

The California Department of Tax and Fee Administration



Sales & Use Tax for Nonprofit Organizations

Course Objectives

- How Sales & Use Tax Law impacts nonprofit and faith-based organizations.
- How and where to get help.



Presumptions of the Sales Tax Code

- All sales are taxable unless otherwise specifically exempted.
- Claimed exemptions must be supported by documentation.
- Taxpayer is responsible for maintaining and providing documentation for potential examination.



Items Donated by Business from Resale Inventory

Items withdrawn from resale inventory and donated to *most* nonprofits are not subject to use tax by the business making the donation. Nonprofits include:

Religious, museums, art galleries, literary groups, nonprofit schools and hospitals, medical assistance and research groups, Red Cross, Salvation Army, nonprofit educational organizations, scientific, performing arts groups, children or animal protection, fraternal lodges, plus Country, State, County or City.

No Blanket Exemption

- In general, no blanket exemption from sales or use tax exists for nonprofit or charitable organizations.
- The organization's sales of tangible personal property are subject to tax.
- The organization's purchases of tangible personal property, including supplies are subject to tax.

General Rule:

Sales are Taxable Even if...

- ❑ The item is donated or homemade.
- ❑ The item is bartered or traded.
- ❑ The proceeds benefit the organization.
- ❑ The money received is designated as a “donation” or “gift.”

Taxable Activities

- Raffles
- Food sales
- Auctions
(and silent auctions)
- Rummage sales
- Bazaars
- Carnival booths
- Vending machine sales
- Internet sales



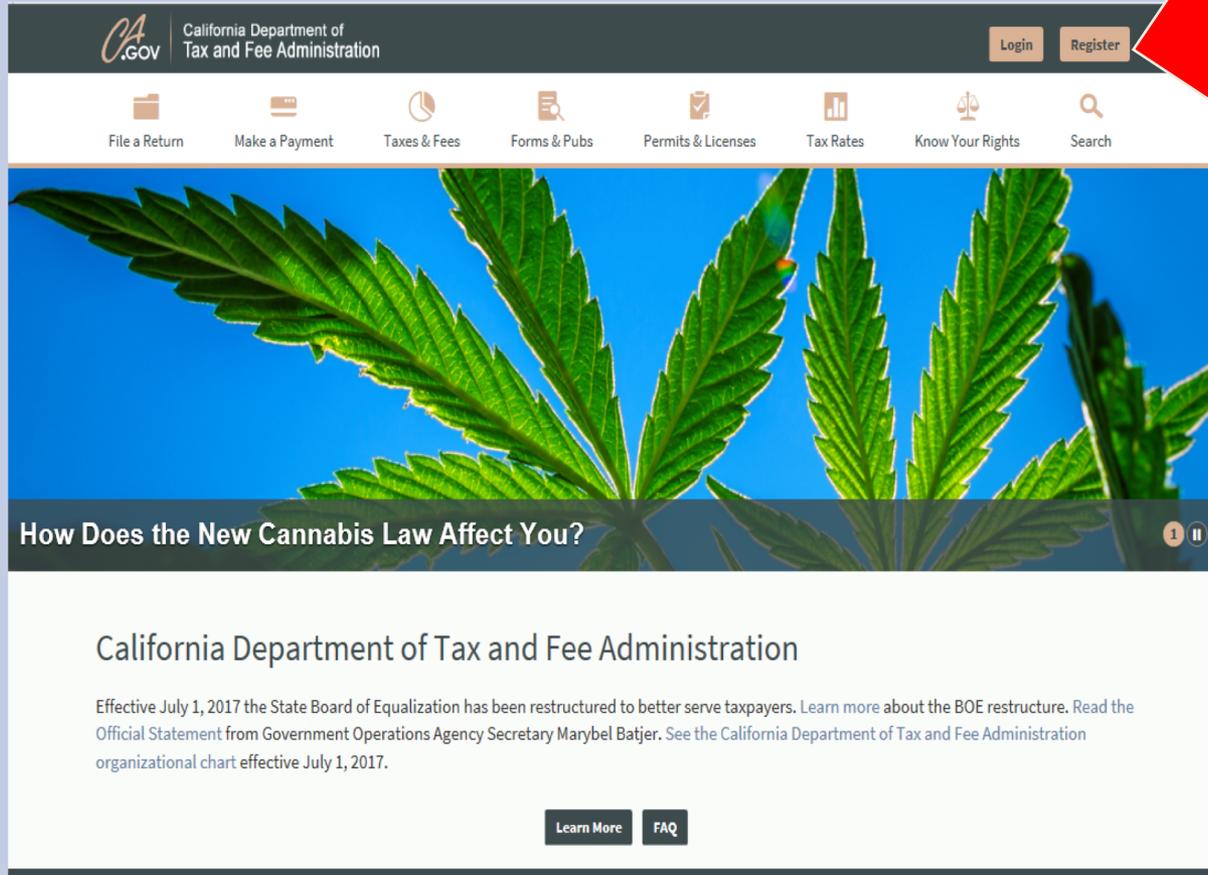
Do I Need a Seller's Permit?

- ❖ Every person, (i.e. individual, firm, partnership, corporation, nonprofit, etc.,) engaged in the business of selling or leasing tangible personal property.
- ❖ Wholesalers, as well as retailers, must secure such permit.
- ❖ No fee is required to obtain a permit.



How do I apply...?

Obtain Seller's Permit



Register Here

Our new homepage www.cdtfa.ca.gov will temporarily redirect you to www.boe.ca.gov

Click on "Register" at www.cdtfa.ca.gov



Registration - Main Menu

For assistance during regular business hours call

Welcome to the Board of Equalization's (BOE) on-line registration system. The BOE administers various tax and fee programs that fund state, county, city and special taxing jurisdictions. The type of registration or account required is dependent upon the type of business activity or personal use transaction. The BOE's on-line registration system will guide you through the process whether or not you know what type of registration you require. Answers to specific questions regarding your business activity or personal use transaction will direct you to the appropriate registration type(s) required.

[Information Needed to Get Started](#)

Select the option you prefer:

- [Register a business activity with BOE](#) ⓘ
(Seller's Permit, Temporary Seller's Permit, Underground Storage Tank Fee and all other accounts)
 - [Add a new location to an existing account](#) ⓘ
- [Register for an International Fuel Tax Agreement \(IFTA\) Account](#) ⓘ
- [Register for a Timber Yield Tax Account](#) ⓘ
- [Apply for and purchase a California Fuel Trip Permit](#) ⓘ
- [Apply and purchase Annual Flat Rate Decals for private passenger vehicles](#) ⓘ
- [Pay use tax, file an exemption or request a tax clearance](#)
(Vehicle, Vessel, Aircraft, or Manufactured Home/Mobile Home)
- [Pay use tax and/or the lumber products assessment on one time purchase](#) ⓘ



Current User ID
User ID <input type="text"/>
Password (case sensitive) <input type="password"/>
<input type="button" value="Login"/>
Forgot Password

Filing Requirements

When you are issued a seller's permit, the CDTFA will assign you a reporting basis, based on the information you furnished.

- A tax return (with payment) is due each period
- *Even if no sales are made, you must file a "0" return*
- E-filing is the CDTFA method for filing tax returns

**Yearly
(Calendar Year)**

**Fiscal Yearly
(July 1 - June 30)**

**Quarterly
(Calendar
Quarters)**

**Quarterly
Prepayment**

**Quarterly
Prepayment with
EFT (Electronic
Funds Transfer)**

Temporary Seller's Permit OK?

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- *Yes, if:*
 - ▣ You hold less than three fundraisers involving taxable sales per year.
 - ▣ You may find it easier to hold a *regular* Seller's Permit to avoid having to reapply before each event, or if you hold annual fundraisers.
 - ▣ Tax Returns for Temporary Seller's Permit holders are due the month following the fundraiser.

Charitable Organizations That Relieve Poverty and Distress

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- Your sales (and some purchases) are not subject sales or use tax if your organization meets all of the following qualifications:
 - Must be formed and operated for charitable purposes.
 - Qualify for the “welfare exemption*” from property tax on the retail site where you sell merchandise.
 - Carry out activities that relieve poverty and distress.
 - Sell or donate items principally to assist purchasers or recipients in distressed financial condition.
 - Make, prepare, assemble, or manufacture the items you sell or donate.

*File form 277 with BOE

Eligibility Review

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- If you believe your organization's sales or purchases may be exempt; write us:

Include:

- Your type of organization
- A letter describing your organization's practices and activities
- Letters from FTB and IRS verifying your organizations tax exempt status
- A copy of your articles of incorporation or bylaws (or both)

If you qualify for the special exemption, we will send you a letter that verifies your exempt status.

Eligibility Review

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- If you believe your organization's sales or purchases may be exempt; write us:

Compliance Program Analysis Section, MIC:02
California Dept.of Tax and Fee Administration
PO Box 942879
Sacramento, CA 94279-0002

Publication 18 Nonprofit Organizations – Page 8
Publication 149 Property Tax Welfare Exemption

Food Products

The discussion of taxable food and beverage sales is divided into two categories:



Food and beverages sold for consumption at your place of business, which are generally taxable



Hot food products

Sales of Food for Consumption On-site at Fundraising Events

Type of sale, location

- Meals served at fundraising events

Is sale usually taxable?

- Yes...eaten on premises



Sales of Food "To Go" at Fundraising Events

Type of food: Cold Beverages.

Is sale usually taxable?

No



Exceptions:

- Tax applies to the sale of alcoholic and carbonated beverages.
- May be taxable when sold in a combination package.

Taxable



Sales of Food “To Go” at Fundraising Events

Type of food: Cold food
(candy, snack food, produce, etc.)

Is sale usually taxable?

No

Exception:

- May be taxable when sold in a combination package.



Sales of Food “To Go” at Fundraising Events

Type of food: Hot Prepared Food.

Is sale usually taxable? Yes

Exception:

- Tax does not apply to sales of individual hot drinks and hot bakery goods.

**Not
Taxable**



Common Definitions

Combination Meal

A combination of different food and beverage items sold for a single price.



Sales of Combination Food Packages “To Go” at Fundraising Events

When a combination food package includes:

- Cold food products only.
 - Example: Cold sandwich, chips, and an apple.

Tax does not apply.

- (Carbonated and alcoholic beverages excluded)



Sales of Combination Food Packages “To Go” at Fundraising Events

When a combination food package includes:

- A carbonated beverage and one or more cold food items.
 - Example: Cold sandwich , chips, candy, and a soft drink.

Tax applies only to the portion of the selling price that represents the charge for the carbonated beverage.

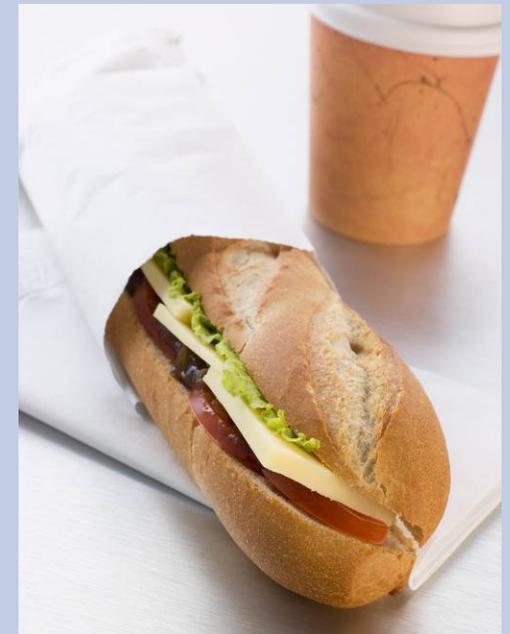


Sales of Combination Food Packages “To Go” at Fundraising Events

When a combination food package includes:

- A hot food or beverage and any other food item.

Tax applies to full selling price.



Combination Packages

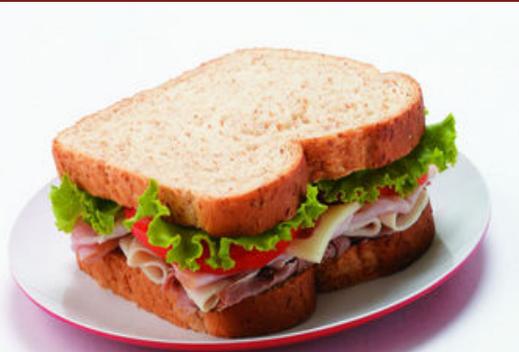
Sold "To Go"

Combo Package #1

A cold turkey sandwich
and milk

The entire charge for a combination sale of a cold food and a non-carbonated beverage "to go" is not subject to tax.

EXEMPT



Combination Packages

Sold "To Go"

Combo Package #2

A cold turkey sandwich
and coffee

*The entire charge for a
combination sale that includes
a hot prepared food or hot
beverage is taxable.*

TAXABLE



Combination Packages

Sold "To Go"

Combo Package #3

A cold turkey sandwich
and a can of soda

*ONLY the selling portion of
the carbonated beverage is
taxable when a combination
package includes a cold food
and a carbonated beverage.*

**PARTLY
TAXABLE**



Sales of Food for Consumption On-site at Fundraising Events

Type of sale, location:

- Food sold where admission is charged.

Is sale usually taxable?

- Yes.



Exception:

- Cold food sold in a form or quantity that buyers would normally take home.



Examples of Food *Not* Ordinarily Sold for Immediate Consumption

- 1) Quart of ice cream.
- 2) A whole pie.
- 3) Party tray of cold cuts and cheeses or assorted fruits.



Sales of Food for Fundraising

Fund Raising Dinners.

- Taxable.
- Generally, the person serving the meal is responsible for the tax.

If a caterer serves the meal, the caterer is the retailer and is responsible for the tax.



Other Food Stipulations...

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- The source of food does not affect how tax applies – purchased, donated, or homemade
- Exceptions to the “Food taxable with admission price” rule: state and national parks, marinas, campgrounds, RV parks, entry based on membership dues, and previously mentioned “food-consumer” nonprofits
- Insignificant amounts of food (coffee, tea, water) served at ticketed events not taxable

Other Non-taxable activities...

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- Donations without receiving merchandise of equal value in return
- Tickets when food is not included in the ticket price
- Tickets and raffles where a prize is not guaranteed to everyone

Other Non-taxable activities...

33

- Sale of non-physical products like services
- Sales of gift cards and coupon books
- Sales of advertising NOT involving and exchange of merchandise or goods

Other *Donation* Guidelines...

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- Items *purchased* for donation subject to tax
- Nonprofits considered “Consumers” do not collect tax on donated items sold
- Loans to schools for educational purposes not taxable

Gift Basket - Taxability

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To determine how to tax a gift basket that contains a variety of items, you will need to know:

- The % of non-food items*
- The value of the container (basket)
- Whether you have records (receipts) for the value of the contents



*(Alcoholic and carbonated beverages considered non-food items)

Gift Basket...with receipts

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- If the value of the nonfood products exceeds 10 percent of the entire contents, not including the container (basket), you simply tax the retail value of the nonfood product

wine and knife (over 10%)	- \$60
cheese, crackers, nuts	- <u>\$40</u>
total	\$100
+basket	\$10
total value	<u>\$110</u>
only collect sales tax on	\$60



Gift Basket...without receipts

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- If the value of the nonfood products exceeds 10 percent of the entire contents, not including the container (basket), you tax the retail value of the entire basket and contents

wine and knife (over 10%)	- \$60
cheese, crackers, nuts	- <u>\$40</u>
total	\$100
basket	<u>\$10</u>
collect sales tax on	\$110



Gift Basket...non-taxable

38

- If the value of the nonfood products *is less than 10 percent* of the entire contents, and the container is less than 50%, the entire basket is non-taxable

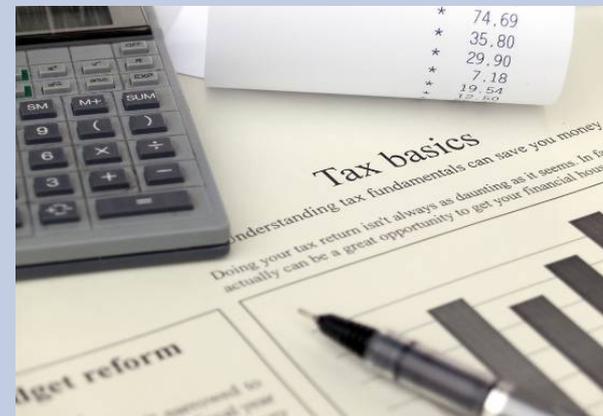
coffee mug (under 10%)	\$4
food items	<u>\$46</u>
total	\$50
basket (under 50%)	<u>\$10</u>
collect no sales tax on	\$60

Note: Gift baskets won as a raffle prize are not taxable.



Books and Records

- Records of all sales, including sales you believe are nontaxable
- Records of purchases
- Documentation to support claimed deductions
- Records must be maintained for at least four (4) years



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Industry Guides



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- ➔ September 10
San Francisco

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How was your

Online Industry Guides



Overview Getting Started Industry Topics Types of Organizations Resources

Organization Types

+ Charitable Organizations That Relieve Poverty and Distress

You generally must hold a seller's permit, even if all of your sales are nontaxable.

+ Cultural Organization: Museums, Government Art Programs, Library Support Organizations, and Zoological Societies

You generally must hold a permit if you make sales of merchandise. Unless you qualify for a special exemption listed below, your sales are taxable.

+ Veterans' Organizations

You are required to register for a seller's permit. Generally, items you sell are taxable.

+ Religious Organizations

Your sales and purchases of goods, including food for other than the specific exemption for meals below, are generally taxable. You are required to register for a seller's permit.

❖ http://www.boe.ca.gov/industry/nonprofit_organizations.html

Taxpayer Information Section



**Taxpayer Information Section
(general tax questions
answered)**

1-800-400-7115

**Mon – Fri, 8:00 a.m. to 5:00
p.m.**



**24 hr. fax-back service for
commonly requested forms
and publications to choose
from automatically faxed
back to you.**



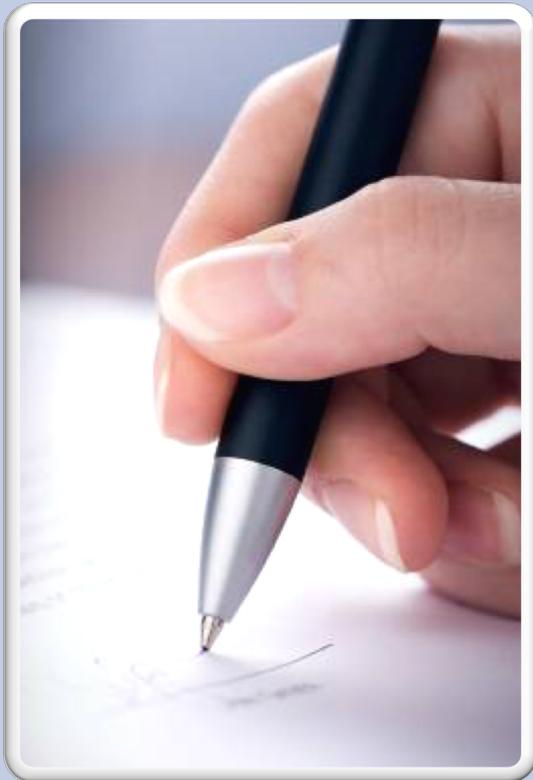
CDTFA Social Media Services

Connect with the CDTFA on the following
social media outlets



Get It in Writing

Revenue and Taxation Code section 6596 - Excusable Delay-Reliance on Advice, states:



“If the CDTFA finds that a person’s failure to make a timely return or payment is due to the person’s reasonable reliance on written advice from the CDTFA, the person may be relieved of taxes imposed by §6051 and §6201 and any penalty or interest added thereto...”

Thank You

Thank you for all the important work you do for the State of California.

