

November 2011



**Articles:**

Use Tax 1-2

***Need help?  
Call us and we'll  
be happy to  
discuss them  
with you.***

**Freeman &  
Williams, LLP**

3470 G.S. Richards Blvd  
Carson City, NV 89703

PHONE:  
(775) 882-3201

FAX:  
(775) 882-2593

E-MAIL:  
fw@fwcpas.com

## Do You Owe Use Tax for Online or Out-of-State Purchases?

Many states, including California, are looking to reduce budget deficits by increasing collection of sales and use taxes. Consumers may mistakenly believe that online purchases are not subject to sales or use tax; however, any purchase from an out-of-state seller that would have been subject to sales tax if sold in a California store is subject to California use tax. This tax liability applies to both businesses and individuals.

Use tax is assessed by the California State Board of Equalization (BOE) on purchases from out-of-state sellers of property to be *used or consumed in California* which would have been subject to sales tax if the purchases were made in California. For example, you would owe use tax when:

- You purchase something from a mail order catalog, the internet, an online auction, television shopping network, etc., located outside California and you don't pay tax to that retailer.
- You withdraw taxable merchandise from your business's resale inventory and use it for your personal or business use.
- You purchase vehicles, vessels, mobile homes, and aircraft from sellers who do not hold seller's permits.

California use tax is generally the liability of the purchaser and must be paid either directly to the seller from whom the physical merchandise was purchased or directly to the Board of Equalization if the retailer is not required to collect and report California sales tax.

## Is Your Company Required to Register?

Under newly enacted legislation, any business with at least \$100,000 in annual gross receipts from business operations is deemed a "qualified purchaser." Qualified purchasers are required to register with the Board of Equalization in order to report and pay any use tax, as required. This registration requirement does not apply to companies that already have a sales or use tax account with the BOE, such as retailers with a seller's permit. If you believe you may be required to register, or you have received a notice from the BOE indicating that you are, you can find the registration form on the BOE website or give us a call, and we will be happy to assist you with the process.

Other efforts by the BOE to improve compliance regarding use tax include visiting California businesses to ensure registration, focusing on service industry businesses likely to have unpaid use tax, and looking at property being transported into the state at various inspection checkpoints.




---

*The use tax was enacted in 1935 to protect California sellers who would otherwise be at a competitive disadvantage when out-of-state sellers make sales of goods to California customers without charging tax.*

## How About That New Boat?

In addition to its other efforts, California has added a line for use tax to the individual income tax return (Form 540) in order to increase awareness about use tax and simplify reporting for individuals. Individuals who purchased a boat, for example, from another state to store and use in California, can now report and pay the use tax with their income tax return.

Keep in mind that you do receive a credit for any amount of sales tax paid to another state, up to the amount of your local sales tax rate. For example, if you buy a boat in Washington and bring it to use at your home in California, you may have paid 8.2% sales tax to the State of Washington. If your *local* sales tax in California is higher than 8.2%, you will fill out the worksheet in the Form 540 instructions and report and pay the difference with your income tax return. If your local sales tax rate is less than 8.2%, you do not have a use tax liability.

## But I Live and Run a Business in Nevada...

No surprise, but Nevada would like to make you aware of your use tax liabilities as well. The rules are very similar to California's with the exception of the "qualified purchaser" registration. Nevada has a one-page form, the Consumer Use Tax Return, which is used by both individuals and non-retail businesses to report and remit use taxes.

Businesses with a State Business License are already registered and must report on a monthly, quarterly or an annual basis, depending on how they initially registered.

Individuals are required to file and pay by the last day of the month following the month in which the purchase was made. For example, if you bought your new boat in Washington on September 18, then the completed form and payment are due to the Nevada Department of Taxation by October 31.

Whether in California or Nevada, unpaid or unreported use taxes can subject you and your business to interest and penalties. If you have any questions about your sales and use tax obligations or need assistance, please give us a call.

## Questions?

If you have any questions about the article in this newsletter or any tax issue, please feel free to contact our office at (775) 882-3201. You can also find a copy of this newsletter as well as our other updates and notices at [www.fwcpas.com](http://www.fwcpas.com).