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WHEN DOES SALES TAX APPLY TO SHIPPING AND HANDLING CHARGES?

The information contained in this notice responds to numerous inquiries from retailers concerning the application of sales tax to shipping and handling charges. This notice contains frequently asked questions and responses to assist you in determining when California sales tax applies to shipping and handling charges.

What is the difference between shipping and handling?

Shipping consists of transportation of your goods after the goods leave your business. If the goods are shipped directly from your supplier or some other point to your customer and are not first delivered to you, this is also considered shipping. Handling consists of all the steps necessary to prepare your goods for shipment such as picking, packing, labeling, and loading.

When tax does not apply to the sale of an item, does tax apply to the shipping or handling charges for that item?

No. If tax does not apply to your sale of an item (for example, certain sales of candy or food items), then tax does not apply to related shipping or handling charges.

When tax applies to the sale of an item, does tax also apply to the handling charges for that item?

Yes. When tax applies to the sale of an item, tax applies to the handling charges for that item.

When tax applies to the sale of an item, does tax also apply to the shipping charges for that item?

When tax applies to the sale of an item, tax generally applies to the shipping charges. However, shipping charges may be excluded from tax if all of the following requirements are met:

- Your invoice clearly uses terms such as “shipping,” “delivery,” or “postage,” as a charge separate from the items sold. (In addition, handling charges must be stated separately from shipping charges, because tax applies to handling charges when the sale of the item is taxable. Please refer to the discussion on page 2 on combining the charges for shipping and handling.)
- The charge does not exceed the actual cost of shipping. (You must keep records to establish the actual cost of shipping.)

- You use the U.S. Postal Service, an independent contractor, or a common carrier (for example, United Parcel Service, Federal Express, or Airborne) to ship directly to your customer. (If you ship with your own vehicle, please refer to the next question.)

Consider an example where you sell a refrigerator and have it shipped by an independent contractor. On the invoice, you show a \$750 charge for the refrigerator plus a separately stated \$50 charge for shipping (the amount the independent contractor charged). Since the shipping charge is stated separately, tax applies only to the charge of the refrigerator (\$750). If the invoice had shown a single charge of \$800, tax would apply to the entire amount.

If you charge more for shipping than your actual shipping costs, the added amount is subject to tax. In the example above, if you had charged your customer \$60 for shipping but your actual shipping cost was \$50 (the amount charged by the independent contractor), tax would apply to the additional \$10 charge.

If I use my own vehicle to ship an item the sale of which is subject to tax, –does tax apply to the shipping charges?

Generally, when tax applies to the sale of an item and you use your own vehicle to ship the item to your customer, your shipping charges are subject to tax.

However, if you and the purchaser enter into a written contract of sale that is signed before shipment and that transfers ownership of the property to the purchaser prior to shipment, and the shipping charges are separately stated, the shipping charges may be excluded from the measure of the tax.

Does tax apply to my shipping and handling charges for an item the sale of which is subject to tax, if I combine the charges for shipping and handling on the invoice?

If you charge a single amount for shipping and handling of an item the sale of which is subject to tax (for example, the invoice shows a single amount for "shipping and handling" or "postage and handling"), the portion of the charge that represents handling is subject to tax, while the portion that represents shipping may or may not be subject to tax. To determine whether tax applies to your shipping charges, please refer to our previous discussion.

It is important to use terms such as "shipping," "delivery," or "postage" on the invoice to represent shipping charges. A separately stated charge identified only as "handling" is not considered a shipping charge, and the entire handling charge is taxable even if postage or shipment charges are indicated on the package.

Available Board of Equalization (BOE) Publications and Information

BOE Publication #100, *Shipping and Delivery Charges*
BOE Regulation 1628, *Transportation Charges*

Copies of publications, forms, regulations and other information are available on the Internet at www.boe.ca.gov or by calling the BOE Information Center toll-free at 1- 800 400-7115.

State of California
BOARD OF EQUALIZATION
SALES AND USE TAX REGULATIONS

Regulation 1628. TRANSPORTATION CHARGES.

Reference: Sections 6010.5, 6011, 6012, Revenue and Taxation Code.

(a) TRANSPORTATION BY CARRIER. Except as provided in paragraph (c) below, in the case of a sale, whether by lease or otherwise, tax does not apply to “separately stated” charges for transportation of property from the retailer’s place of business or other point from which shipment is made “directly to the purchaser,” provided the transportation is by other than facilities of the retailer, i.e., by United States mail, independent contract or common carrier. The place where the sale occurs, i.e., title passes to the customer or the lease begins, is immaterial, except when the property is sold for a delivered price or the transportation is by facilities of the retailer, as explained in (b) below. The amount of transportation charges excluded from the measure of tax shall not exceed the cost of the transportation to the retailer.

Transportation charges will be regarded as “separately stated” only if they are separately set forth in the contract for sale or in a document reflecting that contract, issued contemporaneously with the sale, such as the retailer’s invoice. The fact that the transportation charges can be computed from the information contained on the face of the invoice or other document will not suffice as a separate statement. If a separately stated charge is made designated “postage and handling” or “shipping and handling”, only that portion of the charge which represents actual postage or actual shipment may be excluded from the measure of tax. Such amounts may be excluded from the measure of tax even though such amounts are not affixed to, or noted on, the package. A separately stated charge designated “handling” or “handling charge” is not a separate statement of transportation charges. Tax applies to such charges, notwithstanding the fact that postage or shipment charges may or may not be affixed to or noted on the package.

Property will not be considered delivered “directly to the purchaser” if it is shipped to the retailer, to the retailer’s agent or representative, or to anyone else acting in the retailer’s behalf. Any separately stated charges by the retailer for the transportation of property to, rather than from, the retailer’s place of business, or to another point from which the property will then be “delivered directly to the purchaser,” are included in the measure of tax. Such charges represent incoming freight and are taxable as part of the cost of the property sold by the retailer.

(b) TRANSPORTATION BY RETAILER'S FACILITIES OR PROPERTY SOLD FOR DELIVERED PRICE.

(1) DEFINITION. “Delivered Price.” Property is sold for a delivered price when the price agreed upon in the contract for sale includes whatever cost or charge may be made for transportation of the property directly to the purchaser. A sale for a “guaranteed price” including a separately stated amount for transportation is a sale for a “delivered price.” Property is not sold for a delivered price when the price is agreed upon and to this price is added a separately stated amount representing the cost or charge for transportation of the property directly to the purchaser and any increase or decrease in the actual cost of transportation is borne by or credited to the purchaser.

(2) IN GENERAL. Except as provided in paragraph (c) below, when transportation is by facilities of the retailer or the property is sold for a delivered price, tax applies to charges for transportation to the purchaser, unless (A) the transportation charges are separately stated, (B) are for transportation from the retailer’s place of business or other point from which shipment is made directly to the purchaser, and (C) the transportation occurs after the sale of the property is made to the purchaser. When the sale occurs before the transportation to the purchaser commences, the tax does not apply to separately stated charges for the transportation. The amount that may be excluded from the measure of the tax cannot exceed a reasonable charge for transportation by facilities of the retailer or the cost of transportation by other than facilities of the retailer.

(3) DETERMINATION OF WHEN SALE OCCURS.

(A) Security Agreements. When a sale is made pursuant to a security agreement in which the retailer retains the title as security for the payment of the price, the sale occurs when possession of the property is transferred by the retailer to the purchaser or other person at the purchaser’s direction.

Regulation 1628. TRANSPORTATION CHARGES. (Continued 1)

(B) Leases. When the sale is by lease, the sale occurs upon the transfer of possession or granting of the right of possession of the property by the lessor to the lessee or other person at his direction.

(C) Sale on Approval. When the sale is on approval, the sale does not occur until the purchaser accepts the property.

(D) Other Sales. Unless explicitly agreed that title is to pass at a prior time, the sale occurs at the time and place at which the retailer completes his performance with reference to the physical delivery of the property, even though a document of title is to be delivered at a different time or place. If the contract requires or authorizes the retailer to send the property to the purchaser but does not require him to deliver it at destination, the retailer completes his performance with reference to the physical delivery of the property at the time and place of shipment, e.g., delivery of the property to a carrier for delivery by the carrier to the purchaser; but if the contract expressly requires delivery at destination, including cases where one of the terms of the contract is F.O.B. place of destination, the retailer completes his performance with reference to the physical delivery of the property on tender to the purchaser there. When delivery of the property is by facilities of the retailer, title passes when the property is delivered to the purchaser at the destination unless there is an explicit written agreement executed prior to the delivery that title is to pass at some other time.

(4) PLACE OF SALE. For the purposes of the state Sales and Use Tax Law (but not for the purposes of the Bradley-Burns Uniform Local Sales and Use Tax Law nor for the purposes of the Transactions and Use Tax Law) the place of the sale or purchase of tangible personal property is the place where the property is physically located at the time the act constituting the sale or purchase takes place.

(c) TRANSPORTATION OF LANDFILL MATERIAL. Operative January 1, 1989, tax does not apply to separately stated charges for transportation of landfill material, e.g., sand, dirt or gravel, removed from the ground and transported from the excavation site to a landfill site specified by the purchaser if:

(1) the amount of transportation charges excluded from the measure of tax does not exceed a reasonable charge for transportation by facilities of the retailer or the cost of the transportation by other than facilities of the retailer, or

(2) the consideration received is solely for the purpose of transporting the material to a specified site and the material is transferred without charge. If such transportation charges are in excess of a reasonable charge for transportation by facilities of the retailer or in excess of the cost of the transportation by other than facilities of the retailer, the provisions of this paragraph will not apply.

For purposes of this paragraph, it is immaterial when title passes to the purchaser of the landfill material.

APPENDIX

(a) EXAMPLES OF CONTRACT FOR DELIVERED PRICE.

(1) The contract for sale provides for the sale of property for \$100 per unit delivered to the purchaser.

(2) The contract for sale provides for the sale of property for \$100 per unit "which includes cost of delivery at \$10 per unit."

(3) The contract for sale provides for the sale of property for \$100 per unit delivered, freight prepaid.

(4) The contract for sale provides for the sale of property for \$100 per unit freight collect and allowed.

(5) The contract for sale calls for the sale of property for a guaranteed price of \$100 consisting of \$90 plus \$10 freight.

(b) EXAMPLES OF CONTRACTS WHICH ARE NOT FOR A DELIVERED PRICE.

(1) The contract for sale provides for the sale of property for \$100 per unit freight collect.

(2) The contract for sale provides for the sale of property for \$100 per unit actual freight prepaid and added to the sales price.

Regulation 1628. TRANSPORTATION CHARGES. (Continued 2)

(c) EXAMPLES OF APPLICATION OF TAX. All deliveries are by independent carrier. All billings are in accordance with the terms of the contract.

(1) The contract for sale provides for the sale of property for \$100 per unit delivered to the purchaser with freight prepaid.

Tax applies to sales price of \$100 per unit with no deduction for freight charge since the freight charges are not separately stated. The contract is for a delivered price and requires delivery to the purchaser. Title does not pass to the purchaser prior to delivery.

(2) Contract for sale provides for the sale of property for \$100 per unit. The retailer is required to ship the property to the purchaser freight collect.

Tax applies to \$100 per unit since the responsibility for the payment of the freight is upon the purchaser, and the seller makes no charge for freight. Since the carrier will bill the purchaser for the actual freight charge, there will be a separate statement of the freight. The property is not sold for a delivered price.

(3) The contract for sale provides for the sale of property of \$100 per unit freight collect and allowed. The measure of tax is \$100 per unit less the amount of the freight paid to the carrier and shown on the payment voucher sent to the retailer by the purchaser.

The sale is for a delivered price. Separately stated transportation charges are excludable from the measure of tax since the transportation occurred after the sale of the property. If the contract for sale explicitly provided for passage of title upon delivery to the destination, then the measure of tax would be \$100 per unit since the sale was for a delivered price and title did not pass prior to transportation.

(4) The contract for sale provides for the sale of property for \$100 per unit plus actual freight of \$10 per unit. Any increase or decrease in the freight is for the account of the buyer.

Tax applies to \$100 per unit since the contract is not for a delivered price and shipment is by independent carrier.

(5) The contract for sale provides for the sale of property for \$100 plus freight of \$10, and the seller guarantees the price will not exceed \$110.

Tax applies to \$100 because the sale is for a delivered price and there is no showing that title was to pass upon delivery at the destination. A contract will be construed as a shipment contract unless it expressly requires delivery at destination point. If the contract for sale explicitly provided for passage of title upon delivery to the destination, then the measure of tax would be \$110 since the sale was for a delivered price and title did not pass prior to transportation.

(6) The contract for sale provides for the sale of property for \$100 per unit freight equalized with x city. The invoice shows 10 units at \$100 per unit, \$1,000, freight from x city \$100, total \$1,100.

Under these circumstances, tax applies to \$1,000 since the only separate statement of freight is the freight equalized with x city in the amount of \$100. If the actual freight paid to the carrier for the transportation of the property from the retailer's place of business or other point from which shipment is made directly to the purchaser is less than \$100, the exclusion will be limited to the amount paid to the carrier.

(7) Assuming the same facts as above, except the invoice shows 10 units at \$100 per unit, \$1,000, freight equalized with x city \$100, total \$1,100. The invoice also shows the notation, "Actual freight prepaid from point of shipment to destination is \$200."

The sale is not for a delivered price. On the basis of the above billing, a separate statement of freight is made in the amount of \$200. Accordingly, the measure of tax is \$1,100 minus \$200, or \$900.

Regulation 1628. TRANSPORTATION CHARGES. (Continued 3)

History: Adopted June 20, 1962, effective July 3, 1962.

Amended August 8, 1962.

Amended September 2, 1965.

Amended by renumbering November 3, 1971, effective December 3, 1971.

Amended November 11, 1971, effective December 16, 1971.

Amended October 11, 1984, effective December 13, 1984. In (a) deleted former second sentence and added last paragraph. Completely revised (b)(3)(D) and examples (c)(3) and (c)(5).

Amended April 5, 1989, effective June 21, 1989. Amended to provide that a charge for the transportation of landfill from an excavation site to a site specified by the purchaser of the landfill is exempt from the tax if the charge is separately stated and does not exceed a reasonable charge or if the entire consideration consists of payment for transportation.

Amended February 8, 1995, effective July 19, 1995. Amended subdivision (a) to reflect that where a separately stated charge is designated "postage and handling" or "shipping and handling," the exact amount of postage or shipping charges need not be affixed to the package but that such a charge marked "handling" is not a separate statement of transportation charges. Amended subdivisions (b)(2) & (3) to correct the California Code of Regulations.

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.

Shipping and Delivery Charges

California sales tax may apply to charges for delivery, shipping, and handling. To help you apply tax properly in your business, we've created the quick reference guide printed on the reverse. It gives examples of common shipping situations and charges and explains how sales tax applies in each situation. Be sure to read the notes and exceptions in the chart (the "fine print") and to remember that more than one condition may apply to your specific sale. Before you turn the page, please consider the following basic information.

Sales and Use TAX FACTS

Publication 100 • LDA

For additional information you may wish to read Regulation 1628, *Transportation Charges*. You may download regulations, forms and publications from our website or you may call our Information Center to talk to a Board of Equalization representative.

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

Information Center
800-400-7115
TDD/TTY 800-735-2929

Taxpayers' Rights Advocate
888-324-2798

Make sure that your invoices are clear

Be sure that your invoices and receipts use specific terms to describe delivery-related charges. If you are charging for shipping, which *may not* be taxable, use terms such as *shipping, delivery, freight, or postage*. If you are charging for handling, which *is* taxable, be sure to use that term on your invoice. This will help you determine how to apply tax and will make things clearer for your customers. It will also make it easier for everyone if we audit your records.

Keep good records

It's important to keep good records that fully document your shipping costs. Acceptable forms of documentation include

- Bills of lading
- Freight invoices
- Express receipts or express company invoices
- Parcel post receipts or shipment records
- Sales invoices showing transportation charges and shipping instructions
- Delivery receipts and expense vouchers supporting your delivery expense
- Correspondence stating requirement and completion of delivery
- Title transfer agreements

Please note: If you do not keep records showing the **actual cost** of an individual delivery, tax applies to your entire delivery charge if it is made in connection with a taxable sale.

Take care when you complete your sales and use tax return

You must report your total sales for the reporting period on your sales and use tax return. If your total sales include *nontaxable* delivery charges, you should take a deduction for those amounts on the line for "Other" deductions. If you don't take the deduction, you'll pay more tax than you owe.



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Applying Sales Tax to Delivery-Related Charges

Condition of sale or type of delivery charge	Notes and exceptions
Sale is not a taxable transaction.	Related charges are not taxable. <i>Ignore rest of table.</i>
Sale is a taxable transaction.	Delivery-related charges may be nontaxable, partially taxable, or fully taxable. <i>See rest of table.</i>
Delivery-related charge is not taxable when:	
<p><i>All of these conditions must apply:</i></p> <ul style="list-style-type: none"> • You ship directly to the purchaser by common carrier, contract carrier, or US Mail; • Your invoice clearly lists delivery, shipping, freight, or postage as a separate charge; • The charge is not higher than your <i>actual cost for delivery</i> to customer. 	<p>1) <i>Exception:</i> Charge is taxable if you do not maintain records that show the <i>actual cost</i> of the delivery (see reverse).</p> <p>2) If the tax amount calculated for the sale was based on the cost of the item plus the nontaxable delivery charge, you must refund the tax amount collected on the delivery or pay that amount to the Board.</p> <p>3) See sections that discuss “handling” charges.</p>
Delivery-related charge is partially taxable when (for taxable sales only):	
Delivery meets conditions in box above, <i>except:</i> your charge to the customer for delivery is higher than your actual shipping cost.	The portion of the delivery charge that is higher than the actual delivery cost is taxable. <i>Please note:</i> Your records must show your actual cost of delivery. The delivery charge should be separately stated on the invoice.
You make one combined charge for “shipping and handling” or “postage and handling”.	Handling portion of charge taxable; shipping portion may be taxable—see other criteria in this table.
Delivery-related charge is taxable when (for taxable sales only):	
You do not keep records that show the actual cost of the delivery.	Many businesses charge standard amounts for shipping and do not track the cost of individual deliveries.
You deliver merchandise with your own vehicles.	<i>Exception:</i> May not be taxable if title to merchandise transfers to buyer before delivery. This is unusual—contact the Board for information.
You make a separately stated charge for fuel surcharge or “handling,” etc.	Separately stated charges, in addition to the actual shipping charges, are generally taxable. See above section on one charge for “shipping and handling.”
You include a delivery charge in the unit price of the item sold.	Sample invoice entry: “\$6.50 per bale, including delivery.”
Your charge to your customer represents the cost of shipping the merchandise to your place of business (“freight-in”).	“Freight-in” is different from “freight-out.” If you bill your customer for freight-in, the charge is taxable. Freight-out shipping may be taxable. See other criteria in this table.
You make a sale for a delivered price (sales agreement specifies that delivery is included in price, whether delivery charge is listed separately, included in per-item cost, or listed as “freight prepaid”).	<i>Exception:</i> Delivery charges may not be taxable if title to merchandise transfers to buyer before delivery. This is unusual—contact the Board for information.

Note: The statements in this fact sheet are general and are current as of September 2007. 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.