov](http://www.cdtfa.ca.gov)

You can visit our website for additional information—such as laws, regulations, forms, publications, industry guides, and policy manuals—that will help you understand how the law applies to your business.

You can also verify seller's permit numbers on our website (see [Verify a Permit, License, or Account](#)).

Multilingual versions of publications are available on our website at [www.cdtfa.ca.gov/formspubs/pubs.htm](http://www.cdtfa.ca.gov/formspubs/pubs.htm).

Another good resource—especially for starting businesses—is the California Tax Service Center at [www.taxes.ca.gov](http://www.taxes.ca.gov).

### TAX INFORMATION BULLETIN

The quarterly *Tax Information Bulletin* (TIB) includes articles on the application of law to specific types of transactions, announcements about new and revised publications, and other articles of interest. You can find current TIBs on our website at [www.cdtfa.ca.gov/taxes-and-fees/tax-bulletins.htm](http://www.cdtfa.ca.gov/taxes-and-fees/tax-bulletins.htm). Sign up for our [CDTFA updates](#) email list and receive notification when the latest issue of the TIB has been posted to our website.

### FREE CLASSES AND SEMINARS

We offer free [online](#) basic sales and use tax classes including a tutorial on how to file your tax returns. Some classes are offered in multiple languages. If you would like further information on specific classes, please call your local office.

### WRITTEN TAX ADVICE

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges that are due on a transaction if we determine that we gave you incorrect written advice regarding the transaction and that you reasonably relied on that advice in failing to pay the proper amount of tax. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction.

For written advice on general tax and fee information, please visit our website at [www.cdtfa.ca.gov/email](http://www.cdtfa.ca.gov/email) to email your request.

You may also send your request in a letter. For general sales and use tax information, including the California Lumber Products Assessment, or Prepaid Mobile Telephony Services (MTS) Surcharge, send your request to: Audit and Information Section, MIC:44, California Department of Tax and Fee Administration, P.O. Box 942879, Sacramento, CA 94279-0044.

For written advice on all other special tax and fee programs, send your request to: Program Administration Branch, MIC:31, California Department of Tax and Fee Administration, P.O. Box 942879, Sacramento, CA 94279-0031.

### TAXPAYERS' RIGHTS ADVOCATE

If you would like to know more about your rights as a taxpayer or if you have not been able to resolve a problem through normal channels (for example, by speaking to a supervisor), please see [publication 70, Understanding Your Rights as a California Taxpayer](#), or contact the [Taxpayers' Rights Advocate Office](#) for help at 1-888-324-2798. Their fax number is 1-916-323-3319.

If you prefer, you can write to: Taxpayers' Rights Advocate, MIC:70, California Department of Tax and Fee Administration, P.O. Box 942879, Sacramento, CA 94279-0070.

## Regulations, forms, and publications

### *Lists vary by publication*

Selected [regulations](#), [forms](#), [publications](#), and [industry guides](#) that may interest you are listed below. Spanish versions of certain publications are also available online.

### **Regulations**

- 1521 *Construction Contractors*
- 1525.4 *Manufacturing and Research & Development Equipment*
- 1526 *Producing, Fabricating and Processing Property Furnished by Consumers-General Rules*
- 1533.1 *Farm Equipment and Machinery*
- 1583 *Modular Systems Furniture*
- 1616 *Federal Areas*
- 1620 *Interstate and Foreign Commerce*
- 1628 *Transportation Charges*
- 1642 *Bad Debts*
- 1667 *Exemption Certificates*
- 1668 *Sales for Resale*
- 1701 *"Tax-Paid Purchases Resold"*
- 1826 *Construction Contractors*

### **Publications**

- 66 *Agricultural Industry*
- 100 *Shipping and Delivery Charges*
- 101 *Sales Delivered Outside California*
- 126 *Mandatory Use Tax Registration for Service Enterprises*
- 146 *Sales to Native Americans and Sales in Indian Country*

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