#### 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.



#### **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 <u>self-accruing</u> use tax on its out-of-state purchases (including Amazon.com purchases).

#### Sales and Use Tax Rates

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

State	6.00%
County	.25
Local (city)	<u>1.00</u>

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—<u>Use Tax</u> <u>may apply.</u>

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 <u>no cost</u> 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 <u>less</u> 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.







### **Software License and Maintenance**

#### **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

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



## **Shipping and Handling**

#### **Shipping and Freight**

- Generally exempt from tax if charges are <u>separately stated</u> on the vendor's invoice <u>and</u> 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!** 



## **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 <u>not</u> carbonated is exempt from taxation
- Carbonated bottled water (e.g. Pellegrino) is taxable!
- Candy and confections are exempt from taxation.







#### **Common Errors**

#### Tax charged on:

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



## **Questions?**

