

Cigarette and Tobacco Products Taxes

NEWSLETTER

New Legislation

The following is a summary of a law change enacted during the 2014 California legislative session that affects several Board of Equalization (BOE) special tax and fee programs. The change described in this article is effective January 1, 2015. To read the bill, visit www.leginfo.ca.gov/bilinfo.html.

- **Assembly Bill 2009 (Stats. 2014, Ch. 105)** adds Managed Audit Program authority to the following special tax and fee laws: Fee Collection Procedures Law; Motor Vehicle Fuel Tax Law; Use Fuel Tax Law; Cigarette and Tobacco Products Tax Law; Alcoholic Beverage Tax Law; Energy Resources Surcharge Law; Emergency Telephone Users Surcharge Law; Hazardous Substances Tax Law; Integrated Waste Management Fee Law; Oil Spill Response, Prevention, and Administration Fees Law; Underground Storage Tank Maintenance Fee Law; and Diesel Fuel Tax Law.

For more information, see related article, *Managed Audit Program expanded to special tax and fee programs*, in the online Supplemental Articles available on our website at <http://www.boe.ca.gov/sptaxprog/newsletters.htm#page-3>.

Cigarette and tobacco products license online renewal

You can now renew cigarette and tobacco products licenses online. To remind you to renew timely, the BOE will send two notifications: one by U.S. mail and the other by email, approximately 60 days prior to the date your license expires. The online renewal process requires that you be a registered user with the BOE. To register, log on to the BOE website at <https://efile.boe.ca.gov/boe/registration.jsp> and complete the online registration. More online renewal information is available by viewing the frequently asked questions at: http://www.boe.ca.gov/sptaxprog/CTP_Lic_ALR_FAQs.htm.

It is very important that you provide and maintain your current email address with us in order to receive the latest news, including renewal reminders and other information that may affect your account.

If you have any questions or would like more information about how to renew your license online, please contact our Customer Service Center at 1-800-400-7115 (TTY:711), Monday through Friday from 8:00 a.m. to 5:00 p.m. (Pacific time) excluding state holidays.

Cigarette tax online filing program

Cigarette manufacturers and distributors may file their returns, reports, and schedules online. Online filing is convenient, fast, and secure and the most accurate way to file returns, reports, and schedules. Your online filing also reduces the BOE's cost of administering tax and fee programs.

To help you prepare for online filing, please visit www.boe.ca.gov/sptaxprog/cig_efile.htm where you will find general instructions, schedule templates, frequently asked questions, and other useful information about online filing.

If you are interested in participating in online filing, please contact our Customer Service Center at 1-800-400-7115 (TTY:711), and select the Special Taxes option, or email us at BOECTeFile@boe.ca.gov.

Cigarette and tobacco products schedules

The BOE must compile information about cigarettes and loose leaf tobacco suitable for making cigarettes (roll-your-own [RYO]) sold in California and made by manufacturers who did not sign the Master Settlement Agreement.

Existing law requires every cigarette and tobacco products distributor to file a return and accompanying schedules on or before the 25th day of the month following the reporting period. Failure to comply with the filing and reporting requirements may result in revocation of the distributor's license.

If you are a cigarette distributor, you are required to report all brands that were purchased or sold for the reporting period. If you had no activity, you must still file a return reporting zero.

If you are a tobacco products distributor and had no reportable activity for the period, you must check the box on line 1A of **BOE-501-CT** (S1F), *Tobacco Products Distributor Tax Return*, and file the return timely to avoid being considered delinquent for the reporting period.

The California Tobacco Directory

The California Tobacco Directory (CTD) lists all tobacco products, manufacturers, and brand families that are certified as being in compliance with California law. Only cigarette brands and RYO tobacco products listed on the CTD may be sold, offered for sale, or possessed for sale in California.

The CTD is updated periodically as manufacturers and brands are added to or removed from the CTD. All licensees are responsible for reviewing the CTD to ensure the cigarettes and RYO in their possession are compliant.

You can sign up to receive email updates when changes are made to the CTD. To view the CTD or subscribe for email alerts, please visit <http://oag.ca.gov/tobacco/directory>. The CTD is on the left side of the page, and you may subscribe in the area on the right side of the page.

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Avoid making common errors on tobacco products distributor tax returns

- **Report the correct wholesale cost of distributions.**

Include the dollar value of discounts. Generally, distributors must calculate their tax liability on “other tobacco products” (OTP) using their cost (that is, purchase price) of the tobacco products, including the dollar value of any discounts or trade allowances given by the manufacturer or supplier.

Exclude only freight or transportation charges that are separately stated. Freight or transportation charges for shipment between the manufacturer or supplier and distributor are excluded from the calculation of tax if those charges are separately stated on the invoice. However, if a separately stated charge is designated as “postage and handling” or “shipping and handling,” only that portion of the charge representing actual postage or actual shipment may be excluded.

Do not report the cost of tax-paid OTP. An invoice for tax-paid product must include a statement that the California tobacco tax has been paid or is included in the invoice amount. Products for which you have received an invoice indicating that the taxes have been paid can be excluded from your tax return. Retain copies of all invoices for your records for a minimum of four years.

- **Report distributions in the proper period.** “Distribution” includes the sale, use, or consumption of untaxed OTP, or the movement of untaxed OTP to your retail sales area. Taxes must be reported on all distributions that occur during the month or quarterly reporting period of each return.

- **Maintain records for undistributed OTP.** Distributors who keep a separate stock of untaxed, undistributed OTP are reminded to maintain all records necessary to determine the correct tax reporting period (date of distribution) and tax liability. The untaxed stock must be segregated from retail stock and be inaccessible to the public. Unless adequate records are kept to the contrary, the BOE will presume that all tobacco products acquired by a distributor are untaxed and have been distributed in a taxable manner.

- **Properly report sales shipped out of state (interstate commerce exemption).**

Correctly report tax exempt sales. Sales of OTP which are shipped to an out-of-state buyer by a distributor may be reported as an exempt sale. The distributor must report their wholesale cost (purchase price) on their tax return form, not their sales price to the out-of-state buyer, and also enter that amount on the interstate sales exemption portion of the return.

Claim the exemption only for OTP on which you paid the tax. If the taxes have already been paid to the BOE by a distributor on OTP subsequently exported or shipped to an out-of-state buyer, the distributor may obtain a refund of the taxes paid. The BOE will only refund the tax to the distributor who paid the tax to the BOE.

Make your claim for refund timely. A claim for refund based upon the exportation of tax-paid tobacco products from this state *must* be filed with the BOE within three months after the close of the calendar month in which the tobacco products are exported. (See [Regulation 4063.5.](#))

Maintain adequate documentation. Evidence of delivery of OTP to a destination outside California must be retained by the distributor. In the case of foreign export, copies of United States Customs shippers’ export declarations filed with the Collector of Customs or other documentary evidence of export must be obtained and retained.

- **Maintain records that support your tobacco products distributor returns.**

Distributors should maintain records for a period of four years after the tax return’s due date or from the date the return was filed, whichever is later. Retain all records necessary to determine the correct tax liability, including books of account, bills, receipts, invoices, cash register tapes, or other documents supporting tax returns and reports. Also, distributors must retain at the licensed premises invoices of all tobacco product purchases for a period of one year from the date of purchase.

Cigarette and tobacco products retailers: remember to retain your invoices and maintain your records

Keeping accurate records helps you comply with important state regulations. Remember to retain purchase invoices for your stock of cigarettes and tobacco products for four years.

Among other required information, the invoices you receive from a wholesaler or distributor must include the name, address, telephone number, and cigarette and tobacco products license number of the wholesaler or distributor, and a statement that tax was paid.

IMPORTANT REMINDER: The most recent 12 months of invoices must be kept at the retail location for at least one year after purchase. You must provide them upon request during normal business hours for inspection and reproduction by BOE staff or a member of a law enforcement agency. Any retailer who fails, refuses, or neglects to retain or make available invoices for inspection is in violation of the Cigarette and Tobacco Products Licensing Act and may be cited. See [publication 78](#), *Sales of Cigarette and Tobacco Products in California*, for more information on recordkeeping.

View additional articles of general interest by visiting <http://www.boe.ca.gov/sptaxprog/newsletters.htm#page-3>

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SUPPLEMENTAL ARTICLES

General Interest

Online account maintenance

Online account maintenance will be available starting in July 2015. Account updates can be made to your location address, mailing address, doing business as (DBA) name, officer/member/manager/partner, email address, telephone number, fax number, and sublocation information. Check our *website* for updates.

Managed Audit Program expanded to special tax and fee programs

Conventionally, audits are performed by auditors who review your books and records at your place of business. However, beginning on January 1, 2015, the BOE will offer a voluntary Managed Audit Program (MAP) for certain special tax and fee programs. The MAP will save time for you and also help you comply with our tax and fee laws. Under the MAP, a taxpayer or feepayer performs much of the audit work themselves.

A managed audit is basically a type of self-audit that is conducted with the instruction and guidance from a BOE auditor. Eligible taxpayers or feePAYERS are provided with written and oral instructions that will enable you to conduct many of the tasks ordinarily performed by the auditor.

If you complete a managed audit according to the MAP Participation Agreement and owe additional taxes or fees, you will pay interest on that liability at one-half the rate that would otherwise apply.

You may be eligible for a managed audit if you meet all the following criteria:

- Your transactions or activities involve few or no statutory exemptions;
- Your business activities involve a single or small number of clearly defined taxability or activity issues;
- You agree to participate in the MAP; and
- You have the resources to comply with the managed audit instructions provided by the BOE.

The BOE may terminate the MAP under certain circumstances. If the BOE determines that the agreement should be terminated, the taxpayer or feepayer will be notified in writing and any interest due will be computed at the full rate.

Open BOE Data Portal

The *OPEN BOE Data Portal* eases access to a variety of useful aggregate tax, revenue, and expenditure data created and maintained by the BOE, including:

- Taxable sales and other sales and use tax data
- Alcoholic beverage consumption and tax collections
- Cigarette and tobacco products tax revenues
- Gasoline, diesel, and jet fuel tax statistics
- Assessed property valuations and other property tax related data

Through the data portal you can create charts and graphs, and download or export our data.

Start exploring now! Visit our new OPEN BOE Data Portal at www.boe.ca.gov/dataportal.

Annual Taxpayers' Bill of Rights hearings

Do you have suggestions for improving our services? Do you have an idea for changing a tax or fee policy or procedure? If you do, come share your ideas and concerns with our Board Members at our annual Taxpayers' Bill of Rights hearings. You may present your proposal in person or in writing for either the business or property tax portion of the hearings.

Although you are not required to make advance arrangements to speak, it will help us to prepare if you contact the Taxpayers' Rights Advocate Office at 1-888-324-2798 beforehand to let us know your topic. If your proposal is complex or extensive, we encourage you to submit it in advance and then summarize it in your oral presentation.

The annual Taxpayers' Bill of Rights hearings for 2015 are scheduled for May 27 in Sacramento and June 23 in Culver City, both starting at approximately 1:30 p.m.

For more detailed information about the hearings, please call the Taxpayers' Rights Advocate Office or visit them at www.boe.ca.gov, where you can also view the office's latest annual report.

Know your rights

As a taxpayer, you have many rights under the law, including the right to:

- Information and assistance to help you comply with the law;
- Fair and courteous treatment and prompt service;
- Confidentiality;
- Appeal a decision or claim a refund as allowed by law; and
- Address your elected Board Members.

Along with those rights, you have responsibilities to:

- Stay informed about tax laws and regulations that affect your business;
- Report and pay taxes and fees when due;
- Promptly respond to BOE attempts to contact you;
- Inform the BOE of changes to your business ownership or address; and
- Maintain adequate records.

For more information, see [publication 70](#), *Understanding Your Rights as a California Taxpayer*. You may also call the Taxpayers' Rights Advocate Office toll-free at 1-888-324-2798 if you have questions about your rights, or if you have not been able to resolve a problem through normal channels (for example, by speaking to a supervisor).

Civil behavior in trying times

Some observers have noted that civility is decreasing in our society as our lives become more complex. We know that you may find yourself frustrated with the difficulties of the tax laws or pressed for time when dealing with our staff. Still, we ask that you treat our employees just as you would like to be treated in a business situation. Any threatening statement or gesture made to a BOE employee—even a statement made in jest—will be referred to our Internal Affairs Section for investigation.

Ethics at work —“Thank you” is enough

We would like to remind you that BOE policy prevents our employees from accepting gifts of any type. So if you are grateful to someone for going the extra mile to help you with a complicated issue, a simple “thank you” will do. You may also use our online [Customer Service Survey](#) form, *How Are We Doing Survey - Property & Special Taxes Department*, to express yourself.