California Sales and Use Tax

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Sales Tax

Imposed on retailers for the privilege of making retail sales of tangible personal property in California

• Tax applies to the gross receipts from the sale of tangible personal property.

• Services are generally not subject to sales tax.

Cal. Rev. and Tax Code Sec. 6051
Use Tax

Imposed on every person who stores, uses, or consumes in California tangible personal property purchased from an out-of-state retailer.

• Use tax generally applies to taxable transactions which are not subject to sales tax.

• The University is responsible for self-accruing use tax on its out-of-state purchases (including Amazon.com purchases).

Cal. Rev. and Tax Code Sec. 6201
Sales and Use Tax Rates

The Statewide Sales and Use Tax Rate includes the following components:

State  6.00%
County  .25
Local (city)  1.00

Statewide Sales and Use Tax rate  7.25%

District Taxes are added to the Statewide rate
(Generally imposed in the district where the property is first used)

Examples of Combined Sales and Use Tax Rates:

San Francisco  8.50 %
Pleasanton  8.75
Sacramento  7.75
San Jose  8.375
Santa Rosa  8.50
Definitions

**Tangible Personal Property** – Property that can be seen, weighed, measured, felt or touched, or detected by the use of any of the senses. Includes salvaged or obsolete property.

**Retail Sale** – A sale for any purpose other than resale in the regular course of business.

**California Retailer** – A seller of tangible personal property who has a business presence in California and is required to have a seller’s permit.

**Out-of-State Retailer** – A seller who has no business dealings or location in California and is not required to have a seller’s permit or a Certificate of Registration—**Use Tax may apply.**

Cal. Rev. and Tax Code Secs. 6001 - 6024
University as a Purchaser

Special Topics

- Printed Sales Messages
- Books and Periodical Subscriptions
- Software Licenses and Maintenance
- Warranty and Repairs
- Labor
- Shipping and Handling
- University Purchasing Card Purchases
- Auctions
- Bottled Water and Candy
Printed Sales Messages

Purchases of catalogs, circulars, brochures, and pamphlets that consist substantially of printed sales messages are exempt, if the material is:

• Printed for the primary purpose of advertising or promoting goods or services;
• Printed to the special order of the University;
• Mailed or delivered by the seller, the seller’s agent, or a mailing house acting as an agent for the University, through the US Postal Service or by common carrier; and
• Received by any person, other than the University at no cost to that person.

Cal. Rev. and Tax Code Sec. 6379.5 and Cal. Rev. and Tax Reg. Sec. 1541.5
Books and Periodical Subscriptions

- Books - Taxable.

- Periodicals sold by subscription at intervals less than 4 times per year and delivered as tangible personal property - Taxable.

- *Periodical subscriptions issued 4 times, but not more than 60 times, per year – Exempt, if delivered by common carrier or mail.*

- Books, periodicals, and subscriptions purchased and delivered online – Exempt.

**NOTE:** If exempt, the reason should be included on the purchase order and invoice.

Cal. Rev. and Tax Code Secs. 6016, 6362.7
Canned Software (initial purchase):

- Received as tangible personal property (e.g. on a CD) – Taxable

- Electronically downloaded – Exempt
  - Note: Requires no tangible personal property can be provided

Cal. Rev. and Tax Code Sec. 6006; Cal. Rev. and Tax Reg. Sec. 1502.
Software License and Maintenance (continued)

Custom software is exempt. Includes:

• Software created and designed specifically for a particular customer application.

• Modification of canned software at a charge of 50% or more of its purchase price.

Cal. Rev. and Tax Reg. Sec. 1502
Software License and Maintenance (continued)

Mandatory Maintenance Contract – Taxable

Optional Maintenance Contract – Exempt, except:

- Bundled upgrades including tangible personal property and on-line and/or call center support – 50% Taxable
- On-line and/or call center support only – Exempt

Note: If original software was delivered as tangible personal property and subsequent updates and maintenance support are delivered online, then still taxable at 50%.

Cal. Rev. and Tax Code Secs. 6011, 6015; Cal. Rev. and Tax Reg. Sec. 1502
Warranty and Repairs

Mandatory Warranty – Taxable

Optional Warranty – Exempt

Repairs Not Under Warranty:

• Labor only - Exempt
• Material only - Taxable
• Labor and Materials - lump sum billing - Taxable
• Labor and Materials - broken out on invoice - Labor Exempt

Cal. Rev. and Tax Code Sec. 6011; Cal. Rev. and Tax Reg. Sec. 1655
Labor

Installation Labor-Non-Taxable

- Examples:
  - Restoring damaged paint on a dorm wall
  - Replacing a damaged tire on a University vehicle

Fabrication Labor-Taxable

- Examples:
  - Assembly of a BBQ pit that came in pieces
  - Alteration of new items to meet the specific needs of the University

Labor Related to Non-Taxable Sales is Always Non-Taxable (e.g. labor to install electronically delivered software).

Cal. Rev. and Tax Code Secs. 6011 and 6012
Shipping and Handling

Shipping and Freight
• Generally exempt from tax if charges are separately stated on the vendor’s invoice and delivered by common carrier, contract carrier, or US Mail.
• If vendor makes delivery using its own vehicles - Taxable

Handling - Taxable

Shipping and Handling stated together – Taxable!

Cal. Rev. and Tax Code Sec. 6011
University Purchasing Card Purchases

University Purchasing Card

- Some Purchasing Card transactions may not include sales tax on otherwise taxable purchases; the University must accrue use tax on these purchases.

Tax Application: The tax treatment of Purchasing Card transactions is identical to other purchases made by the University.

Cal. Rev. and Tax Reg. Sec. 1641
Auctions

- Persons engaged in the business of making retail sales at auction of tangible personal property are retailers and are required to hold a Seller’s Permit and pay tax.
- If the University hires an independent auctioneer to conduct its auction, the auctioneer is liable for collecting and remitting sales tax.
- If the University conducts its own auction, it is liable for collecting and remitting the tax.

Cal. Rev. and Tax Reg. Sec. 1565
Bottled Water and Candy

- Bottled water which is **not** carbonated is exempt from taxation
- Carbonated bottled water (e.g. Pellegrino) is taxable!
- Candy and confections are exempt from taxation.

Cal. Rev. and Tax Code Sec. 6359
Tax charged on:

- Separately stated freight.
- Exempt services, e.g., optional maintenance contracts.
- Electronically delivered software
- Food for human consumption
- Printed sales messages
- Non-Carbonated Bottled Water or candy
Questions?