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ON THE FRONT COVER

"The California Indian Seal was created by Robert Freeman, a California Indian from the Southern California Rincon Indian Reservation. It is permanently installed on the west steps of the Capitol Building in Sacramento, California."

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# Preface

This publication is intended as a guide for those who make sales on American Indian reservations in California and sales to Indians outside reservations. It is also intended to help Indian purchasers understand how California sales and use tax applies to their purchases, as well as to provide limited information on other tax and fee programs administered by the Board of Equalization (BOE). We use the term “Indian” in this publication since that is the term used in state and federal law for “American Indian.”

Certain on-reservation sales to Indians and certain other transactions on Indian reservations may not be subject to California sales or use tax. While there is no general sales tax exemption for sales to Indians, this publication explains how sales or use tax generally applies to on-reservation sales or purchases. This publication also describes the types of documentation that retailers and Indian purchasers need to maintain in order to qualify for exemption from paying sales or use taxes with respect to certain transactions. It also provides information on certain other applicable California taxes and fees.

Before you read other parts of this publication, be sure to read chapter 1, “Key Definitions.” It contains important information that will help you as you review the rest of the publication (see page 7).

This publication supplements our basic sales tax publication 73, *Your California Seller’s Permit*, which is provided to everyone who obtains a seller’s permit. Publication 73 includes general information about obtaining a permit, using a resale certificate, reporting and paying sales and use taxes, discontinuing a business, and keeping records. If you do not have a current copy, please see page 32 for ordering information.

All BOE publications, forms, regulations, and much more information regarding all of our programs, are available by visiting our website: [www.boe.ca.gov](http://www.boe.ca.gov).

If you have a general tax question, please call our Taxpayer Information Section and speak with a customer service representative. Representatives are available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays. Please call 800-400-7115, TDD/TTY: 800-735-2929. In addition to English, assistance is available in other languages.

The State of California Franchise Tax Board also offers a printed brochure, publication 674, *Frequently Asked Questions About the Income Taxation of Native Americans*. The publication is available from their website at [www.ftb.ca.gov](http://www.ftb.ca.gov) and by calling their information center, Monday through Friday, from 7:00 a.m. until 6:00 p.m. (Pacific time.) Please call 800-852-5711 within the United States, or 916-845-6500 outside the United States.

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We welcome your suggestions for improving this or any other of our sales and use tax publications. Please provide your comments or suggestions directly to:

Audit and Information Section, MIC:44  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0044

**Note:** *This publication summarizes the law and applicable regulations in effect when the publication was written, as noted on the cover. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this publication and the law, decisions will be based on the law and not on this publication.*

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# 1. Key Definitions

*This chapter provides definitions of specific terms used throughout the publication. It also explains essential conditions for tax-exempt sales to Indians and requirements for documenting those sales. Be sure to read it before proceeding to the following chapters.*

## Terms used throughout the publication

Please review these terms carefully. How tax applies to different sales can depend on whether a person, organization, or location fits the specific definitions below.

### *Indian*

For California sales and use tax purposes, an “Indian” is a person who is both of the following:

- An individual of American Indian descent, and
- Eligible to receive services as an Indian from the United States Department of the Interior.

To show that they are eligible for the exemptions described in this publication, Indians must provide identification documents to prove their status, such as an ID card, a letter from the tribal council, or a letter from the U.S. Department of Interior.

### *Indian organization*

“Indian organization” includes Indian tribes and tribal organizations. Partnerships qualify as “Indian organizations” for California sales and use tax purposes only when all of the members or partners are Indians. Corporations qualify as Indian organizations only if they are organized under tribal authority and wholly owned by Indians. If an organization does not meet these criteria, it does not qualify, even when owned or operated by Indians.

For California sales and use tax purposes, a sale to an Indian organization is treated the same as a sale to an individual Indian. Please keep that in mind as you read this publication.

### *Reservation*

For California sales and use tax purposes, a “reservation” can be any of the following:

- A reservation.
- A rancheria.
- Any land held by the United States in trust for any Indian tribe or Indian individual (also known as “trust land”).

*Please note:* Not all portions of a facility housing an Indian gaming establishment may be located on “land held by the United States in trust for any Indian tribe or Indian individual.” Some portions of a facility containing a gaming establishment (for example, a parking lot) may be located on privately-owned land and transactions that occur there may not meet the exemption requirements.

## Sales tax and use tax: what’s the difference?

### *Sales tax*

California sales tax generally applies to the retail sale of physical items in California: goods, merchandise, vehicles, vessels, aircraft, and other physical products. Sales are taxable unless they are specifically exempt or excluded by law. As noted in the “Preface,” there is no general exemption from the sales tax for sales to Indians.

If you make sales that are subject to tax at the retail level, you are required to hold a California seller’s permit. This is true even when most or all of your sales are not taxable, or qualify as exempt. (Exception: You are not required to hold a seller’s permit if all of your sales are made exclusively in interstate or foreign commerce.)

For more information, see our publication 107, *Do You Need a California Seller’s Permit?*, which is available on our website at [www.boe.ca.gov](http://www.boe.ca.gov) or from our Taxpayer Information Section at 800-400-7115 (see page 32).

### *Use tax*

Some on-reservation Indian retailers need a certificate of registration to collect use tax, rather than a seller’s permit which is used for the collection of sales tax. California use tax is a companion to the sales tax. Persons or businesses generally owe use tax when they use, store, give away, or consume physical products in California if they did not pay California sales tax on their purchase. Use tax generally applies to untaxed purchases made from out-of-state sellers. It may also apply to certain purchases on Indian reservations. The use tax rate for a California location is the same as the sales tax rate.

Retailers who are required to collect use tax, but not pay sales tax, are required to hold a Certificate of Registration—Use Tax. You may obtain an application (BOE-400-CSC) from our website at [www.boe.ca.gov](http://www.boe.ca.gov) or by calling our Taxpayer Information Section (see page 32).

## Construction contracts - definition

Construction contractors—Persons who for themselves, in conjunction with, or by or through others, agree to perform and do perform construction contracts. A construction contract means and includes a contract, whether on a lump-sum, time and material, cost-plus, or other basis, to:

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1. Erect, construct, alter, or repair any building or other structure, project, development, or other improvement on or to real property, or
  2. Erect, construct, alter, or repair any fixed works such as waterways and hydroelectric plants, steam, and atomic electric generating plants, electrical transmission and distribution lines, telephone and telegraph lines, railroads, highways, airports, sewers and sewage disposal plants and systems, waterworks and water distribution systems, gas transmission and distribution systems, pipelines and other systems for the transmission of petroleum and other liquid or gaseous substances, refineries and chemical plants, or
  3. Pave surfaces separately or in connection with any of the above works or projects, or
  4. Furnish and install the property becoming a part of a central heating, air-conditioning, or electrical system of a building or other structure, and furnish and install wires, ducts, pipes, vents, and other conduit imbedded in or securely affixed to the land or a structure thereon.



## 2. Documenting Claimed Exempt Sales

*This chapter provides information to sellers and purchasers regarding the correct type of documentation to support claimed exempt sales. This documentation should be provided by the purchaser and maintained in the seller's records as proof of the exempt sale. For more information on records that are suitable for sales and use tax purposes, please see Regulation 1628, Transportation Charges, Regulation 1667, Exemption Certificates, and Regulation 1698, Records.*

### Transfer of title (ownership) on the reservation

How tax applies to a particular sale or purchase by an Indian depends on whether ownership of the item being sold or purchased transfers to the Indian purchaser on the reservation.

#### *Sale by retailer located on a reservation*

Ownership of an item being sold transfers on a reservation when an on-reservation retailer does both of the following:

- Negotiates the sale on the reservation, and
- Hands over or delivers the item being sold on the reservation to an Indian.

#### *Sale by retailer not located on a reservation*

Retailers located outside a reservation may sell to Indian buyers who request delivery on a reservation. For a sale to qualify as a transfer of title (ownership) on the reservation, the following conditions must apply:

- The contract of sale or other sales agreement cannot transfer ownership of the item to the buyer before the item is delivered on the reservation, and
- The buyer cannot take possession of the item before delivery on the reservation.

In addition, the retailer generally must deliver the product:

1. Using the retailer's vehicle, or
2. By mail, common carrier (UPS, FedEx), or contract carrier (a shipping, trucking, or transport company), when both of the following requirements are met:
  - The contract of sale or sales invoice must include a statement specifically requiring delivery at the reservation (for example, F.O.B. name of Indian reservation) and that title passes upon delivery on the reservation, and

- The goods are in fact delivered to the Indian reservation.

When delivery does not take place as described here, ownership of the item being sold or purchased generally transfers to the buyer off the reservation.

*Please note:* This is a general description of transfer of ownership on the reservation. Other sections of this publication describe the specific rules that apply to certain types of sales and leases.

## Claimed exempt sales to Indians require documentation

### *Retailers*

When you make an exempt sale to an Indian as explained later in this publication, you should keep copies of documents that BOE auditors can use to verify that your sale is exempt. To help you document exempt sales you should retain items such as:

- One or more documents that show the purchaser is an Indian, such as a copy of the purchaser's tribal ID card, a letter from a tribal council, or a letter from the U.S. Department of the Interior.
- Documents to show that ownership of the merchandise transferred to the buyer on the reservation and delivery occurred there, such as contracts of sale, invoices, bills of lading, delivery receipts, and freight invoices.
- An exemption certificate from the Indian purchaser stating that the Indian purchaser lives on a reservation (an exemption certificate such as the one provided on page 37 may be used). The BOE-146-RES, *Statement of Delivery on a Reservation*, is also available from our website at [www.boe.ca.gov](http://www.boe.ca.gov) or by calling our Taxpayer Information Section at 800-400-7115 (see page 32).

### *Purchasers*

If you are an Indian who lives on a reservation, you will need to prove to the retailer that you qualify for the tax exemptions explained in this publication.

You may need to give the retailer both of the following:

1. A copy of a document showing that you are an Indian, such as a tribal ID card, a letter from your tribal council, or a letter from the U.S. Department of the Interior, and
2. An "exemption certificate" stating that you live on a reservation in addition to other required information as explained below.

If you are an Indian organization, you must also provide documents to prove that you qualify for the tax exemptions explained in this publication. You may need to give the retailer:

- If your organization is a partnership, documents to show that all of your partners are Indians, such as partnership agreements.
- Documents showing that your organization is an Indian tribe or tribal organization.
- If your organization is a corporation, documents to show it is organized under tribal authority and wholly owned by Indians, such as the organization's articles of incorporation.
- An "exemption certificate" containing certain other required content (see next section).

### *Exemption certificates*

An exemption certificate based on an Indian's residency on a reservation must be in writing. It can be a simple document in the form of a letter. The certificate or letter must include all of the following essential elements:

#### *For individuals:*

- The date,
- The purchaser's name,
- Home address,
- Signature,
- A description of the products or merchandise purchased under the certificate, and
- A statement that the property is being purchased for use on a reservation by an Indian who lives on a reservation.

#### *For Indian organizations:*

- The date,
- The organization's name,
- The organization's address,
- The title and signature of the person completing the certificate,
- A description of the products or merchandise purchased under the certificate, and
- A statement that the property is being purchased for use on a reservation by an Indian who lives on a reservation.

A document containing the essential elements described above is considered the minimum amount of information to help support claimed exempt sales.

A sample exemption certificate BOE-146-RES, *Statement of Delivery on a Reservation*, can be used to document exempt sales of general merchandise, vehicles, vessels, and aircraft is provided on page 37 of this publication. The form is also available from our website at: [www.boe.ca.gov](http://www.boe.ca.gov).

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More information on exemption certificates may be found in Regulation 1667, *Exemption Certificates*. You can view or download a copy from our website at [www.boe.ca.gov](http://www.boe.ca.gov) or order a copy from our Taxpayer Information Section (see page 32).

### *Records*

A retailer's records should include documents to support the basis for a claim that a particular sale was exempt from tax. If you accept a complete exemption certificate from an Indian purchaser in good faith, our audit staff should not question your acceptance of the certificate. However, if you have evidence or knowledge that the Indian may not live on a reservation (for example, if the Indian asked you to send the bill to a nonreservation address), you should not accept an exemption certificate *unless* the Indian buyer gives you other reliable documents to verify residency on a reservation.

## 3. Sales to Indians: Retailers Located Outside Indian Reservations

*This chapter describes how sales and use tax generally apply to sales to Indians when the retailer is not located on an Indian reservation (off-reservation retailer). Please be sure to read chapter 1, "Key Definitions," before you read this chapter.*

### Sales to Indian customers, in general

If you are a California retailer who is not located on a reservation, your sales to Indian customers are generally subject to tax, unless specific requirements for exemption are met.

This chapter discusses the general rules that apply to your sales to Indian customers. The chapter also discusses specific rules that apply to dealer sales of vehicles, vessels, and aircraft, and to leases.

### Transfer of ownership on reservation

Sales tax generally applies to sales by off-reservation retailers to Indian purchasers unless *all* of the following conditions are met:

- You transfer ownership of the merchandise to an Indian purchaser on a reservation.
- You deliver the merchandise on a reservation.
- The Indian purchaser lives on a reservation.

*Please note:* The purchaser is not required to live on the same reservation where ownership transfers. In other words, a resident of Reservation A could qualify for the exemption even when taking ownership of merchandise on Reservation B.

(For a more complete definition of "Transfer of title (ownership) on the reservation," please see page 10).

*Please note:* Use tax is owed by the Indian purchaser on the transaction above if the Indian purchaser who lives on a reservation does both of the following:

- Takes ownership and delivery of an item on a reservation, *and*
- Uses the item *off* the reservation more than one-half of the time in the first 12 months after the sale. (An item is used off the reservation when the item is stored or used off the reservation.)

Use tax, if due, is payable by the Indian purchaser directly to the BOE.

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## Married couples or registered domestic partners

When an off-reservation retailer makes a sale to both members of a married couple or registered domestic partners, and only one of the couple is an Indian who resides on a reservation, the following rules apply.

### *Sales tax liability*

Sales tax does not apply to the one-half interest in the property attributable to the Indian spouse or partner who lives on a reservation if the ownership (title) of the merchandise is transferred to the couple or partners on the reservation, and the merchandise is delivered on the reservation. Sales tax applies to the one-half interest in the property attributable to the non-Indian spouse or partner.

*Please note:* The Indian spouse or partner may be liable for use tax on their one-half interest if the property is used off the reservation more than one half of the time during the first 12 months following delivery.

## Permanent improvements to real property

In general, tax does not apply to your sale of an item that will be permanently attached as an improvement to real property on a reservation, provided all of the following conditions apply:

- Your customer is an Indian who resides on a reservation (see Purchasers on page 11).
- The merchandise is delivered to the Indian purchaser on a reservation.
- Ownership of the item transfers to the purchaser on the reservation (see page 10).

Improvements to real property include:

- Buildings, structures, fixtures, and fences erected on or attached to land. For purposes of this sales tax exemption, improvements include trailer coaches that are not registered with the Department of Motor Vehicles (DMV), mobilehomes, and factory-built housing.
- Ornamental trees and vines. Please note that fruit and nut trees can also be improvements, but their sale may be exempt under another section of the sales and use tax law.

For information on construction contractors, please see chapter 4, on page 19.

### *Mobilehomes*

“Mobilehomes,” sometimes referred to as modular homes, are structures designed:

- To be movable in one or more sections, and
- Equipped to contain one or two dwelling units.

They can be designed for use with or without foundation systems. “Modular home” is a relatively new term and meets the definition of a mobilehome. However, the Revenue and Taxation Code uses the term mobilehome, and therefore for consistency we continue its use.

### *Use off the reservation*

A sale of a mobilehome to an Indian purchaser who lives on a reservation and takes ownership and delivery on a reservation will not be exempt from tax if the mobilehome is used off the reservation more than one-half of the time in the first 12 months after the sale.

In this case, the buyer owes the use tax and is responsible for paying it by using:

- Publication 79-B, *California Use Tax*,
- California income tax return, or
- Sales and use tax return, if the purchaser has a California seller’s permit.

For more information on mobilehomes and factory-built housing, see publication 47, *Mobilehomes and Factory-Built Housing*, and publication 9, *Tax Tips for Construction and Building Contractors*. You can obtain a copy from our website or by calling our Taxpayer Information Section (see page 32).

## Reporting and paying use tax

An Indian purchaser may owe use tax when the transaction is exempt from sales tax (see use tax description on page 8). Use tax is due when the Indian buyer who lives on a reservation does both of the following:

- Takes ownership and delivery of an item on a reservation, and
- Uses the item outside a reservation more than one-half of the time in the first 12 months after the sale. (An item is used off a reservation when the item is stored or used off a reservation.)

*Example:* An Indian purchaser who resides on a reservation operates an event business, and negotiates the purchase of a sound system for \$3,500 from a dealer in Los Angeles. The dealer, using its own trucks, delivers the system on a reservation and ownership transfers to the purchaser there. The sale is exempt from sales tax. The purchaser will use the sound system at concerts and events all over California. Some of the events are on reservations while others are not. The purchaser owes use tax based on the system’s \$3,500 purchase price if in the first 12 months after purchase the purchaser uses or stores the sound system outside reservations more than half the time.

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### *Paying use tax*

Individuals who owe use tax can pay it when filing their California income tax return or by using the simple form found in our publication 79-B, *California Use Tax*. If the tax liability involves an aircraft, publication 79-A, *Aircraft and California Tax*, should be used to report the applicable use tax. Both publications are available on our website at [www.boe.ca.gov](http://www.boe.ca.gov) or from our Taxpayer Information Section (see page 32).

Businesses that hold seller's permits should pay any use tax they owe when filing their Sales and Use Tax Return. Other businesses that are required to collect use tax from customers and pay it to the BOE must obtain a Certificate of Registration—Use Tax. You can obtain an application from our website at [www.boe.ca.gov](http://www.boe.ca.gov) or from our Taxpayer Information Section (see page 32).

### *Use tax liability*

If a married couple or registered domestic partners, living on a reservation, buy tangible personal property from an out-of-state retailer, and only one member of the couple is an Indian, the *use tax is based on one-half of the purchase price*.

For information on how to apply district use tax to this and other specific situations, please refer to publication 44, *Tax Tips for District Taxes* (see page 32 for ordering information).

## Dealer sales of vehicles, vessels, and aircraft

### *Sales*

Tax generally applies to a dealer's sales of vehicles, vessels, and aircraft in the same way it does to sales of other merchandise. However, sales tax generally does not apply to sales to Indians who live on a reservation when the vehicle, vessel, or aircraft is delivered on a reservation and ownership also transfers to the Indian on a reservation. The sale does *not* qualify for the exemption if the Indian takes possession before delivery on the reservation. The same principles apply to sales to Indian organizations.

While sales tax would not apply in this case, the buyer owes use tax if the vehicle, vessel, or aircraft is used off the reservation more than one-half of the time in the first 12 months after purchase (see previous section). A vehicle, vessel, or aircraft is used off a reservation when it is used or stored off a reservation.

### *Documenting exempt sales of vehicles, vessels, and aircraft*

Your records must include documents to support each claimed exempt sale. For information on documenting sales to Indians who live on reservations or Indian organizations (see page 10). Please contact our Taxpayer Information Section at 800-400-7115 for further assistance in providing the necessary documentation to



establish that the sale of the vehicle, vessel, or aircraft took place on the reservation. You may also call our Consumer Use Tax Section directly at 916-445-9524.

*Note:* An exemption certificate that may be used to document exempt sales, BOE-146-RES, *Statement of Delivery on a Reservation*, is included on page 37 of this publication. The form is also available from our website at [www.boe.ca.gov](http://www.boe.ca.gov) or from our Taxpayer Information Section (see page 32).

## Leases

Neither sales nor use tax generally applies to leases of tangible personal property, for any time period when the leased property is located and used on an Indian reservation and the Indian lessee resides on the reservation. Unless there is contrary evidence, it is assumed the use of the property by the Indian lessee is on the reservation if the lessor delivers the property to the Indian lessee on the reservation. However, use tax applies to leased vehicles registered with the DMV to the extent that the vehicles are used off the reservation.

### *Leases of vehicles and mobile transportation equipment*

If you lease vehicles or mobile transportation equipment to Indian customers, please contact our Taxpayer Information Section (see page 32) for help regarding how tax applies and what documentation you need to claim an exemption from tax for your lease.

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## 4. Sales Related to Construction Contracts

*This chapter describes how tax applies to sales to and by construction contractors, in situations involving Indian customers and construction contracts for work on Indian reservations. For detailed information on applying tax to sales of construction materials, fixtures and supplies, please see publication 9, Tax Tips for Construction and Building Contractors. You may also want to refer to Regulation 1616, Federal Areas, and Regulation 1521, Construction Contractors. You may obtain copies from our website at [www.boe.ca.gov](http://www.boe.ca.gov) or Taxpayer Information Section at 800-400-7115.*

### Construction activity outside reservations

There are no special sales or use tax exemptions for construction work done for an Indian customer off an Indian reservation. Tax applies to your sales in the same manner as other construction contracts.

### Materials vs. fixtures

*Materials* are construction materials, components, and other tangible personal property incorporated into, attached to, or affixed to real property by contractors in the performance of a construction contract, and which, when combined with other tangible personal property, lose their identity to become an integral and inseparable part of the real property. Examples of items typically regarded as materials include cement, doors, electric wiring, lumber, flooring, roofing, windows, and paint.

*Fixtures* are items that are accessories to a building or other structure. Fixtures do not lose their separate identity as accessories after installation. Examples include signs, heating and air conditioning units, furnaces, plumbing fixtures, lighting fixtures, shutters, and blinds.

For more information on typical items regarded as materials or fixtures, see Appendix A and Appendix B of Regulation 1521, *Construction Contractors* (see page 32).

### Sales to construction contractors (by off-reservation retailers)

#### *Sales to Indian contractors*

#### Materials

Sales tax does not apply to your sales of materials to Indian construction contractors (construction contractors that are Indians) when you deliver the materials on a reservation, and ownership transfers to the Indian contractor on

the reservation. Be sure to read the information on documentation and transfer of ownership in Chapter 2 on page 10.

### *Fixtures*

Sales tax does not apply to sales of fixtures furnished and installed by Indian construction contractors on Indian reservations. Therefore, when you sell fixtures to an Indian contractor, you should obtain a completed and timely California resale certificate from the Indian contractor. In the event the purchasing Indian contractor does not have a California seller's permit, the resale certificate must include sufficient information as to why the Indian contractor is not required to hold a California seller's permit, in lieu of a seller's permit number. Please refer to publication 103, *Sales for Resale*, for additional information (see page 32).

### *Sales to nonIndian contractors*

#### **Materials**

Tax generally applies to sales of materials to contractors who are not Indians. This is true even when the materials are delivered on a reservation and permanently attached to real estate on a reservation.

#### *Fixtures*

Sales tax generally does not apply to the sale of fixtures to nonIndian contractors when the contractors furnish and install the fixtures on an Indian reservation. You should obtain a completed and timely California resale certificate from the contractor. Please refer to publication 103, *Sales for Resale*, for additional information (see page 32).

#### *Construction contractor as retailer*

Under certain specific circumstances, a construction contractor performing a construction contract may purchase materials for resale. In order to do so, a construction contractor must qualify as a retailer of materials by meeting each of the following requirements:

- The contractor must be in the business of selling materials or other tangible personal property.
- The contractor must possess a valid seller's permit.
- The construction contract must *explicitly* provide for the transfer of title to the materials prior to the time the materials are installed, and must separately state the sales price of materials, exclusive of the charges for installation (for example, a time and materials contract).
- The construction contractor must provide a valid and timely resale certificate to its vendor.

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## Sales by construction contractors

### Sales to Indians—Contracts for work on Indian reservations

As a construction contractor, when your customer is an Indian, tax does not apply to your sales of *fixtures* furnished and installed as part of a construction contract for work on an Indian reservation.

However, the sale of materials may be taxable. Unless you qualify as a retailer of materials, as we have described on page 20, you are the consumer of materials and tax is generally due on your purchase of those materials.

### Tax-exempt sales of materials under a construction contract

When the construction contractor qualifies as a retailer of materials, as described in the section on page 20, the contractor may purchase materials from its vendor for resale. In order to resell the materials, in a tax-exempt transaction, to the Indian customer in performance of a construction contract on an Indian reservation, the following requirements must also be met:

1. The construction contract must separately state the price of materials, exclusive of the charge for installation (for example, a time and materials contract).
2. The contract must specifically provide that ownership of the materials (title) will transfer to the Indian customer on the reservation *prior to use or installation of the materials*.
3. The materials must in fact be delivered to the Indian customer on a reservation.
4. The construction contractor must obtain an exemption certificate from its Indian customer.

Be sure to document the circumstances of any sale you claim as exempt (see documentation information on page 10). You should provide a copy of the buyer's signed exemption certificate to your material vendors and subcontractors. An exemption certificate, BOE-146-RES, *Statement of Delivery on a Reservation*, is available on page 37 of this publication, from our website at [www.boe.ca.gov](http://www.boe.ca.gov) or by calling our Taxpayer Information Section at 800-400-7115.

## 5. Sales by Retailers Located on Indian Reservations

*This chapter describes how sales and use tax generally apply to sales made by retailers located on Indian reservations. It addresses sales by Indian and nonIndian retailers, as well as purchases by Indians and nonIndians. Please be sure to read chapter 1, “Key Definitions” before you read this chapter.*

### Permit requirements

In general, you must hold a seller’s permit if you make sales in California. This is true whether you are an Indian, an Indian organization, or a nonIndian.

However, as explained later in this chapter, certain sales made only on reservations by Indian retailers are subject to use tax but not sales tax. Indian sellers who only make sales of this type do not need a seller’s permit which is used for the collection of sales tax. Instead, they must obtain a California Certificate of Registration—Use Tax. You can obtain an application (BOE-400-CSC) from our website at [www.boe.ca.gov](http://www.boe.ca.gov) or from our Taxpayer Information Section at 800-400-7115.

*Please note:* A tribal sales license is *not* a legal substitute for a seller’s permit or a certificate of registration to collect use tax.

### Sales by on-reservation Indians: basic application of tax

If you are an Indian retailer located on a reservation, many of your sales may be exempt from California sales tax. Others may be taxable. In some cases, use tax will apply.

The discussion below explains the basic rules on how tax applies to your sales. And remember, if any of your sales are subject to sales tax, you need a California seller’s permit.

### Sales by on-reservation Indian retailers to Indians who reside on a reservation

*Sales tax does not apply to sales of tangible personal property made to Indians by Indian retailers if:*

- The sales are negotiated at places of business located on Indian reservations,
- The Indian purchaser resides on a reservation, and
- The property is delivered to the purchaser on a reservation.

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In such an instance, the Indian *purchaser* may be required to pay use tax, but only if, within the first 12 months following delivery, the property is used off a reservation more than it is used on a reservation.

*Please note:* The Indian purchaser is not required to live on the specific reservation where ownership transfers. In other words, a resident of Reservation A could qualify for the exemption when taking ownership of merchandise on Reservation B.

## Sales by on-reservation Indian retailers to nonIndians and Indians who do not reside on a reservation

*Sales* tax generally does not apply to sales of tangible personal property by Indian retailers made to nonIndians and Indians who do not reside on a reservation when:

- The sales are negotiated at places of business located on Indian reservations, and
- The property is delivered to the purchaser on the reservation.

Use tax generally applies to sales by on-reservation Indian retailers made to nonIndians and Indians who do not live on a reservation. Indian retailers are required to collect use tax from such purchasers and must register with the BOE for that purpose. In circumstances where you are required to collect use tax from any of your purchasers, you must hold a California Certificate of Registration—Use Tax, and may obtain an application (BOE-400-CSC) *Application for Certificate of Registration - Use Tax*, from our website at [www.boe.ca.gov](http://www.boe.ca.gov) or by calling our Taxpayer Information Section (see page 32). As previously explained, a sale generally takes place off the reservation when an on-reservation retailer delivers the items sold to the purchaser off the reservation.

## Sales by Indian retailers of meals, food or beverages at eating and drinking establishments

Indian retailers selling meals, food or beverages at on-reservation eating and drinking establishments are *not* required to collect sales tax or use tax on the sale of meals, food or beverages that are sold for consumption on an Indian reservation, whether they are sold to Indians who reside on a reservation, or to nonIndians, or Indians who do not reside on a reservation.

## Sales by on-reservation, nonIndian retailers: basic application of tax

If you are a nonIndian retailer located on a reservation, some of your sales may be exempt from California sales tax, but others may be taxable. In some cases, use tax will apply (see use tax description on page 8).

### *Sales by on-reservation, nonIndian retailers to Indians who reside on a reservation*

Sales tax does not apply to sales of tangible personal property made to Indians by nonIndian retailers when:

- The sales are negotiated at places of business located on Indian reservations,
- The Indian purchaser resides on a reservation, and
- The property is delivered to the Indian purchaser on a reservation.

In such an instance, the Indian *purchaser* may be required to pay use tax but only if, within the first 12 months following delivery, the property is used off a reservation more than it is used on a reservation.

*Please note:* The Indian purchaser is not required to live on the specific reservation where ownership transfers. In other words, a resident of Reservation A could qualify for the exemption when taking ownership of merchandise on Reservation B.

*Please also note:* The sale is exempt from sales tax whether the retailer is a federally licensed Indian trader or is not so licensed.

### *Sales by on-reservation, nonIndian retailers to nonIndians and Indians who do not reside on a reservation*

Either sales tax or use tax applies to sales of merchandise by on-reservation non-Indian retailers to nonIndians and Indians who do not reside on a reservation, or if you make any off-reservation sales. You may download a seller's permit application (BOE-400-SPA), *California Seller's Permit Application for Individuals/Partnerships/Corporations/Organizations (Regular or Temporary)*, from our website at [www.boe.ca.gov](http://www.boe.ca.gov) or call our Taxpayer Information Section for a copy (see page 32). A tribal sales license is not a substitute for a seller's permit or a certificate of registration to collect use tax.

## Documenting claimed exempt sales

Be sure your records include documents to show the basis for your claim that a particular sale was exempt from tax. For information on documenting sales to Indians who live on reservations or Indian organizations, please see chapter 2, on page 10.

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## Tribal taxes

Some tribes require on-reservation retailers to collect and pay a tribal tax on their sales. The amount of tribal tax you charge your customers for sales you make on a reservation is not subject to California sales or use tax when the following apply:

- The tax is based on a percentage of the selling price of the merchandise.
- You are substantially complying with the requirements of California sales and use tax law. In other words, you have a seller's permit or a certificate of registration to collect use tax and you are filing your sales and use tax returns on time, reporting all taxable and nontaxable sales, and paying all California taxes due.

The imposition of a tribal tax does not affect the liability for California sales or use taxes.

## Sales for resale

As a registered seller, you may make nontaxable sales for resale to businesses who will sell the merchandise they buy from you or physically include that merchandise in items they make and sell. If you accept a timely, fully completed resale certificate from your customer in good faith, you generally do not owe tax on your sale.

A certificate will be considered timely if you accept it any time before you bill the purchaser for the property, or any time within your normal billing and payment cycle, or any time at or prior to delivery of the property to the purchaser. A resale certificate remains valid until it is revoked in writing.

Indian retailers may purchase items for resale regardless of whether they are required to hold a seller's permit. Indian buyers who are not required to hold a seller's permit should make note of that fact on their resale certificates. For example, the buyer might state, "I do not hold a California seller's permit because all of my sales are made on an Indian reservation. None of my sales are subject to California sales tax."

The seller may accept this certificate as a valid resale certificate if it is timely taken and is in the proper form as provided in Regulation 1668, *Sales for Resale*, and taken in good faith from a person who is engaged in the business of selling the kind of merchandise being purchased. Other evidence to show the purchaser is engaged in the business of selling the kind of merchandise being purchased may include documents such as a business license, business card, or a copy of an advertisement from a newspaper or telephone book.

For more information, see Regulation 1668, *Sales for Resale*, and our publication 103, *Sales for Resale*.



## Reporting and paying use tax

Use tax may be due when the transaction is exempt from sales tax (please see basic information on sales and use tax in chapter 3, on page 14).

### *Use tax is due:*

1. When an Indian purchaser who lives on a reservation takes ownership on a reservation but uses the merchandise off the reservation more than one-half of the time in the first 12 months after the sale. In this case, the purchaser owes the use tax and must pay it to the state.

*Example:* An Indian purchaser who lives on a reservation purchases a display unit for \$750 from an Indian retailer on a reservation and takes it from the shop to his home on the reservation. The sale is exempt from sales tax. The purchaser will use the display unit at trade shows throughout California. If in the first 12 months after buying the display, the purchaser uses or stores the display unit off the reservation more than half the time, the purchaser owes use tax based on the unit's \$750 purchase price.

2. If a married couple or members of a registered domestic partnership buy an item together, and only one member of the couple is an Indian residing on a reservation, sales tax is due on one-half of the purchase price of the merchandise. If in the first 12 months after buying the merchandise, the merchandise is used or stored off the reservation more than half the time the Indian purchaser owes use tax on the other one-half of the purchase price.
3. When an Indian retailer sells an item to a nonIndian or to an Indian who does not live on a reservation and the purchaser takes ownership on the reservation the seller must collect the use tax from the purchaser and pay it to the BOE.

### *Paying use tax*

Individuals who owe use tax can pay it when filing their California income tax return or by using the simple form found in our publication 79-B, *California Use Tax*. Publication 79-B is available from our website at [www.boe.ca.gov](http://www.boe.ca.gov) or by calling our Taxpayer Information Section (see page 32).

Businesses that hold seller's permits should pay any use tax they owe when filing their Sales and Use Tax Return. Other businesses that are required to collect use tax from customers and pay it to the BOE must obtain a Certificate of Registration—Use Tax. You can obtain an application from our website at [www.boe.ca.gov](http://www.boe.ca.gov) or by calling our Taxpayer Information Section (see page 32).

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## 6. Special Taxes and Fees

*In addition to sales and use taxes, special taxes and fees may be applicable to sales to Indians and sales on Indian reservations. Following is information pertaining to some of the more common special taxes and fees that may apply to transactions or activities involving Indians or conducted on Indian reservations.*

### Fuel taxes

The following tax and fee programs are administered by the Fuel Taxes Division:

- Motor Vehicle Fuel Tax
- Diesel Fuel Tax
- Aircraft Jet Fuel Tax
- Underground Storage Tank Maintenance Fee
- Oil Spill Response Prevention and Administration Fees
- Use Fuel Tax
- International Fuel Tax Agreement (IFTA)
- California/Mexico Interstate User Diesel Fuel Tax and NAFTA
- Childhood Lead Poisoning Prevention Fee

There are no special exemptions from the state's motor vehicle or diesel fuel taxes related to fuel sales on Indian reservations. California's excise tax on motor vehicle fuel and diesel fuel applies when the fuel is removed from an in-state fuel terminal rack or imported into the state. As a result, fuel delivered to an Indian reservation will generally include California excise tax in its cost. Fuel retailers usually pass the tax on to their customers.

Any person who uses fuel on reservation lands that are not part of a state or local road system may claim a refund for taxes paid on fuel consumed off-highway on reservation lands.

If you have used gasoline on reservation lands, you may file a claim for refund with the State Controller's Office. To download a claim form (SCGR-1) and schedules, go to the State Controller's website at [www.sco.ca.gov](http://www.sco.ca.gov). Follow the directions to file your claim for refund. If you need help or have any questions, see the contact information on the State Controller's website at [www.sco.ca.gov](http://www.sco.ca.gov) or call staff in the Gas Tax Refund Section of the State Controller's Office at 916-445-4868. You can fax the State Controller's Office at 916-327-7116.

If you have used tax-paid clear diesel fuel off-highway on reservation lands, you may file a claim for refund (BOE-770-DU, *Diesel Fuel Claim for Refund on Nontaxable Uses*) with the BOE, Fuel Taxes Division.

Your claim for refund may be filed annually or quarterly (if each quarterly claim is for \$750 or greater) and must be filed within 3 years from the date the fuel was purchased.

For additional information on filing a diesel fuel tax claim for refund or other information regarding any of the Fuel Taxes programs listed above, please visit our website at [www.boe.ca.gov](http://www.boe.ca.gov) or contact our Fuel Taxes Division as indicated below.

**For IFTA or Interstate User Diesel Fuel Tax**

**By Phone**

800-400-7115 toll-free

916-322-9669

**By Fax**

916-323-4404

**By Mail**

Motor Carrier Section

Fuel Taxes Division, MIC: 65

State Board of Equalization

P.O. Box 942879

Sacramento, CA 94279-0065

**Online**

[www.boe.ca.gov](http://www.boe.ca.gov)

**All Other Fuel Tax Programs**

**By Phone**

800-400-7115 toll-free

916-322-9669

**By Fax**

916-323-9352

**By Mail**

Fuel Industry Section

Fuel Taxes Division, MIC: 30

State Board of Equalization

P.O. Box 942879

Sacramento, CA 94279-0030

**Online**

[www.boe.ca.gov](http://www.boe.ca.gov)

## Environmental fees

The Environmental Fees Division oversees the following tax and fee programs:

- Electronic Waste Recycling Fee
- Hazardous Substances Tax Law
- Marine Invasive Species (Ballast Water Management) Fee
- Occupational Lead Poisoning Prevention Fee
- Integrated Waste Management Fee
- Water Rights Fee
- California Tire Fee

## Electronic Waste Recycling Fee

California's Electronic Waste Recycling Fee generally applies when a consumer purchases or leases a new or refurbished video display device that has a screen size of more than 4 inches measured diagonally. The following items are covered by this fee:

- Televisions containing cathode ray tubes (CRTs)
- Televisions containing liquid crystal displays (LCDs)
- Computer monitors containing CRTs or LCDs
- Plasma televisions
- Laptop computers

- 
- “Bare” CRTs or any other product containing a CRT
  - Portable DVD players containing LCDs

Since this fee is imposed on the consumer of these items, the fee is not owed by an Indian who resides on a reservation if the item is purchased on a reservation. However, the Indian retailer of such items must register with the BOE if the retailer makes retail sales of these items to nonIndians and Indians who do not reside on a reservation, so that the fee may be collected from those consumers and remitted to the BOE.

### California Tire Fee

The California Tire Fee generally applies to consumer purchases of tires. Since the fee is imposed on the consumer of the tires, the fee is not owed by an Indian who resides on a reservation if the tire or tires are purchased on a reservation. However, the Indian retailer of such items must register with the BOE if the retailer makes retail sales of these items to nonIndians and Indians who do not reside on a reservation, so that the fee may be collected from those consumers and remitted to the BOE.

### Hazardous Substance Tax Law

The BOE administers hazardous waste fee programs in cooperation with the Department of Toxic Substances Control, pursuant to the requirements of the California Hazardous Substances Tax Law. Three of the fee programs worthy of special note are explained below. Each of these programs applies to Indian businesses off a reservation and to nonIndian businesses on a reservation. However, these programs may or may not apply to Indian businesses on a reservation, depending upon the tribes’ state legal environmental responsibilities such as any that may be called for under their compacts with the state.

#### 1. Environmental Fee

The Environmental Fee is a fee on businesses in industry groups that use, generate, or store hazardous materials or that conduct activities related to those materials. Prior to January 1, 2007, the annual fee only applied to certain corporations. Beginning January 1, 2007, Assembly Bill 1803 (Stats. 2006, ch. 77) expanded the fee to include: general partnerships, limited partnerships, limited liability partnerships, limited liability companies and sole proprietorships, in addition to corporations (which include nonprofit corporations, “S” corporations and out-of-state corporations) operating in California. In general, the fee applies to business and other organizations that have 50 or more employees who are each employed more than 500 hours in California during a calendar year. The fee is based upon the total number of employees. Please see publication 90, *Environmental Fee*, for additional information.

## 2. Disposal Fee

The Disposal Fee generally applies to every person who disposes of hazardous waste in this state based on the type of waste placed in a disposal site.

## 3. Generator Fee

In addition to the Disposal Fee, the Generator Fee applies to every person who generates five or more tons of hazardous waste per site in California within a calendar year for a specific site. This includes recycled waste and waste sent outside California for disposal. The fee is determined by the total tonnage of waste generated. If the Facility Fee has been paid for a site, the Generator Fee does not apply.

For more information regarding any of the Environmental Fee programs listed above, please visit our website at [www.boe.ca.gov](http://www.boe.ca.gov) or contact:

### By Phone, Fax, or website

800-400-7115 toll-free

916-323-9555 phone

916-327-0859 fax

### Online

[www.boe.ca.gov](http://www.boe.ca.gov)

### By Mail

Environmental Fees Division, MIC:57

State Board of Equalization

P.O. Box 942879

Sacramento, CA 994279-0057

## Excise taxes

The Excises Taxes Division oversees the following tax and fee programs:

- Alcoholic Beverage Tax
- Cigarette and Tobacco Products Tax
- Cigarette and Tobacco Products Licensing
- Insurance Tax
- Emergency Telephone Users Surcharge
- Natural Gas Surcharge
- Energy Resources Surcharge

## Cigarette and tobacco products taxes

### Distributors

There are no special exemptions from the state's cigarette and tobacco products taxes for sales of cigarettes and tobacco products to Indians. A nonIndian cigarette distributor who sells cigarettes to an Indian must pay cigarette and tobacco products taxes and apply California cigarette tax stamps to the cigarette packages.

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### *Indian retailers*

An Indian retailer in California who buys untaxed cigarettes without a California tax stamp, or buys untaxed tobacco products, and sells them to nonIndians on a reservation is required to collect the cigarette and tobacco products tax from those purchasers and pay the tax to the BOE. If the Indian retailer does not collect and pay the tax due, the nonIndian purchaser is ultimately liable for the tax. NonIndians who purchase cigarettes without California tax stamps, or purchase untaxed tobacco products, owe the cigarette and tobacco products tax. The nonIndian must register with the BOE and pay applicable California excise tax.

For more information regarding any of the Excise Taxes programs listed on page 30, please visit our website at *www.boe.ca.gov* or contact:

**By Phone, Fax, or website**

800-400-7115 toll-free

916-323-9297 fax

**Online**

*www.boe.ca.gov*

**By Mail**

Excise Taxes Division, MIC:56

State Board of Equalization

P.O. Box 942879

Sacramento, CA 94279-0056

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## 7. For More Information

### Website

For publications, forms, regulations, and more: [www.boe.ca.gov](http://www.boe.ca.gov).

### Taxpayer Information Section

If you have a general tax question, please call our toll-free number and speak with a Customer Service Representative. Representatives are available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays. Please call:

800-400-7115      TDD/TTY: 800-735-2929

In addition to English, assistance is available in other languages.

### Questions regarding your account

Please call the office that maintains your records. The name and telephone number of the appropriate field office is printed on your tax return. Field office telephone numbers are provided on page 36 and are also available on our website. We can help you faster if you have your account number on hand.

### Verifying a permit/license

If a customer gives you a resale certificate for a purchase, you may contact us to verify the customer's seller's permit number.

You can also verify a cigarette/tobacco license and an E-Waste Recycling Fee account.

Use the Internet: [www.boe.ca.gov](http://www.boe.ca.gov) and look for "Verify a Permit/License."

Call our toll-free automated verification service: 888-225-5263. You will need to provide the seller's permit number you want to verify.

### Faxback Service

Our faxback service, which allows you to order selected publications, forms, and regulations, is available 24 hours a day. Call 800-400-7115 and choose the fax option. We'll fax your selection to you within 24 hours.

### Publications, forms, and regulations

To obtain copies of publications, forms, and regulations:

**Use the Internet.** Most publications, forms, and regulations are available on our website: [www.boe.ca.gov](http://www.boe.ca.gov).

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**Call our Taxpayer Information Section.** A Customer Service Representative will help you during working hours. If you know the name or number of the document you need, you may call outside working hours and leave a recorded message. Certain documents are also available on our faxback service, described above.

Selected regulations and publications that may interest you are listed below. A complete listing of sales and use tax regulations and publications appears in publication 73, *Your California Seller's Permit*.

■ **Regulations** (*list varies by publication*)

- 1521 Construction Contractors
- 1521.4 Factory-Built Housing
- 1593 Aircraft and Aircraft Parts
- 1610 Vehicles, Vessels, and Aircraft
- 1610.2 Mobilehomes and Commercial Coaches
- 1616 Federal Areas
- 1628 Transportation Charges
- 1660 Leases of Tangible Personal Property - In General
- 1661 Leases of Mobile Transportation Equipment
- 1667 Exemption Certificates
- 1668 Sales for Resale
- 1698 Records

**Publications** (*list varies by publication*)

You may find these publications helpful. The letter C,F,K,S, or V next to a publication means it is available in Chinese (C), Farsi (F), Korean (K), Spanish (S), or Vietnamese (V).

- 9 Tax Tips for Construction and Building Contractors
- 15 California Cigarette and Tobacco Products Tax
- 17 Appeals Procedures: Sales and Use Taxes and Special Taxes (S)
- 34 Tax Tips for Motor Vehicle Dealers
- 44 Tax Tips for District Taxes (S)
- 46 Tax Tips for Leasing of Tangible Personal Property in California
- 47 Mobilehomes and Factory-Built Housing
- 51 Guide to Board of Equalization Services (C,K,S,V)
- 52 Vehicles and Vessels: How to Request a Use Tax Clearance for DMV Registration (S)



- 61 Sales and Use Taxes: Exemptions and Exclusions
- 70 Understanding Your Rights as a California Taxpayer (C,K,S,V)
- 73 Your California Seller's Permit (C,F,K,S,V)
- 75 Interest and Penalties
- 76 Audits (F,K,S)
- 79-A Aircraft and California Tax (S)
- 79-B California Use Tax (S)
- 90 Environmental Fee
- 91 California Tire Fee (S)
- 95 Electronic Waste Recycling Fee
- 103 Sales for Resale (S)
- 107 Do You Need a California Seller's Permit? (C,K,S)
- 109 Are Your Internet Sales Taxable? (S)
- 110 California Use Tax Basics (S)
- 144 Introduction to E-Filing

## Tax Information Bulletin

As a registered seller, you will receive the quarterly *Tax Information Bulletin*, (TIB) which includes articles on the application of law to specific types of transactions, announcements about new and revised publications, and other articles of interest to you. If you electronically file (e-file) your sales and use tax return and are registered as an E-Client, your e-mail reminder to file will contain a link to the quarterly TIB. Otherwise, you will be mailed a copy with your paper returns. You can also find current and archived TIBs on our website at [www.boe.ca.gov/news/tibcont.htm](http://www.boe.ca.gov/news/tibcont.htm). If you file returns on a yearly basis and would like to receive all four bulletins, please call our Taxpayer Information Section at 800-400-7115 to be placed on our mailing list, or write to:

Mail Services Unit, MIC:12  
Attn: Addressing Systems  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0012

Ask to be added to Mailing List #15.

## Written tax advice

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges that are due on a transaction if we determine that we gave you incorrect written advice regarding the transaction and that you reasonably relied on that advice in failing to pay the proper amount of

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tax. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction.

Please send your request to:

Audit and Information Section, MIC:44  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0044

Written tax advice is specific to individual taxpayers. You cannot obtain tax relief by relying on a written opinion given to another business, even if your transactions are similar. In addition, tax relief is not available if you incorrectly apply tax based on advice we give you in person or over the telephone.

## Classes

Some of our statewide field offices offer free basic sales and use tax classes. Check the Sales and Use Tax Section on our website at [www.boe.ca.gov](http://www.boe.ca.gov) for a listing of classes and locations. You can also call your local field office for class information.

We also offer an online Basic Sales and Use Tax tutorial that you can access on our website at any time.

## Taxpayers' Rights Advocate

If you have been unable to resolve a problem through normal channels, we encourage you to contact the Taxpayers' Rights Advocate Office for help:

Taxpayers' Rights Advocate Office, MIC:70  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0070

Phone: 916-324-2798  
888-324-2798 toll-free  
Fax: 916-323-3319

## Field offices

City	Area Code	Number	City	Area Code	Number
Bakersfield	661	395-2880	San Diego	619	525-4526
Chula Vista	619	409-7440	San Francisco	415	356-6600
Culver City	310	342-1000	San Jose	408	277-1231
El Centro	760	352-3431	San Marcos	760	510-5850
Eureka*	707	576-2100	Santa Rosa	707	576-2100
Fresno	559	248-4219	Suisun City	707	428-2041
Irvine	949	440-3473	Van Nuys	818	904-2300
Norwalk	562	466-1694	Ventura	805	677-2700
Oakland	510	622-4100	West Covina	626	480-7200
Rancho Mirage	760	770-4828	<b>Out-of-State Field Offices</b>		
Redding	530	224-4729	Chicago, IL	312	201-5300
Riverside	951	680-6400	Houston, TX	281	531-3450
Sacramento	916	227-6700	New York, NY	212	697-4680
Salinas	831	443-3003	Sacramento, CA	916	227-6600

\*Limited services are available in Eureka. See [www.boe.ca.gov](http://www.boe.ca.gov) or call the number listed above (Santa Rosa field office).

The field offices listed are current when the publication was written. Field office contact information is available on our website and from our Taxpayer Information Section (see page 32).

**NOTICE TO SELLER**

Since this transaction may be subject to audit verification as authorized under the Sales and Use Tax Law section 7054, *you must retain documentation such as the contract of sale, delivery documents, receipts for meals, lodging, fuel, and transportation to support any claimed exemption.* All records required to be retained must be preserved for a period of not less than four years unless the State Board of Equalization (BOE) authorizes in writing their destruction within a lesser period. *Sellers—please retain the original for your records and provide a copy to the purchaser.*

NOTE: When a vehicle, vessel, aircraft, or other tangible personal property is delivered to the purchaser inside a reservation within the California boundaries, the seller (or person making the delivery on behalf of the seller) and the purchaser should both be at the reservation delivery point at the time of delivery. In order to establish that the delivery did not occur outside the reservation, **both persons are urged to appear at the same time before a notary at the reservation delivery location to sign this statement and have it notarized.** *The seller must retain the original of this statement to support any claimed exclusion or exemption from the California Sales and Use Tax.* I hereby certify, under penalty of perjury under the laws of the State of California, that the below described vehicle, vessel, aircraft, or other tangible personal property was delivered to the purchaser on a reservation on the date and at the place stated below. **(For additional information, please see reverse side.)**

Please Type or Print

TYPE OF MERCHANDISE, VEHICLE, VESSEL, OR AIRCRAFT				INVOICE NUMBER	
YEAR	MAKE	MODEL	VIN/LIC NUMBER		
NAME OF RESERVATION		ADDRESS (street, city, zip code)		DATE OF DELIVERY	
NAME OF SELLER		SELLER'S PERMIT NUMBER		DAYTIME TELEPHONE NUMBER (      )	
STREET ADDRESS		CITY	STATE	ZIP CODE	

I have delivered the above described tangible personal property to the purchaser named below.

NAME (please print) CHECK (✓) ONE

SALESMAN     
  EMPLOYEE     
  PARTNER     
  OTHER (explain)

SIGNATURE	DATE

**Notice to Purchaser**

Please note that use tax is due when the Indian buyer who lives on a reservation does both of the following:

- Takes ownership and delivery of an item on a reservation, and
- Uses the item outside the reservation more than one-half of the time in the first 12 months after the sale.

If use tax applies, you must pay it directly to the State Board of Equalization. *It is important that for the first 12 months of ownership, you obtain documentary evidence of the place of use of this vehicle, vessel, aircraft, or other tangible personal property (for example, proof of registration in another state, gas and/or service receipts, credit card statements, check registers, travel logs, lodging, or campground receipts, etc.).* Because BOE may have up to 8 years to determine whether your property was actually purchased for use in California, you should retain records for at least 8 years showing your reservation use during the first 12 months after your purchase. For more detailed information, please contact the BOE Taxpayer Information Section at 800-400-7115.

I have received the above described vehicle, vessel, aircraft, or other tangible personal property from the seller named above.

NAME OF PURCHASER (please print)	DRIVER LICENSE NUMBER OR OTHER STATE ID	DAYTIME TELEPHONE NUMBER (      )
STREET ADDRESS	CITY, STATE, ZIP CODE	
PURCHASER'S SIGNATURE	DATE	

**NOTARY STATEMENT**

On \_\_\_\_\_ (date) before me, \_\_\_\_\_ (notary name), a Notary Public in and for the

County of \_\_\_\_\_ (county), State of \_\_\_\_\_ (state) duly commissioned and sworn, together, personally

appeared both on the \_\_\_\_\_ (name of reservation) reservation to transfer ownership of \_\_\_\_\_ (type of tangible personal property)

from \_\_\_\_\_ (seller or agent) to, \_\_\_\_\_ (purchaser) known to me to be the persons whose

names are subscribed to the within instruments, and acknowledged that they executed the same in the authorized capacities, and that by their signatures on this instrument the persons executed the instrument. WITNESS my hand and official seal

Signature \_\_\_\_\_



**Fraudulent use of this statement to avoid the payment of California sales and use tax can result in severe penalties.**

**PLEASE SEE REVERSE SIDE.**

### NOTE TO SELLER AND PURCHASER

NOTE: Tax does not apply when you transfer ownership of merchandise (tangible personal property), including a vehicle, vessel, or aircraft, to an Indian buyer on a reservation, provided the Indian lives on a reservation. Please note that the buyer is not required to live on the specific reservation where ownership transfers.

Retailers located outside a reservation may sell to Indian buyers who request delivery on a reservation. For a sale to qualify as a transfer of title (ownership) on the reservation, all of the following conditions must apply:

- The contract of sale or other sales agreement cannot transfer ownership of the item to the buyer before the item is delivered on the reservation.
- The buyer cannot take possession of the item before delivery on the reservation.

In addition, the retailer generally must deliver the product by:

1. Using the retailer's vehicle, or
2. By mail, common carrier (UPS, FedEx), or contract carrier (a shipping, trucking, or transport company), when both of the following requirements are met:
  - The contract of sale or sales invoice must include a statement specifically requiring delivery at the reservation (for example, F.O.B. name of Indian reservation).
  - The goods are in fact delivered to the purchaser on the Indian reservation.

When delivery does not take place as described above, ownership of the item being sold or purchased generally transfers to the buyer off of the reservation. *Please note:* This is a general description of transfers of ownership on the reservation. Specific rules may apply to certain types of sales and leases.

For California sales and use tax purposes, an "Indian" is a person who is both of the following:

- An individual of American Indian descent, and
- Eligible to receive services as an Indian from the United States Department of the Interior.

To show that they are eligible for the exemptions described in this certificate, Indians must provide identification documents to prove their status, such as an ID card, a letter from the tribal council, or a letter from the U.S. Department of Interior.

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California State Board of Equalization  
450 N Street • Sacramento, California -  
(Mailing Address: P.O. Box 942879 • Sacramento, CA 94279-0001) -  
LDA 