

Notes from the October 21, 2006 SCCQG Meeting –
Topic – Who needs a Seller’s Permit? Sales tax implications for non-profits.

The following are a few of the handouts provided by our speaker from the State Board of Equalization, Fred Duenas.

A number of the handouts are brochures that are readily available from the BOE.

Specifically:

- Publication 21-G (4-05) – The California State Board of Equalization
- Publication 111 – Operators of Swap Meets, Flea Markets & Special Events (that’s us!)
- Publication 107 – Do you Need a California Seller’s Permit?
- BOE-400-SPA Rev. 1 (7-05) – California Seller’s Permit Application for
Individuals/Partnerships/Corporations/Organizations (Regular or Temporary)

Southern California Council of Quilt Guilds

Who needs a Seller's Permit?

Definition:

- Sales Tax - seller liable for tax.
- Use Tax / Excise tax / Consumer (same rate as sales tax) for property purchased or acquired without tax; purchaser owes tax.
- Use Tax Exclusion - property for resale, not taxable. Inventory held for resale not taxable. Tax due when sold at retail.
- Use Tax Payment - line two (2) for cost (measure) of taxable amount reported on Sales & Use Tax Return.
- Books and Records - 4 year retention or Amnesty Period 10 year
Retention period for periods prior to January 1, 2003.
- Return Preparation - monthly, quarterly, annual or fiscal year.
- Retail Sales are reported on the accrual basis and not cash basis.
- What is taxable?

Non-Taxable Charges and Deductions

Sale for Resale / Resale certificate retained by seller for support.

Labor - repair / installation; exempt not taxable. Must be separately stated.

Sales Out-of-State / Interstate and Foreign Commerce:

Product delivered O/S - exempt; must retain shipping documents for support.

Product delivered Instate on behalf of O/S Customer - Taxable.

Shipping and delivery charges by:

Common carrier - exempt, must be separately stated and identified.

Shipped by own facilities - taxable

Other Charges - Not Exempt and taxable

Fabrication labor - taxable, a step in the manufacturing process of a new product.

State Board of Equalization

California Board of Equalization

In 1879, a constitutional amendment created the Board and charged it with responsibility for ensuring statewide equality and uniformity in county property tax assessment practices.

In 1911, four new taxes – insurance and corporation franchise taxes.

In 1933, the creation of the sales tax, and in 1935 the use tax was established to protect California businesses from tax-free, out-of-state competition.

Mission Statement –

The mission of the State Board of Equalization is to serve the public through fair, effective, and efficient tax administration.

The **Board's five members** serve concurrent four-year terms as the nation's only elected tax commission. Their popular election ensures that the Board's tax program administration remains directly accountable to the people. Four members are elected by district. The fifth member, the State Controller, is elected at large and serves in an ex officio capacity. All terms expire on January 7, 2007.

Board Members –

Betty T. Yee, First District San Francisco	Bill Leonard, Second District Sacramento / Ontario	Claude Parish, Third District Long Beach	John Chiang, Fourth District Los Angeles
Steve Westly, State Controller			

Tax and Fee Programs

Sales and Use Tax
Special Tax and Fee Programs
Excise
Fuel
Environmental
Property Tax Programs
Tax Appellate Programs

TAX RELATED WEBSITES

Federal Income tax www.irs.gov

California Government Sites www.ca.gov

Franchise Tax Board www.ftb.ca.gov

Attorney General <http://caaq.state.ca.us/charities/statutes.htm>

Board of Equalization www.boe.ca.gov

Other State Information www.nasconet.org

State Board

Of

Equalization

CULVER CITY DISTRICT OFFICE

5901 Green Valley Circle, 2nd Floor
Culver City, CA 90502

Tel (310) 342-1000
Fax (310) 342-1061
Info (800) 400-7115

Mailing Address:

5901 Green Valley Circle
P.O. Box 3652
Culver City, CA 90231-3652

Website:

www.boe.ca.gov

Services Offered By BOE

Verify Seller's Permit Number
(888) 225-5263

Report Tax Evasion
(888) 334-3300

Taxpayers' Rights Advocate
(888) 324-2798

Tax Payment
(800) 2 PAY TAX
(800) 272-9829

(Discover/Novus, MasterCard, American Express accepted)

State and Local Agencies

To register a Corporation, LLC...

Secretary of State (SOS)

1500 11th Street
Sacramento, CA 95814
(916) 653-6814
(916) 653-4795 (fax)
www.ss.ca.gov

Payroll tax assistance...

Employment Dev. Dept. (EDD)

800 Capitol Mall, MIC 83
Sacramento, CA 95814
(888) 745-3886
www.edd.ca.gov

State income tax information...

Franchise Tax Board (FTB)

P.O. Box 942840
Sacramento, CA 94240
(800) 338-0505
(916) 845-6600 ext. 24
www.ftb.ca.gov

Federal income tax information...

Internal Revenue Services (IRS)

300 N. Los Angeles Street, Rm. 5119
Los Angeles, CA 90012
(800) 829-1040
(213) 576-4180
www.irs.ustreas.gov

State and Local Agencies

Driver License and ID card processing...

Dept of Motor Vehicles (DMV)

1785 W. 220th Street
Torrance, CA 90501
(800) 777-0133
www.dmv.ca.gov

Social Security card processing...

Social Security Admin. (SSA)

22600 Crenshaw Blvd
Torrance, CA 90505
(800) 772-1213
www.ssa.gov

Business guidance ...

Better Business Bureau

20280 S. Vermont, Ste. 201
Torrance, CA 90502
(310) 771-1447
www.bbb.org

Exports...

US Customs

11099 S. La Cienega Blvd.
Los Angeles, CA 90045
(310) 215-2618
(310) 215-2013 (Fax)
www.customs.gov

Naming your business...

Los Angeles County Recorder

12400 E. Imperial Hwy, Rm. 2007
Norwalk, CA 90650
(562) 462-2137
www.co.la.ca.us

Information resource for consumers...

Department of Consumer Affairs

400 "R" Street
Sacramento, CA 95814
(800) 952-5210
www.dca.ca.gov

Alcohol Beverage licensing and information...

Dept. of Alcoholic Beverage Control

3950 Paramount Blvd., Ste. 250
Lakewood, CA 90712
(562) 982-1337

STATE BOARD OF EQUALIZATION FIELD OFFICES

City	Office Address	Mailing Address	Telephone
Sacramento Hq	450 N Street, Sacramento, CA 94279	P. O. Box 942879, Sacramento, CA 94279-0001	(800) 400-7115
Bakersfield (ARH)	1800 30th Street, Suite 380, Bakersfield, CA 93302	P. O. Box 1728, Bakersfield, CA 93302-1728	(661) 395-2880
Culver City (AS)	5901 Green Valley Circle, Culver City, CA 90231	P. O. Box 3652, Culver City, CA 90231-3652	(310) 342-1000
El Centro (FHA)	1550 W. Main Street, El Centro, CA 92243	1550 W. Main Street, El Centro, CA 92243-2832	(760) 352-3431
Eureka (JHB)	134 D Street, Suite 301, Eureka, CA 95502	P. O. Box 4884, Eureka, CA 95502-4884	(707) 445-6500
Fresno (ARF)	5070 N. Sixth Street, Suite 110, Fresno, CA 28880	P. O. Box 28580, Fresno, CA 28880-8580	(559) 248-4219
Keary Mesa (FHC)	5473 Keary Villa Rd, Suite 300, San Diego, CA 92123	5473 Keary Villa Rd, Suite 300, San Diego, CA 92123	(858) 6363191
Laguna Hills (EAA)	23141 Moulton Pkwy, Ste 100, Laguna Hills, CA 92653	23141 Moulton Pkwy, Ste 100, Laguna Hills, CA 92653-1242	(949) 461-5711
Norwalk (AA)	12440 E. Imperial Hwy., Norwalk, CA 90651	P. O. Box 409, Norwalk, CA 90651-0409	(562) 466-1694
Oakland (CH)	1515 Clay Street, Suite 303, Oakland, CA 94612	1515 Clay Street, Suite 303, Oakland, CA 94612-1432	(510) 622-4100
Rancho Mirage (EHC)	42-700 Bob Hope Dr., Ste. 301, Rancho Mirage, CA 92270	42-700 Bob Hope Dr., Ste. 301, Rancho Mirage, CA 92270-7167	(760) 344-8096
Redding (JHH)	2881 Churn Creek Road, Redding, CA 96049	P. O. Box 492529, Redding, CA 96049-2529	(530) 224-4729
Riverside (EH)	3737 Main St., Ste., 1000, Riverside, CA 92501	3737 Main St., Ste., 1000, Riverside, CA 92501-3395	(909) 680-6400
Sacramento (KH)	3321 Power Inn Road, Suite 210, Sacramento, CA 95826	3321 Power Inn Road, Suite 210, Sacramento, CA 95826-3889	(916) 227-6700
Salinas (GHC)	111 East Navajo Drive, Suite 100, Salinas, CA 93906	111 East Navajo Drive, Suite 100, Salinas, CA 93906-2452	(831) 443-3003
San Diego (FH)	1350 Front St., Rm. 5047, San Diego, CA 92101	1350 Front St., Rm. 5047, San Diego, CA 92101-3698	(619) 525-4526
San Francisco (BH)	455 Golden Gate Ave., Suite 7500, San Francisco, CA 94102	455 Golden Gate Ave., Suite 7500, San Francisco, CA 94102-3625	(415) 703-5400
San Jose (GH)	250 South Second Street, San Jose, CA 95113	250 South Second Street, San Jose, CA 95113-2706	(408) 277-1231
San Marcos (FHB)	334 Via Vera Cruz, Suite 107, San Marcos, CA 92069	334 Via Vera Cruz, Suite 107, San Marcos, CA 92069-2694	(760) 510-5850
Santa Ana (EA)	28 Civic Cir. Plaza, Rm. 299, Santa Ana, CA 92712	P. O. Box 22029, Santa Ana, CA 92702-2029	(714) 558-4059
Santa Rosa (JH)	50 D Street, Rm 215, Santa Rosa, CA 95402	P. O. Box 730, Santa Rosa, CA 95402-0730	(707) 576-2100
Stockton (KHE)	Office Closed	Office Closed	Office Closed
Suisun City (JHF)	333 Sunset Avenue, Suite 330, Suisun City, CA 94585	333 Sunset Avenue, Suite 330, Suisun City, CA 94585-2003	(707) 428-2041
Torrance (AB)	Office Closed	Office Closed	Office Closed
Van Nuys (AC)	15350 Sherman Way, Ste., 250, Van Nuys, CA 91406	P. O. Box 7735, Van Nuys, CA 91409-7735	(818) 904-2300
Ventura (AR)	4820 McGrath St., Ste. 260, Ventura, CA 93003	4820 McGrath St., Ste., 260, Ventura, CA 93003-7778	(805) 677-2700
West Covina (AP)	1521 W. Cameron Ave., Suite 300, West Covina, CA 91790	P. O. Box 1500, West Covina, CA 91793-1500	(626) 480-7200

CITY BUSINESS LICENSE OFFICES

City	Address	Telephone
Artesia	18747 Clarkdale Ave, Artesia, CA 90701	(562) 865-6262
Carson	701 E. Carson Street, Carson, CA 90745	(310) 952-1748
Cerritos	18125 Bloomfield Ave, Cerritos, CA 90706	(562) 916-1236
Gardena	1700 W. 162nd Street, Gardena, CA 90247	(310) 217-9600
Hawaiian Garden	21815 Pioneer Blvd., Hawaiian Garden, CA 90716	(562) 420-2641
Hawthorne	4455 W. 126th St., Hawthorne, CA 90250	(310) 970-7203
Hermosa Beach	1315 Valley Drive, Hermosa Beach, CA 90254	(310) 318-0206
Inglewood	1 Manchester Blvd., Inglewood, CA 90301	(310) 412-6500
Lakewood	5050 N. Clark Ave., Lakewood, CA 90712	(562) 866-2620
Lawndale	14717 Burin, Lawndale, CA 90260	(310) 973-3200
Lomita	24300 Narbonne Ave., Lomita, CA 90717	(310) 325-7110
Long Beach	333 W. Ocean, 4th Fl., Long Beach, CA 90802	(562) 570-6211
Los Angeles (San Pedro, Wilmington, Harbor City)	638 S. Beacon St., San Pedro, CA 90731	(310) 548-7721
Los Angeles County Business Office	225 North Hills St., Los Angeles, CA 90012	(213) 626-9271
Manhattan Beach	1400 Highland Ave., Manhattan Beach, CA 90266	(310) 802-5557
P. V. Estates	340 PalosVerdes Drive West, Palos Verdes Estates, CA 90274	(310) 378-0383
Rancho P. V.	30940 Hawthorne Blvd., RPY, CA 90275	(310) 377-0360
Redondo Beach	415 Diamond, Redondo Beach, CA 90277	(310) 318-0603
Rolling Hills	2 Portuguese Bend Rd., Rolling Hills, CA 90274	(310) 377-1521
R. H. Estates	4045 Palos Verdes Drive North, Rolling Hills Estates, CA 90274	(310) 377-1577
Signal Hill	2175 Cherry Ave., Long Beach, CA 90806	(562) 989-7316
Torrance	3031 Torrance Blvd., Torrance, CA 90503	(310) 618-5828

TDD Information. California Relay Telephone Service for the Deaf and Hearing Impaired. From TDD telephone dial 1-800-735-2929. From voice operated telephone 1-800-735-2922.

Operators of Swap Meets, Flea Markets & Special Events

If you operate a swap meet, flea market, or special event in California, state law requires you to document, in writing, the seller's permit status of all people who sell at your event. You should not rent space to sellers unless they give you the written documentation described in this fact sheet.

What is a *swap meet, flea market, or special event*?

In this context, a *swap meet, flea market, or special event* is any event where

- Two or more people or businesses offer merchandise for sale or exchange, *and*
- Prospective sellers are charged a fee for space rental *or* prospective buyers are charged an admission fee.

You must obtain specific written documentation from sellers

Information requirements depend on seller's status

Vendors who must hold seller's permits. People who sell new or used merchandise in California, including handcrafts, are generally required to hold a seller's permit. Vendors who are required to hold permits must give you, in writing, their name and seller's permit number (a typical permit number begins with the letters SR followed by two or three more letters and an eight- or nine-digit number, for example: SR-KHE-12-345678 or SR-AR-100-987654). Although it is not required, you may wish to obtain a copy of each vendor's seller's permit for your files.

Sellers who are not required to hold seller's permits. Certain sellers at your event may *not* be required to hold seller's permits. Those sellers must

- Provide you, in writing, their name, address, telephone number, and driver's license number (or state ID number), along with the name of the issuing state; and
- State, in writing, that they do not need a seller's permit because (1) they are an *occasional seller*, (2) all of their retail sales are tax exempt, or (3) because they sell only items purchased from *section 6015 retailers*. Sellers who fall under conditions (2) or (3) must describe the items they sell and state that they do not have to pay tax on those sales.

Occasional sellers. Due to the number, scope, and character of their selling activities, some vendors are not considered to be *in the business* of selling merchandise and are not required to hold a seller's permit. For example, a person who occasionally clears the family garage of used items and sells *only* those items could qualify as an occasional seller.

Vendors who make only exempt sales. Some sellers are not required to hold a seller's permit because all of their sales are exempt from sales and use tax.

Sales and Use TAX FACTS

Publication 111 • LDA

For additional information you may wish to order our *Swap Meets, Flea Markets, or Special Events Certification* form (BOE-410-D) or talk to a Board of Equalization representative. For assistance, please call our Information Center at 800-400-7115

(For the hearing-impaired:
— from TDD phone:
800-735-2929;
— from voice phone:
800-735-2922)

Many field offices also have swap meet coordinators who can help you with event requirements (see *Equalization, Board of*, in the government pages of your telephone book).

Internet: www.boe.ca.gov

BOARD OF EQUALIZATION MEMBERS

CAROLE MIGDEN 1st District, San Francisco	BILL LEONARD 2nd District, Ontario	CLAUDE PARRISH 3rd District, Long Beach	JOHN CHIANG 4th District, Los Angeles	STEVE WESTLY State Controller
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For example, vendors who sell only fresh produce or other cold food products "to go" do not need seller's permits. However, cold food vendors do need a seller's permit if they sell food to be consumed in places where admission is charged, sell carbonated or alcoholic beverages, or provide tables, chairs, counters, or other dining facilities for their customers.

Vendors who sell products purchased from section 6015 retailers (multilevel marketing retailers). Some sellers are not required to hold a seller's permit because they sell only products purchased from dealers we have approved as section 6015 retailers. For example, people who sell new Avon or Tupperware usually buy those items from section 6015 retailers (see "Section 6015 Retailer" information on form BOE-410-D, discussed below).

If vendors at your event are not sure whether they need a seller's permit or whether their sales are taxable, they should contact our Information Center for help.

Form available for your use

For your convenience, we can provide a form you can use for individual seller documentation: *Swap Meets, Flea Markets, or Special Events Certification* (BOE-410-D). The form is available from our offices, Information Center, and website. If you choose not to use the form, please be sure that you still obtain all of the required seller information, in writing.

Maintaining adequate records

You must retain copies of seller verification documents for at least four years.

Our representatives visit both weekday and weekend events to verify compliance

Our representatives periodically visit selling events to verify that operators have complied with the legal requirements described in this fact sheet. The representatives may also check to see that vendors making taxable sales are displaying their seller's permits as required by law.

We may require you to provide seller information

We may ask you to provide lists of all sellers who conduct activities on premises you own or control. You must supply the lists or copies of individual seller verification documents within 30 days of our written request. We will check the information you provide and let you know if any of the vendors at your event incorrectly represented their seller's permit status. You should not rent space to those vendors until we notify you that they hold a valid seller's permit.

Seller's permit verification services available

To verify whether a vendor has a valid seller's permit, you can use our website or call 888-225-5263. You'll need the permit number, business name, business address, and business owner's name.

Additional form helps cities and counties receive tax for needed services

We may ask you to provide copies of another form to registered sellers whose businesses are registered outside the city where you are holding your event. The form is called *Local Tax Allocation for Temporary Sales Locations and Certain Auctioneers* (BOE-530-B). While you are not required to distribute the forms, doing so helps ensure that the city or county where your event is held receives the local sales tax it is due.

Lack of compliance may result in penalties

If you do not comply with the state law summarized in this publication (Revenue and Taxation Code section 6073), you may be required to pay a penalty of up to \$1,000 for each offense.

Note: The statements in this fact sheet are general and are current as of May 2003. The sales and use tax law and regulations are complex and subject to change. If there is a conflict between this publication and the law or regulations, decisions will be based on the law and regulations.

Do You Need a California Seller's Permit?

When you sell or lease merchandise, vehicles, or other tangible personal property in California, even temporarily, you are generally required to register with our agency, the Board of Equalization, and to pay sales tax on your taxable sales. When you register, we will issue you a *seller's permit*, sometimes mistakenly called a *resale number* or *resale permit*. A seller's permit is a state license that allows you to sell items at the wholesale or retail level and to issue resale certificates to suppliers. You cannot legally make sales of taxable products in California until we issue your seller's permit.

While a seller's permit gives you the right to make sales under California law, you may need to obtain other licenses, permits, or documents to operate your business (see reverse). Please note that a California seller's permit does not grant you any other rights, privileges, or status under local, state, or US law.

Seller's permit vs. resale certificate

Although many people confuse the terms *seller's permit* and *resale certificate*, they refer to different things. A seller's permit is issued by our agency and allows you to make sales in California. Once you have a seller's permit, you may issue resale certificates to your suppliers. Issuing a resale certificate allows you to buy items *you will sell in your business operations* without paying amounts for tax to the seller.

Obligations of seller's permit holders

When you hold a seller's permit, you must

- File periodic sales and use tax returns with the Board, and
- Pay any sales or use tax due on your sales and purchases.

You must report and pay sales tax on each taxable sale. At the time you make the sale, you may collect from your customer an amount equal to the tax you will owe.

As a registered seller, you will need to take the time to learn how to properly apply the sales and use tax law in your business operations. And you must keep adequate records that document your sales and purchases. Our classes and publications can help you learn to meet your obligations and help ensure that you don't pay more tax than you owe.

Please note: You should not obtain a seller's permit just to take advantage of the opportunity to issue resale certificates to your suppliers. Issuing a resale certificate to avoid paying tax on items you will use rather than sell is against the law and may result in fines and penalties. If you are not making sales, your permit may be canceled.

BOARD OF EQUALIZATION MEMBERS

BETTY T. YEE
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1st District, San Francisco

BILL LEONARD
2nd District
Sacramento/Ontario

CLAUDE PARRISH
3rd District, Long Beach

JOHN CHIANG
4th District, Los Angeles

STEVE WESTLY
State Controller

Sales and Use TAX FACTS

Publication 107 • LDA

For additional information you may wish to order publication 73, *Your California Seller's Permit*, or talk to a Board of

Equalization representative.

For assistance, please call 800-400-7115
TDD/TTY 800-735-2929.

Board website and Member contact information:
www.boe.ca.gov

Applying for a seller's permit

You may obtain a seller's permit application from our Internet site or our Information Center (see phone number on reverse). Our Information Center can fax the application to you within 24 hours or put it in the mail by the second business day following your call. Please be sure to fully complete the application, sign it, and mail it to us along with copies of any requested documents. Or if you prefer, you can apply in person at any of our field offices.

You will need to provide information about your business, including bank account details and estimated income. You must also provide information about yourself and copies of your driver's license and Social Security card (or substitute documents, as explained on the application). If you purchased your business, you'll need to provide the previous owner's name and seller's permit number. To make sure that you won't have to pay any sales or use tax owed by the previous owner, you should request a tax clearance from us before you buy.

There is no charge for a seller's permit. However, depending on your type of business and expected taxable sales, we may ask you for a security deposit.

If you apply by mail, you'll usually get your permit within 7 to 14 days. If you apply in person, the field office may be able to issue your permit the same day.

Temporary permits. If you make sales of a temporary nature (such as Christmas tree sales and sales at craft fairs), you may apply for a temporary seller's permit. Temporary permits are issued to those whose sales activity will last no longer than 30 days.

Additional requirements for your business

In addition to registering for a seller's permit, you may need to register for one of the other taxes and fees we administer (call us for help). The state and federal governments have additional requirements for businesses. You must file income tax returns with the California Franchise Tax Board and the US Internal Revenue Service (IRS). Certain businesses are required to obtain permits from the California Department of Consumer Affairs and state and local environmental agencies. And if you have employees, you are required to register as an employer with the California Employment Development Department and the IRS and to pay payroll withholding taxes. You will probably need to obtain a business license or other permits from the county or city where you operate.

California's Environmental Protection Agency (CalEPA) offers extensive local, state, and federal business permit information at a special site on the Internet: www.calgold.ca.gov. Chambers of commerce, economic development organizations, and other business organizations are other good sources of information. Often the business licensing department of a city or county can assist you, too. Some counties and cities publish special guides for small businesses, available free or at a low cost.

For more information

For more information regarding seller's permits, you may wish to order our publication 73, *Your California Seller's Permit*, or to contact our Information Center (see reverse). For a complete list of other Board-administered taxes and fees, please see publication 51, *Guide to Board of Equalization Services*. To find government agency phone numbers, check the government pages of your telephone directory.

Note: The statements in this fact sheet are general and are current as of March 2005. The sales and use tax law and regulations are complex and subject to change. If there is a conflict between this publication and the law or regulations, decisions will be based on the law and regulations.