

Construction and Building Contractors

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FOREWORD

This publication is designed for building construction contractors, subcontractors, and restaurant equipment contractors. It provides basic information on the California Sales and Use Tax Law and applicable regulations.

If you cannot find the information you are looking for in this publication, please visit our website at www.boe.ca.gov or call our Customer Service Center at 1-800-400-7115 (TTY:771). Customer service representatives are available to answer your questions weekdays between 8:00 a.m. and 5:00 p.m. (Pacific time), except state holidays.

This publication complements [publication 73](#), *Your California Seller's Permit*, which includes general information about obtaining a permit; using a resale certificate; collecting and reporting sales and use taxes; buying; selling; and keeping records. Also, please refer to our website or the [For More Information](#) section of this publication for the complete list of Board of Equalization (BOE) regulations and publications referenced in this publication.

We welcome your ideas on improving this or any BOE publication. Please send your suggestions to:

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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, the decision will be based on the law and not on this publication.

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DEFINITION OF TERMS

Construction contracts

A construction contract is a contract, whether on a lump sum, time and material plus tax, cost-plus a fee, or other basis, to:

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 that becomes 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.

Construction contracts do not include the sale and installation of property such as machinery and equipment. In addition, construction contracts do not include the furnishing of property if the person furnishing the property is not responsible for the final affixation or installation of the property.

Construction contractors

Construction contractors are persons who perform construction contracts. Construction contractors may include general contractors, subcontractors and specialty contractors that engage in building trades such as:

- Carpentry
- Landscaping
- Bricklaying
- Cement work
- Steelwork
- Plastering
- Drywall installation
- Sheet metal work
- Roofing
- Tile and terrazzo work
- Electrical work
- Plumbing
- Heating
- Air-conditioning
- Elevator installation and construction
- Painting
- Installation of floor coverings, such as:
 - o Linoleum
 - o Floor tile
 - o Wall-to-wall carpeting



United States construction contractors

A United States construction contractor is a construction contractor who performs a construction contract for the United States Government.

Materials

Materials include construction materials and components, and other tangible personal property incorporated into, attached to, or affixed to, real property by contractors performing a construction contract. When combined with other tangible personal property, materials lose their identity to become an integral and inseparable part of the real property. Examples of materials are in [Regulation 1521](#), *Construction Contractors*, Appendix A, and include but are not limited to:

- Bricks
- Cement
- Doors
- Electric wiring
- Flooring
- Lumber
- Paint
- Piping
- Stucco
- Tile
- Windows

Fixtures

Fixtures are items which are accessory to a building or other structure and do not lose their identity as accessories when installed. Examples of fixtures are in [Regulation 1521](#), Appendix B, and include but are not limited to:

- Air-conditioning units
- Awnings
- Furnaces
- Lighting fixtures
- Plumbing fixtures
- Prefabricated cabinets
- Venetian blinds

Machinery and equipment

Machinery and equipment include property intended to be used in the production, manufacturing or processing of tangible personal property, the performance of services, or for other purposes (for example, research, testing or experimentation). Machinery and equipment are not essential to the fixed works, building, or structure itself. It incidentally may, on account of its nature, be attached to the realty without losing its identity as a particular piece of machinery or equipment and, if attached, is readily removable without damage to the unit or to the realty. Examples of machinery and equipment are in [Regulation 1521](#), *Construction Contractors*, Appendix C, and include but are not limited to:

- Drill presses
- Electric generators
- Lathes

- Machine tools
- Printing presses

Time and material contract

A time and material contract is a contract under which the contractor agrees to furnish and install materials and/or fixtures and provides a separate charge for the materials or fixtures and the installation or fabrication for these items.

Lump sum contract

A lump sum contract is a contract under which the contractor for a stated lump sum agrees to furnish and install materials and/or fixtures. A lump sum contract does not become a time and material contract when the amounts attributable to materials, fixtures, labor, or tax are separately stated in the invoice.

Cost-plus-a-fee contract

A cost-plus-a-fee contract is a construction contract where the contractor furnishes and installs goods in exchange for the cost of the goods (not a marked up selling price) plus a fee, which may be a lump sum or a percentage of the costs.



GENERAL APPLICATION OF TAX TO CONSTRUCTION CONTRACTORS (OTHER THAN UNITED STATES CONTRACTORS)

Applying tax to the sale and use of tangible personal property that is furnished and installed in the performance of a construction contract generally depends on whether the property is considered “materials” or “fixtures” and the type of contract with the customer.

Materials

Whether a construction contractor is the consumer or retailer of materials furnished and installed, in the performance of a construction contract, will depend on the type of contract. Generally construction contractors are consumers of materials; however, under certain types of contracts, described later in this publication, a contractor may be considered the retailer, rather than consumer, of the materials they furnish and install under the construction contract.

Lump sum contract

Construction contractors are always the consumers of materials which they furnish and install in the performance of a lump sum contract. Tax applies to the cost of materials to the construction contractor. Either sales tax applies with respect to the sale of the materials to the construction contractor or use tax applies to the use of materials by the construction contractor.

When a construction contractor fabricates or processes material prior to installation and is not acting as a seller of the materials, no tax is due on the processing costs; only the contractor’s actual material cost is subject to the tax. Where the contractor sub contracts the fabrication or processing of material to an outside firm, the fabrication is considered part of the taxable cost of materials.

Generally, construction contractors who only furnish and install materials in lump sum contracts are not required to hold a seller’s permit. However, construction contractors may be required to register with the BOE as qualified purchasers. See [Required registration to report use tax – how to register and file a return](#).

For more information on the requirements of holding a seller’s permit, or questions concerning “qualified purchaser” registration, please call our Customer Service Center at 1-800-400-7115 or see [publication 126, Mandatory Use Tax Registration for Service Enterprises](#).

Time and material contract

Under a time and material contract the construction contractor is generally the consumer of materials. However, under the following circumstances, the construction contractor will be the retailer of the materials.

If the contractor bills their customer for an amount for sales tax computed on the marked-up billing for materials, it is a time and material plus tax contract. Contractors are the retailers of materials used in these contracts. The measure of tax is the amount on which tax reimbursement is charged.

The contractor will also be considered the retailer of the materials if the contract explicitly provides for:

1. The transfer of title to the materials prior to installation, *and*
2. Separately stated sale price of the materials from the installation charge.

If the sale occurs in California, sales tax applies to the contractor’s gross receipts from the sale of the materials. If the sale occurs prior to the time the property is brought into this state, the customer is generally considered the consumer and must pay the use tax based on the sales price. Contractors must collect the use tax from the customer and pay it to the State of California.

When you fabricate material prior to installation, no tax is due on your labor charges; only the actual material cost is subject to tax. When contractors sublet the fabrication or processing of material to an outside firm, that labor is taxable to the contractor as part of the cost of materials.

In an instance when you are acting as a retailer of materials, your charge for the labor to prepare materials for installation is considered fabrication labor and is a step in the process of creating the item to be installed, according to [Regulation 1526, Producing, Fabricating and Processing Property Furnished by Consumers—General Rules](#). Your entire charge for materials and fabrication labor to your customer is subject to sales tax.

Fixtures

Contractors are the retailers of fixtures which they furnish and install in construction contracts, and tax applies to their sales of the fixtures. Accordingly:

- If the contract states the selling price of the fixture, tax applies to that price.
- If no sales price is stated, such as in a lump sum contract, the taxable retail selling price is the cost price of the fixture to the contractor.
- If a contractor purchases a manufactured fixture, the cost price is the sales price of the fixture to them, including any manufacturer's excise tax or import duty imposed on the sale to the contractor.

Self-manufactured fixtures

If the contractor manufactures the fixture, the *cost price* is considered to be:

- The prevailing price at which similar fixtures in similar quantities, ready for installation, are sold by the contractor to other contractors, or
- If similar fixtures are not sold to other contractors, then the *cost price* is deemed to be the amount stated in the price lists, bid sheets, or other records. If the sale price cannot be established in the above manner, the *cost price* is the combination of the following:
 - o Cost of materials, including freight in and import duties;
 - o Direct labor, including fringe benefits and payroll taxes;
 - o Specific factory costs attributable to the fixture;
 - o Any manufacturer's excise tax;
 - o Pro rata share of all overhead attributable to the manufacture of the fixture; and
 - o Reasonable profit from the manufacturing operations, generally considered to be five percent of the sum of the preceding factors.

Additionally, jobsite fabrication labor and its prorated share of manufacturing overhead must be included in either the cost price or sales price of the fixture. Jobsite fabrication labor includes assembly labor performed prior to attaching a component or a fixture to real property.

Leased fixtures

A construction contractor may furnish and install a fixture for a person, other than the owner of the realty, who intends to lease the fixtures in place as tangible personal property and pay tax measured by rental receipts. In this case, the contractor may take a resale certificate from the lessor at the time of the transaction, and the sale to the lessor will be considered a sale for resale.

Machinery and equipment

Construction contractors are the retailers of machinery and equipment, even though the machinery and equipment are furnished in connection with a construction contract. The sale of machinery and equipment by a construction contractor is subject to tax, the same as any sale of tangible personal property. If the contract only requires the

furnishing and installation of machinery and equipment, the contract is not considered a construction contract and tax generally applies to the total contract price, less installation labor charges and other excludable charges.

If a lump sum contract includes the furnishing and installation of materials, fixtures, and machinery and equipment, tax applies to the retail selling price of the machinery and equipment in which similar quantities ready for installation are sold at retail. If no retail price for the machinery and equipment exists, then tax applies to the retail price determined from contracts, price lists, bid sheets, or other records.

If contractors manufacture the machinery and equipment and gross receipts cannot be established in the above manner, the gross receipts from the sale shall be a combination of the following:

- Cost of materials, including freight in and import duties;
- Direct labor, including fringe benefits and payroll taxes;
- Specific factory costs attributable to the machinery or equipment;
- Any manufacturer's excise tax;
- Pro rata share of all overhead attributable to the machinery or equipment, including overhead attributable to manufacturing, selling, contracting, and administration; and
- Reasonable profit from the manufacture and sale of the machinery or equipment, generally considered to be five percent of the sum of the preceding factors.

Please note: Jobsite fabrication labor and its prorated share of manufacturing overhead must be included in the sale price of the machinery or equipment. Jobsite fabrication labor includes assembly labor performed prior to attaching the machinery or equipment to real property.

APPLICATION OF TAX TO UNITED STATES CONSTRUCTION CONTRACTORS

A United States construction contractor is a contractor who performs a construction contract for the United States Government.

Materials and fixtures

United States (U.S.) construction contractors are consumers of materials and fixtures furnished and installed in the performance of construction contracts with the U.S. Government. There is no distinction between the application of tax to materials and fixtures. Either the sales tax or the use tax applies to sales to U.S. construction contractors or use by the contractors. Contractors owe tax on the cost of fixtures that are self-manufactured, furnished and installed in a U.S. Government construction contract. The fact that the contract may provide principally for the manufacture or acquisition of tangible personal property is immaterial. The sales tax, but not the use tax, applies even though the contractor purchases the property as the agent of the United States.

Please note: Generally, U.S. construction contractors are not the retailer of materials and fixtures furnished and installed in U.S. Government construction contracts.

Machinery and equipment

U.S. construction contractors are retailers of machinery and equipment furnished in the performance of a construction contract with the U.S. Government. Sales to the U.S. Government are generally exempt from tax. Tax does not apply to sales of machinery and equipment to U.S. contractors or subcontractors, provided title to the property passes to the U.S. before the contractor makes any use of it. The contract must contain a clause which passes title to the U.S. before the contractor makes any use of the property.

Under these circumstances, the U.S. construction contractor may issue a resale certificate. If the contractor uses the machinery or equipment before passage of title to the U.S., then:

- The contractor is the consumer of the machinery or equipment, and
- Either sales tax or use tax applies to the sale to or use by the contractor of the machinery and equipment.



SUBCONTRACTORS

A subcontractor who has furnished and installed materials or fixtures for a prime contractor must pay tax on:

- The cost of the materials, and/or
- The retail selling price of the fixtures, in the case of non U.S. contractors.

Please note: A subcontractor may not accept a resale certificate from a prime contractor for materials the subcontractor furnishes and installs in the performance of a construction contract.

Under most circumstances, subcontractors may not accept a resale certificate from a prime contractor for fixtures the subcontractor furnishes and installs. In the case where fixtures are furnished and installed by a subcontractor, the subcontractor is the retailer and the prime contractor is the consumer. Consequently, no additional tax is due under the prime contractor's contract with the real property owner. However, a subcontractor may furnish and install a fixture for a person, other than the owner of the realty, who intends to lease the fixture in place as tangible personal property and pay tax on the rental receipts. In this latter case, the subcontractor may accept a resale certificate from the lessor at the time of the transaction.



LIABILITY BY TYPE OF CONTRACT

Construction contracts include:

- Lump sum contracts,
- Cost-plus-a-fee contracts,
- Time and material contracts, or
- Time and material contracts where the contractor is the retailer of materials.

The type of contract affects the application of tax to materials and fixtures furnished and installed by construction contractors. Additionally, the application of tax depends on whether or not the contract is a U.S. construction contract.

The following chart presents a synopsis of the application of tax to various construction contracts as they apply to U.S. construction contractors and construction contracts other than U.S. construction contractors.

Liability by Type of Contract					
Contractors Other Than United States Contractors					United States Construction Contractors
Kind of Item	How Acquired	Lump sum or Cost-Plus-a-fee	Time and Material	Time and Material under which the contractor is the retailer of materials	Measure
Materials	Purchased without paying tax	Cost	Cost	Billed price	Cost
	Purchased tax paid	None	None	Excess of billed price over cost	None
	By conversion of realty	None	None	Excess of billed price over cost	None
Fixtures	Purchased without paying tax	Cost	Billed price	Billed price	Cost
	Purchased tax paid	None	Excess of billed price over cost	Excess of billed price over cost	None
	Manufactured from material, purchased without paying tax, by installing contractor	Prevailing price to contractors or, if that cannot be established, the amount stated in the price lists, bid sheets or other records, or manufactured cost, including profit, to contractor-manufacturer.	Billed price	Billed price	Cost
	Manufactured from tax-paid material by installing contractor	Excess of prevailing price, or manufactured cost, including profit, over tax-paid cost of materials.	Excess of billed price over tax-paid material cost	Excess of billed price over tax-paid material cost	None

APPLICATION OF TAX TO DIFFERENT TYPES OF CONSTRUCTION CONTRACTS

This section provides guidance on the application of tax to various types of construction contracts. For examples not discussed in this publication, please refer to [Regulation 1521](#), *Construction Contractors*. If further information is needed, please contact our Customer Service Center at 1-800-400-7115.

Contracts for the erection and installation of buildings on land, or the repair and remodeling of buildings

A construction contractor is generally the consumer of materials and retailer of fixtures furnished and installed in construction contracts. Tax applies according to the Liability by Type of Contract chart, depending on the type of contract.

Repair contracts

A contract to repair a fixture in place, or a fixture the contractor is required to reattach to the realty is a construction contract. As with any construction contract, whether the contractor is a retailer or consumer will depend on the type of contract and whether they are replacing a fixture or merely repairing it.

Considered a retailer when:

- The contractor is replacing the fixture. The parts are furnished in the performance of a construction contract to repair a fixture when the sale price of the parts is billed separately from the repair labor.

Considered a consumer when:

- The parts are furnished in the performance of a lump sum construction contract to repair a fixture.
- A United States construction contractor furnishes parts in the performance of a construction contract to repair materials or fixtures.

Sales of prefabricated buildings

A contract to furnish and install a prefabricated or modular building which is similar in size to, but is not a factory-built school building (relocatable classroom), is a construction contract. This is true whether the building rests in place by its own weight or is physically attached to realty. It is immaterial whether the building is erected upon or affixed to land owned by the owner of the building or is leased to the landowner or lessee of the land.

Tax applies to the total sales price of small prefabricated buildings, such as a shed or kiosk, which are furnished and installed but **not** physically attached to real property by the seller. When these buildings are required to be physically attached to real property, such as a concrete foundation, they are considered to be construction contracts.

Factory-built school buildings

Factory-built school buildings, effective September 13, 1990, (relocatable classroom) include:

- Any building which is designed or intended for use as a school building, and is
- Wholly or substantially manufactured at an offsite location for the purpose of being:
 - o Assembled;
 - o Erected; or
 - o Installed on a site owned or leased by a school district or a community college district.

A factory-built school building must be designed and manufactured in accordance with building standards adopted and approved pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code and must be approved by the structural safety section in the office of the State Architect.

The term "factory-built school building" does not include:

- Buildings licensed by either the [Department of Motor Vehicles](#) or the [Department of Housing and Community Development](#).

- Prefabricated or modular buildings which are similar in size to, but which are not, “factory-built school buildings.”

It is immaterial whether the building is erected upon or affixed to land owned by the owner of the building or is leased to the landowner or lessee of the land.

Consumer, effective September 13, 1990, means either:

1. A school district or a community college district, or
2. A contractor who purchases a factory-built school building for the purpose of fulfilling a contract with a school district or a community college district to furnish and install the building.

The place of sale or purchase of a factory-built school building is the retailer’s place of business regardless of whether the sale of the building includes installation or the building is placed upon a permanent foundation.

Application of Tax

1. Tax applies to 40 percent of the sales price of the building to the consumer excluding any charges for placing the completed building on the site. The sales price of the building includes charges for tangible personal property installed in the building by a subcontractor, provided the installation for such property is required in the prime contract for the building.

A separate contract to furnish and install tangible personal property in a factory-built school building after installation of the building is a construction contract. Any contract or subcontract for site preparation (for example, foundation) is a construction contract. For the application of tax, see [Liability by Type of Contract](#).

2. The sale of a factory-built school building to a purchaser who will resell the building without installation is a sale for resale and the seller may accept a resale certificate from the purchaser. If the purchaser then sells to a contractor who has an existing contract to install the building on a school site, tax will apply as stated in #1 above. If tax has been paid on the purchase price of a factory-built school building which is then resold for installation, a deduction for cost of tax-paid purchases resold prior to use may be taken as provided in [Regulation 1701, Tax-paid Purchases Resold](#).

For more information regarding the application of tax to mobilehomes, factory-built housing, and factory-built school building see [publication 47, Mobilehomes and Factory-Built Housing](#).

Restaurant equipment contractors

Tax applies to restaurant equipment contractors for construction contracts involving the furnishing and installation of materials, fixtures, and machinery and equipment in the same manner as other construction contracts. The BOE, in conjunction with the Restaurant Equipment Contractors Association, has made a study of components involved in construction contracts for the furnishing and installation of restaurant equipment.

1. Materials

The following are some items which are considered to be materials when furnished and installed by construction contractors in performing contracts for the food industry:

Carpeting, including padding and trim when affixed to the real property by glue, nails, etc.

Doors

Ducts installed in walls, ceilings, and floors

Grab bars (for handicapped lavatories)

Millwork

Pass window frames and shelves

Wall corner pieces and wall caps

Wall covering materials (wallpaper; paneling; etc.)

Wall flashing

Wall mirrors

2. Fixtures

The following items are usually considered to be fixtures when furnished and installed by a construction contractor in performing a contract for the food service industry:

Bolt-down counter stool bases, with stools attached thereto

Bolt-down table bases with table tops affixed

Custom fabricated cash stands

Custom fabricated cocktail back bar superstructures

Custom fabricated cocktail back bar

Custom fabricated cocktail bars

Custom fabricated counters

Custom fabricated dish table assemblies

Custom fabricated make-up tables

Custom fabricated pot racks

Custom fabricated scullery sink assemblies

Custom fabricated seating assemblies/booth units

Custom fabricated serving counters

Custom fabricated service stands

Custom fabricated soffits

Custom fabricated walk-in coolers and freezers that are affixed to the real estate, either through a fastening to a building wall or when the walls are imbedded or coved into the building surfaces

Dispensers for soap, towels, toilet tissue

Faucets

Freezers (remote)

Hoods

Lighting fixtures

Motors

Plumbing fixtures

Refrigeration compressors

Refrigerators (remote)

Safes, imbedded in concrete in the buildings

Water heaters (built into fixtures or into water systems)

Water softeners (built into fixtures or into water systems)

Fixtures also include the following items which are built into fixtures or otherwise built into the realty and which may not be removed without damage to the items or the realty:

Char-broilers

Dish dispensers

Dishwashers that are built into a dish table

Disposals

Drink dispensers

Freezers

Griddles

Ice cream cabinets

Ovens

Refrigerators

Roll warmers

Scrap chutes

Soda fountain systems

Soup warmers

Syrup rails

3. Machinery and equipment

The following items are generally considered to be machinery and equipment. In order to maintain this classification the machinery and equipment must be:

- Freestanding, or
- Affixed to the building (or built into it or built into another fixture) and can be readily removed without damage to the building, the unit, or other fixture:

Bar stools

Beverage and juice dispensers

Bulletin boards

Can openers

Chairs

Char-broilers

Chinaware, silverware, pots and pans, paper goods, and culinary items

Coffee makers

File cabinets

Flight-type dishwashers

Floor racks

Griddles

Hot water hoses

Ice bins

Ice cream cabinets

Ice making machinery

Iced tea dispensers

Iced tea machine

Lockers

Microwave ovens (freestanding)

Milk dispensers

Mixers

Ovens

Portable bins and tables

Ranges

Reach-in freezers (self-contained)

Reach-in refrigerators (self-contained)

Roll covers

Safes

Salamanders

Scales

Shelving units

Silverware boxes

Slicers

Table lamps

Tables



Time card racks
 Time clocks
 Toasters

Cabinet contractors

A cabinet will be considered “prefabricated and therefore a fixture” when at least 90 percent of the total direct cost of labor and material in fabricating and installing the cabinet is incurred prior to affixation to the realty. If this is not the case, the component parts of the cabinet will be considered materials and tax will apply to the use of those materials the same as with other construction contracts.

To determine this 90 percent:

- The total direct cost of all labor and materials in fabricating the cabinet up to the point of installation will be compared to
- The total direct cost of all labor and materials in completely fabricating and installing the cabinet.

If more than one cabinet is fabricated and installed under the contract, each cabinet will be considered separately.

Example: You contract to furnish and install an overhead cabinet that is attached to the wall and ceiling. You build the cabinet in your shop, except the doors are not attached until after the cabinet is affixed to the realty. Your direct costs are:

	Material Cost	Fabrication Labor Prior to Installation	Installation Labor	Total
Cabinet	\$2,750	\$3,500	\$850	\$7,100

Calculation: $\frac{2,750+3,500}{7,100} = 88.02\%$

Since less than 90 percent of the direct cost of labor and material in fabricating and installing the cabinet is incurred prior to attaching it to the realty, the cabinet is considered materials and not considered a prefabricated fixture. In this example you would pay tax on your purchase price of the materials, \$2,750.

Countertops

Countertops are generally regarded as materials, even when prefabricated. However, there are some countertops, primarily countertops that have a sink built in or the sink is installed in the countertop prior to final installation of the countertop, which are considered fixtures. Regardless of the type of countertop, the 90% rule does not apply to contracts to furnish and install a countertop.

On-premise electric signs

On-premise electric signs are specifically discussed in [Regulation 1521, Construction Contractors](#), and have their own tax treatment. An on-premise electric sign is: Any electrically powered or illuminated structure, housing, sign, device, figure, statuary, painting, display, message, placard, or other device or part thereof affixed to real property.

These on-premise electric signs must be used to advertise, or to provide data or information in the nature of advertising, for any of the following purposes:

1. To designate, identify or indicate the name or business of the premises where the advertising display is located, or
2. To advertise the business conducted, services available, or goods produced, or available for sale on the property where the advertising display has been built.

An on-premise electric sign is a fixture and tax applies to the sale price of the sign. When furnishing and installing an on-premise electric sign in a contract which does not state the selling price of the sign, tax applies to 33 percent

of the “contract price” of the on-premise electric sign that is furnished and installed by the contractor. “Contract price” includes all charges for:

- Materials;
- Fabrication labor;
- Installation labor;
- Overhead;
- Profit; and
- Any other charges associated with the sale and installation of the sign.

If a contractor installs an on-premise electric sign supplied by a third party, the installation charges are not taxable. If a seller furnishes, but does not install an on-premise electric sign, the seller is a retailer of the sign and tax applies to the total contract price for the sale of the sign.

Example 1

You were hired to furnish and install an on-premise electric sign for a lump sum contract price of \$20,000. You are required to report and pay tax on \$6,600 ($33\% \times \$20,000 = \$6,600$) at the tax rate in effect at the location where the sign will be installed. The remaining \$13,400 ($\$20,000 - \$6,600 = \$13,400$) is considered nontaxable installation labor.

Example 2

You were hired to furnish and install an on-premise electric sign for which you separately stated a sales price of \$15,000 for the sign and \$5,000 for installation labor. Because you have separately stated the selling price of the electric sign, tax applies to the sales price of \$15,000, using the tax rate in effect at the location where the sign will be installed.

You may be required to provide documentation indicating the charges for installation do not include taxable labor charges for fabrication of the sign.

Please note: The reporting method discussed in this section applies only for contracts to furnish and install on-premise electric signs. You may not use it to report and pay tax on the sale of a nonelectric sign. As stated above, this does not affect your responsibility to pay tax on the selling price of a sign when you sell a sign without installing it, or when you separately state the selling price of a sign you install.

Signs (other than on-premise electric signs)

Generally, a contract to furnish and install a sign on real property is a construction contract. Large outdoor advertising signs built upon land are considered structures. Contractors who furnish and install these signs are consumers of the materials furnished and installed. Therefore, tax is due on the cost of the materials. Signs attached to buildings are generally considered as fixtures. Because contractors are retailers of the fixtures, tax is due either on the retail selling price or the cost price of the fixtures depending on the type of contract (see [Fixtures](#)).

Solar cells, solar panels and solar modules

Solar energy installations are specifically discussed in [Regulation 1521, Construction Contractors](#). A solar energy system is any solar energy device that provides for the collection and distribution of solar energy and, where applicable, the storage of solar energy.

A contract to furnish and install a solar energy system onto a structure or realty is a construction contract that involves both materials and fixtures.

1. Materials

Photovoltaic (PV) cells, solar panels and solar modules (including solar thermal panels and solar electric PV panels) are considered materials when they function in the same manner as other materials such as roofing, walls, or windows. Examples include:

- PV integrated skylights

- PV panels used as a roof on a parking lot shade structure
- PV integrated roofing tiles
- Wiring
- Wiring harnesses
- Strapping
- Mounting systems, which include rack framing brackets that are installed on roofs.

2. *Fixtures*

Photovoltaic (PV) cells, solar panels and solar modules (including solar thermal panels and solar electric PV panels) are considered fixtures when they are attached to a building or other structure and do not lose their identity as accessories when installed. Examples include:

- Rack mounted solar panels installed on roofs
- Solar panels used in freestanding solar arrays
- Terminal boxes
- DC and AC disconnect boxes
- Inverters
- Transformers
- Batteries
- Pumps

A labor charge to attach solar panels purchased in a completed condition to a mounting system is not subject to tax. When furnishing and installing solar energy systems that include fixtures, construction contractors are required to hold a seller's permit.

A construction contractor may furnish and install solar panels that are considered fixtures not materials, for a person, other than the owner of the realty. This person intends to lease the panels in place as tangible personal property and pay tax measured by rental receipts. In this case, the contractor may take a resale certificate from the lessor at the time of the transaction, and the sale to the lessor will be considered a sale for resale.

The partial tax exemption for leases of solar panels considered farm equipment and machinery may apply under certain circumstances. Please see [publication 66, *Agricultural Industry*](#), for additional information.

Modular furniture

Contracts to furnish and install modular furniture are generally not construction contracts. [Regulation 1583, *Modular Systems Furniture*](#), provides guidelines for sales of modular systems furniture. *The regulation specifically states that a contract to sell and install modular systems furniture is a contract for the retail sale of the tangible personal property and not a construction contract.* This is true whether or not the systems are affixed to realty. The regulation allows persons selling and installing the modular systems to claim ten percent of the total contract price as the charge for nontaxable installation labor. Total contract price does not include charges for free standing furniture and other property not attached to panels or other components.

The ten percent deduction does not apply to contracts if:

- A subcontractor has contracted with the seller to assemble and install a modular system (the system components being provided by a prime contractor or others), or
- The contract is for reconfiguring an existing system.

It is important to report and separately account for taxable and nontaxable labor charges. For more information regarding sales of modular furniture, please call our Customer Service Center at 1-800-400-7115.

Landscape contractors

Landscape contractors who enter into contracts for landscaping in which they furnish and install plants, trees, and lawns are construction contractors.

The installation of a lawn is an improvement to realty. In a lump sum contract the contractor is generally a consumer of the materials installed. Plants and trees installed in landscaping contracts are considered fixtures. Landscape contractors are considered to be the retailer liable for the tax on their sales of plants and trees furnished and installed in connection with their services. In the case of lump sum contracts, the selling price of the plants and trees is generally regarded as the cost price to the landscape contractor.

If nurseries install plants or trees under a lump sum contract, which have been grown or produced by them, the cost price is considered to be the price at which similar plants or trees in similar quantities ready for installation are sold by the nursery to other contractors.

The landscaper may be entitled to a deduction for “tax-paid purchases resold prior to use” on their sales and use tax return if they make the taxable sale of materials and fixtures and:

- Purchase plants and trees (fixtures) from nurseries to install in a construction contract; and
- Pay an amount as sales tax reimbursement on those purchases; *and*
- Make no use of them prior to installation (other than retention, demonstration, or display while holding them for resale)

For additional information see [Regulation 1701](#), *Tax-Paid Purchases Resold*.



PROCEDURES FOR DETERMINING TAX LIABILITY

Method of purchasing

Depending on the type of property furnished and installed, and the terms of the specific contract, a construction contractor may be a consumer of some property and a retailer of other property. For example:

- A construction contractor may be the consumer of materials used in performing a construction contract and pay tax on their purchases.
- A construction contractor may also be a retailer of materials by making over the counter sales of the same materials or because the terms of a particular contract make them the retailer of materials furnished and installed.

This raises the question of the most efficient method of purchasing. Usually contractors will find it easier to set up their purchases based on the type of jobs they conduct. If most of their tax liability is related to their own self-consumption, they may prefer to purchase everything on a tax-paid basis. Then, when they make a retail sale of property, they may take a deduction for tax-paid purchases resold prior to use. (See [Regulation 1701](#), *Tax Paid Purchases Resold*).

On the other hand, it may be difficult to determine at the time of purchase whether the item purchased will be resold or consumed if the contractor is the retailer of most of the property purchased, either because of the:

- Type of property
- Terms of their construction contracts
- Volume of over the counter sales

In such cases, the contractor may prefer to issue a resale certificate to the vendor when the property is purchased and then report the use tax on items they consume. Contractors with complex operations will often purchase on the basis of the type of commodity, in which case they will purchase some items on a tax-paid basis and others on an ex-tax basis. Whatever method is used, great care must be exercised in recording their purchase data and determining their tax liability.

Purchasing on an ex-tax (without tax) basis

Where construction contractors are purchasing on an ex-tax basis, their liability will depend in part on the type of property purchased; that is, whether the property is:

- Materials,
- Fixtures,
- Machinery and equipment, or
- Other types of tangible personal property.

Materials purchased ex-tax:

- When materials are purchased by issuing a valid resale certificate, if the contractor uses the materials, liability for tax arises when the materials are committed to the fulfillment of a construction contract. Materials withdrawn from inventory and delivered to the jobsite constitutes such a commitment. The tax must be reported with the return for the period in which the commitment took place. It is not permissible under the law to wait until the job is completed before reporting and paying tax on the purchase price of materials consumed during the performance of the contract.

- In the case of materials purchased ex-tax from out-of-state vendors for use (not resale) in California, the tax liability arises when the materials enter California.

Fixtures, machinery, and equipment purchased ex-tax:

- In the case of fixtures, machinery and equipment, or other tangible personal property sold by the contractor, liability for the tax generally arises when the fixture, machinery and equipment, or other tangible personal property is installed, as this is when the sale takes place.

Where merchandise is purchased on an ex-tax basis, contractors should consider the following points :

- Have resale certificates been timely filed with the vendors for the materials, fixtures and/or machinery and equipment purchased ex-tax and resold under the construction contract? When making purchases for resale, the resale certificate should be provided to the vendor at the time of purchase. (See [Regulation 1668, Resale Certificates.](#))
- Have proper exemption certificates been timely filed with the vendors for the materials, fixtures and/or machinery and equipment used or sold at an out-of-state point? (See [Materials and Fixtures Used Outside of California.](#)) When making exempt purchases, the claim for exemption should be made at the time of purchase. (See [Regulation 1667, Exemption Certificates.](#))

Purchasing on a tax-paid basis

When merchandise is purchased on a tax-paid basis, contractors should see that the following points, among others, are covered:

- Have vendors charged tax on freight which might not be subject to the tax? (See [Regulation 1628, Transportation Charges.](#))
- Has any tax been paid to the vendor on any items (materials sold, fixtures, or machinery and equipment) upon which the contractor collected tax reimbursement?

Recordkeeping

Great care must be taken when gathering data and preparing returns. Taxpayers must determine the points in their accounting and office procedures at which they will best be able to ascertain their correct tax liability.

Important points to be covered are:

All purchases, sales, or uses must be accounted for and analyzed for proper tax application. Contractors' records should be maintained in such a manner to be certain whether items were:

- Purchased tax paid or ex-tax,
- Consumed,
- Sold as a taxable sale, or
- Sold or used as a nontaxable transaction.

Accurate recordkeeping will depend on the terms of construction contract. If contractors manufacture their own fixtures, their tax liability will apply based on [Regulation 1521](#) and as explained in the section entitled [Construction Contractors \(Other than U.S. Government Contractors\).](#)

Duplicate accounting processes must be eliminated to avoid duplicate reporting of the tax.

- Withdrawals from "ex-tax" inventory for the contractor's own use may be reconciled using requisition slips.
- You can substantiate purchases subject to use tax from purchase or cost records.

These are some examples. Contractors will develop procedures best suited to their particular operations. If any questions arise which are not covered in this publication, please contact our Customer Service Center at 1-800-400-7115.

CONSTRUCTION CONTRACTORS' USE OF RESALE CERTIFICATES

Construction contractors are generally considered consumers of materials which they furnish and install in the performance of a construction contract to improve real property. Under such circumstances, the construction contractor should not issue a resale certificate on its purchases of materials.

However, as discussed earlier in this publication, the contractor will be deemed to be selling the materials if:

- A contractor bills their customer an amount for "sales tax" computed upon a marked up billing for materials under a time and material contract.
- The contract (other than a U.S. Government Contract) explicitly provides for transfer of title to the materials prior to installation, and
- The sales price of the materials is separately stated in the contract.

When construction contractors sell (as opposed to consume) materials which they install in a construction contract, they are the retailers of the materials. They may issue a resale certificate to their supplier for materials and fixtures sold under a construction contract.

Please note: When subcontractors are retailers, they generally may not accept resale certificates from prime contractors for materials they furnish and install in a construction contract.

Construction contractors (other than U.S. Construction Contractors), including subcontractors, are generally the retailers of fixtures which they furnish and install and generally may not accept a resale certificate on their sale of the fixtures.

Leased fixtures

However, in some instances a construction contractor may furnish and install a fixture for a lessor and the contractor may accept a resale certificate from the lessor at the time of the transaction if the lessor:

- Is **not** the owner or lessor of the realty,
- Intends to lease the fixture in place as tangible personal property, and
- Pays tax measured by rental receipts.

In this case the sale to the lessor will be considered a sale for resale.

MATERIALS AND FIXTURES USED OUTSIDE OF CALIFORNIA

Where you, as a contractor have a contract to improve real property outside of California, your purchase of materials and sales of fixtures are not subject to tax provided you meet certain conditions:

- Your sales of fixtures, which occur upon installation, are sales outside this state and title to the fixtures passes to the customer at the out-of-state point.
- Your purchases of materials in California are not subject to tax when all of the following conditions are met:
 - o You hold a valid seller's permit,
 - o You incorporate the property into real property located outside this state, and
 - o You certify in writing to the seller at the time of purchase that the property will be used in the specified manner.

When you purchase materials under these conditions, you may either provide an exemption certificate as described in [Regulation 1667, Exemption Certificates](#), or issue a valid California resale certificate to the seller when purchasing materials and fixtures for use outside California. Please see [Regulation 1668, Sales for Resale](#), and [publication 103, Sales for Resale](#).

SALES IN INTERSTATE AND FOREIGN COMMERCE

Sales of buildings without installation or erection are exempt from the tax when:

- The contract of sale provides that the seller shall deliver the buildings to the purchaser at an out-of-state destination, and
- The property is shipped to a point outside this state by means of:
 - o Facilities which are operated by the retailer,
 - o Delivery by the retailer to a carrier for shipment to a consignee at such point, or
 - o Delivery by the retailer to a customs broker or forwarding agent for shipment outside this state.

Sales of buildings or other tangible personal property are also exempt if they are:

- Intended for installation in a foreign country,
- Irrevocably committed to be exported at the time of sale, and
- Actually delivered to the foreign country prior to any use of the property.

Proof must be retained indicating that the property was delivered to a foreign destination.

For further information, please see [Regulation 1620](#), *Interstate and Foreign Commerce*, and [publication 101](#), *Sales Delivered Outside California*.

TRANSPORTATION CHARGES

In making purchases subject to tax, the transportation (freight) charges by the seller to the contractor may or may not be subject to tax, depending on the conditions of the sale. For example, where a prefabricated building is sold without erection or installation, and the building is shipped “directly to the purchaser” tax will not apply if all the following conditions are met:

- Freight charges are separately stated,
- Charges for the shipment of the building by an independent contract or common carrier, and
- The contractor’s charges for transportation do not exceed the actual cost of delivery.

Freight charges for delivery to the supplier (freight-in) are generally subject to tax. If the contractor’s charge includes a handling charge or a “shipping and handling” term, the amount of the charge that exceeds the actual cost of shipment is subject to tax.

Where tangible personal property is shipped by the seller’s own truck or facility, separately stated charges for delivery are subject to tax unless the sales agreement specifically provides that title to the goods passes at the seller’s place of business.

Construction contractors who bill their customers for sales tax on materials used on time and material contracts are “retailers” of the materials. Contractors generally deliver materials to jobsites using their own transportation facilities and separately charge to the customers for delivery. Generally, unless otherwise stated in the contract, title to the materials is transferred at time of delivery to the jobsite. Under such circumstances, the sales of materials and separately stated delivery charges are subject to sales tax. However, separately stated delivery charges are not subject to tax if title to the materials explicitly passes to the customer prior to delivery.

For further information on transportation charges, refer to [Regulation 1628](#), *Transportation Charges*, and [publication 100](#), *Shipping and Delivery Charges*.



DISTRICT TAXES

District taxes are either transactions (sales) or use taxes. The transaction (sales) tax is due from retailers on their taxable sales and district use tax is due from purchasers for their use of tangible personal property in a district. A retailer engaged in business in a district may be required to collect applicable district use tax. There are both city-wide and countywide district taxes. District taxes may be imposed at various rates and more than one district tax may apply to a transaction.

Property purchased prior to the operative date of a district tax

Materials

Materials purchased before the operative date of a district tax and installed after that date are not subject to the new additional district tax. This does not apply to:

- Materials purchased under a resale certificate, or
- Materials purchased without paying tax to out-of-state suppliers when the materials are consumed or sold after the effective date of the district tax.

Fixtures

District tax generally applies to fixtures installed on non-U.S. Government contracts if the fixtures are installed after the operative date of the tax.

However, since contractors are considered the consumers of both materials and fixtures on U.S. Government construction contracts, materials and fixtures are not subject to the district tax if they are:

- Purchased tax-paid before the operative date of a district tax, and
- Installed after that date.

Machinery and equipment

Generally, on both non-U.S. Government and U.S. Government contracts, the contractor is considered the retailer liable for tax on their selling price of machinery and equipment.

Machinery and equipment purchased under a resale certificate prior to the operative date of a district tax is generally subject to the district tax when sold after the operative date of the district tax.

Jobsite as place of business

As a construction contractor your jobsite is considered a place of business. Your jobsite is the place of:

- Sale of fixtures that you furnish and install, and
- Use of materials that you furnish and install.

Installation or delivery location

The place of sale or place of use determines whether district tax applies to a sale or purchase. For purchases by construction contractors:

- District transactions (sales) tax applies when you purchase and take delivery of materials or fixtures in a district even if you intend to install them at a jobsite located outside the district.
- District use tax applies when materials or fixtures are installed at a jobsite in a special tax district and they have been purchased without district tax or at a lower rate of district tax. Generally, the construction contractor is responsible for reporting and paying the additional tax.
- District tax will not apply if the sale occurs in a district, but the supplier ships the property to a location without district taxes where it is installed.

Purchasing fixtures and materials in one location and using them in another location

Fixtures

Construction contractors are generally the retailers of fixtures furnished and installed in a construction contract and these fixtures are subject to sales tax. When a contractor purchases fixtures and pays an amount for sales tax which includes district taxes and later installs these fixtures at a location without district taxes or with a lower tax rate than the district of purchase, then the contractor is allowed to take a tax-paid purchases resold deduction for the amount, including the district tax. These rules also apply to materials when the contractor is the retailer of the materials.

Materials

Because construction contractors are generally consumers of materials, district use tax generally applies to the use of the materials at the jobsite in a district imposing district taxes.

Contractors liable for the use tax may only claim a credit *against a use tax liability* that is equal to, but not exceeding, the district tax rate in the district where the materials were installed (jobsite).

For example, if you purchase materials tax-paid in a location with a total tax rate of 8.75 percent and install the materials in a location with a total tax rate of 8.25 percent, you do not have an additional district use tax liability. In this example, the sale to you, the contractor, is a sales tax transaction and you would not be entitled to a credit of the 0.50 percent district tax difference paid for the materials.

If a contractor purchased materials tax-paid in a county with a total tax rate of 7.75 percent, and installs the materials in a county with a total tax rate of 8.75 percent, the contractor is liable for the additional 1.00 percent district use tax. If the contractor has a seller's permit, an adjustment can be made on Schedule A to allocate the district tax to the proper district of installation. If the contractor does not hold a seller's permit or is not otherwise required by law to report use tax in a different manner, the additional use tax liability can be paid by providing, in writing, all the following information:

1. A request that the correspondence be accepted as a return or a statement, regardless of how brief, indicating that you are attempting to file a return, and
2. The reporting period for which the correspondence (return) is filed, and
3. The amount of tax due for each district.

Your total reported use tax should be segregated by district based on where the materials were installed. This will assist the BOE in allocating the use tax to the proper district.

If you do not have a seller's permit and are not required to register for a use tax account as a "qualified purchaser," you can report your purchase(s) subject to use tax on our website at www.boe.ca.gov by selecting [New Registration](#), and then select *Pay use tax and/or the lumber products assessment on one time purchase*. Once you have registered, you can pay any use tax due by filing your return. You can also register to report use tax in person at any of our [field offices](#).

Determining the applicable district use tax rate

Example

Which district taxes are due on materials purchased in Alameda and stored at a yard in Alameda County if the materials are used at a jobsite in San Francisco?

Fixtures

The jobsite is regarded as a place of business of a contractor and is the place of sale of fixtures furnished and installed by a contractor.

Materials

The jobsite is the place where materials will be used. Therefore, if the jobsite is in a location that has a district tax (or multiple district taxes) the use tax applies to the use of the materials at the tax rate of that location.

Example

When tax-paid materials are withdrawn from inventory at a storage yard in Alameda County and they are committed to the fulfillment of a construction contract in San Francisco, you must report and pay the district taxes applicable in San Francisco. The contractor may claim a credit on their sales and use tax return for the Alameda district taxes that the contractor paid.

However, for materials purchased outside this state that are ultimately used at the jobsite in San Francisco, for ease of administration the BOE will allow the initial reporting of district use tax to be made directly to San Francisco. This reporting of district use tax is to be made on the tax return for the reporting period that includes the day the materials first entered California.

If you have a seller's permit, an adjustment can be made on [BOE-531-A1](#) Schedule A1, *Computation Schedule for District Tax*, when filing your sales and use tax return to allocate the district use tax to the proper district of installation.

Please see [Regulation 1826](#), *Construction Contractors*, for additional information.

Fixed price contracts

A fixed-price contract binds both the buyer and seller to the terms and conditions specified in the contract.

Fixed-price means that the contract price cannot be changed for any reason. Change orders are considered separate contracts. In addition, the tax amount or rate must be specifically stated in the contract.

A contract is not a fixed-price contract if:

- Either party has the right to terminate the contract, conditioned only upon notice, whether or not the right is exercised, or
- The contract is contingent on the occurrence of an act or an event.

District tax does not apply to the gross receipts from the sales or purchases of tangible personal property in a district if a fixed-price contract is entered into prior to the operative date of the district tax.

If the total district tax rate in a location decreases after the parties enter into a fixed-price contract, there is nothing in the law that requires the payment of more tax than is due. Thus, the tax rate will be the new lower rate and not the rate in the fixed-price contract.

Finding the appropriate tax rate

[California City and County Sales and Use Tax Rates](#), provides information about errors which can occur when using a zip code or mailing address to determine a sales tax rate, explains recent tax rate changes, the history of sales and use tax rates, the rates and effective dates of district taxes, and the combined sales, use, and district tax rate in certain cities and communities in California.

As an additional resource, we offer an online mapping tool on the BOE's website to determine the current sales and use tax rate for a specific address. Be sure the address information you enter is the address you intend. The tax rate given will reflect the current rate of tax for the address that you enter. To find a tax rate, please see [Find a Tax Rate by Address](#).

Some cities have developed a database of addresses available at www.boe.ca.gov/sutax/cityaddresses.htm to assist retailers and consumers in identifying addresses located within the special taxing jurisdictions. In cooperation with these cities, the BOE website provides links to their address databases. If you have questions about the addresses, you should contact the cities directly.

LOCAL TAX ALLOCATION

Generally, the local tax portion of the sales or use tax is allocated to the place of sale or place of use of property. When a retailer registers with the BOE, their physical location (storefront) is noted in our records for the purpose of distributing local taxes. However, the local tax on materials consumed and fixtures sold by construction contractors (when self-reporting the use tax) is generally reported according to the county location of the jobsite, rather than on the physical location of the contractor's business. This tax is generally allocated through the countywide pool unless a construction contractor obtains a permit or sub-permit for the jobsite location as discussed below.

In order to properly distribute the local tax, permits issued to construction contractors who report, or intend to report, over \$600 per year in local tax are coded with an SS Taxable Activity Code. Sales and use tax returns with this identification include a schedule for reporting the local tax due by jobsite.

A construction contractor who enters into a construction contract equal to or greater than \$5,000,000 may elect to obtain a sub-permit for the jobsite of the qualifying contract enabling the contractor to make a direct allocation of tax to the jurisdiction in which the jobsite is located rather than an indirect allocation through the countywide pool. The qualifying contract price applies to each contract or subcontract for work performed at the jobsite, not the total value of the prime contract.

REQUIRED REGISTRATION TO REPORT USE TAX – HOW TO REGISTER AND FILE A RETURN

California law requires a qualified purchaser to register with the BOE and annually report and pay use tax directly to us. Some construction contractors act only as consumers and not retailers and thus are not required to register with the BOE as sellers. However, some of these construction contractors may be required to register as “qualified purchasers.”

You can register on our website at www.boe.ca.gov, by selecting [New Registration](#), and then selecting *Register a business activity with BOE*. Once you have registered, you may pay any use tax due by filing your return. You can also register to report use tax in person at any of our field offices.

Qualified purchasers include businesses that are not required to have a seller’s permit and have at least \$100,000 in annual gross receipts from business operations. Gross receipts are the total of all receipts from both in-state and out-of-state business operations.

A qualified purchaser is required to file a return, and report and pay use tax on the total purchase price of tangible personal property that is subject to use tax during the preceding calendar year, and for which tax was not paid to a retailer required to collect the use tax. The return along with payment is due by April 15 of the following calendar year. For example, the return for 2014, along with payment, is due by April 15, 2015.

For additional information, see [publication 126](#), *Mandatory Use Tax Registration for Service Enterprises*.

OTHER TAX ISSUES

Consumer use tax account

If you make frequent taxable purchases from out-of-state sellers and are not required to register for a use tax account as a qualified purchaser, you may register with us and obtain a California Consumer Use Tax Account. You can register on our website at www.boe.ca.gov, by selecting [New Registration](#), and then selecting *Register a business activity with BOE*. You can also register to report use tax in person at any of our [field offices](#). For assistance, please contact our Customer Service Center at 1-800-400-7115.

Farm equipment and machinery

In general, the sale of farm equipment and machinery is taxable. However, as provided in [Regulation 1533.1, Farm Equipment and Machinery](#), certain sales and purchases of farm equipment and machinery are partially exempt from sales and use tax. The partial tax exemption applies to the sale or purchase only if the farm equipment and machinery meets three conditions.

The item must be:

- Sold to a qualified person,
- Used primarily or exclusively in producing and harvesting agricultural products, and
- Defined as farm equipment and machinery.

If any one of the conditions is not met, the partial tax exemption does not apply. Certain types of construction contracts, such as the installation of a solar system, may qualify for this partial exemption. It is important to note that if the solar system is being furnished and installed by a construction contractor [Regulation 1521, Construction Contractors](#), governs the application of tax to construction contracts. To the extent the construction contractor is regarded as a retailer under Regulation 1521, the partial exemption applies to the sale of such items. On the other hand, to the extent the construction contractor is regarded as the consumer under Regulation 1521, the partial exemption is not applicable to the construction contractor's purchases of materials for use in constructing a solar system. Additionally, only certain structures are considered farm equipment for purposes of the partial tax exemption.

For additional information on the partial tax exemption, please refer to [Regulation 1533.1, Farm Equipment and Machinery](#), and [publication 66, Agricultural Industry](#). You may also call our Customer Service Center at 1-800-400-7115.

Construction contractors and American Indian reservations

For detailed information on applying tax to sales of construction materials, fixtures, and supplies to American Indians and sales to construction contractors by off-reservation retailers, please see [publication 146, Sales to American Indians and Sales In Indian Country](#). Also refer to [Regulation 1616, Federal Areas](#), and [Regulation 1521, Construction Contractors](#).

Bad debts

When construction contractors are considered the consumer of materials (or materials and fixtures in U.S. Government contracts) that they furnish and install, they may not claim a bad debt deduction on their sales and use tax return. In cases where they are the sellers, bad debt losses should be treated in the same manner as those resulting from other types of retail sales.

The law allows a bad debt deduction for taxable sales you have made and reported on your sales tax return for which you were unable to collect payment. A retailer is relieved from liability for sales tax or from liability to collect use tax insofar as the measure of the tax is represented by accounts found worthless and charged off for income

tax purposes (which include circumstances where the retailer's income is reported on a related person's income tax return and the bad debt is charged off on that return) or, if the retailer is not required to file income tax returns and the retailer's income is not reported on another person's return, charged off in accordance with generally accepted accounting principles. A retailer may claim a bad debt deduction provided that the sales tax, or amount of use tax, was actually paid to the state.

This deduction should be taken on the return filed for the period in which the amount was found worthless and charged off for income tax purposes or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles.

If the amount of an account found to be worthless and charged off is comprised in part of nontaxable receipts such as installation labor and in part of taxable receipts upon which tax has been paid, a bad debt deduction may be claimed only with respect to the unpaid amount upon which tax has been paid.

Example: You contract to furnish and install materials and fixtures in a lump sum contract. Your material cost is \$2,000 and the fixture cost is \$5,000 with a total contract price of \$15,000. In a lump sum contract you are the consumer of the materials and paid tax when purchasing the materials for installation. The retail selling price of the fixtures in a lump sum contract is the cost price to you (\$5,000) in which tax was paid. If this account is found worthless and charged off for income tax purposes and/or charged off in accordance with generally accepted accounting principles, the total bad debt that you are able to claim is \$5,000, the taxable portion of the lump sum contract.

For more information on bad debt deductions, see [Regulation 1642](#), *Bad Debts*.

Supplies and tools for self-use

Contractors are the consumers of supplies which they use in their business, and the tax applies to the sale of supplies and tools to contractors. Supply items include:

- Oxygen
- Acetylene
- Gasoline
- Acid
- Thread cutting oil
- Tools
- Parts for tools

Construction contractors should not purchase these items for resale.

Sales of short ends or pieces

If you sell short ends or pieces which are not used other than in severing them from larger units that have been purchased and on which you have paid sales tax or use tax, you may claim the deduction for tax-paid purchases resold prior to use, but the amount of the deduction may not exceed the price at which you sell the short ends or pieces.

Miscellaneous

Items such as adhesives, clips, and screws could be classified as materials, fixtures or equipment, depending on the use made of the product. For example, if clips are used merely to prevent movement of the item while in production they are considered supplies; but if they attach an item to realty, they are considered materials. However, if attached to a manufactured fixture or piece of equipment, they would assume that identity.

Lumber and engineered wood products

Persons, including construction contractors, who make out-of-state purchases of lumber products or engineered wood products, for use in this state, from retailers who are not registered in California to collect the assessment, must register with the BOE to report and pay the assessment.

For information on lumber products or engineered wood products, please see [publication 256](#), *Lumber Products and Engineered Wood Products*.

Manufacturing and research & development partial exemption

Revenue and Taxation Code section 6377.1 and [Regulation 1525.4](#), provide a partial exemption from tax for certain sales of, leases of, and the storage, use, or other consumption in this state of certain qualified manufacturing and research and development equipment purchased for use by a qualified person and used in a qualified manner.

For the purpose of this partial exemption, qualified tangible personal property includes, but is not limited to:

Property purchased for use by a contractor purchasing that property for use in the performance of a construction contract for the qualified person, provided that the qualified person will use the resulting improvement on or to real property as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or as a research or storage facility for use in connection with those processes.

This partial exemption may be utilized by both prime contractors and sub-contractors provided that the requirements of the partial exemption are met.

The partial exemption rate applies to qualifying transactions occurring on or after July 1, 2014 and before July 1, 2022. Sales or purchases subject to the partial exemption will still pay tax at a rate of 3.3125 percent, plus any applicable district taxes.

Required Documentation

If you are performing a construction contract for a qualified person, you should timely obtain an exemption certificate from the qualified person. Certificates are considered timely if they are taken at any time:

- Before the seller bills the purchaser for the property,
- Within the seller's normal billing or payment cycle, or
- At or prior to delivery of the property to the purchaser.

When you take a timely partial exemption certificate in the proper form and in good faith, the partial exemption certificate relieves you from the liability for the sales tax or the duty of collecting the use tax subject to the exemption.

Exemption certificates received from qualified persons must be maintained for a period of not less than four years from the date on which you claim the partial exemption.

Partial Exemption Certificates

There are two sample certificates available on our website for your use in documenting the partial exemption.

- [BOE-230-M](#), *Partial Exemption Certificate for Manufacturing and Research and Development Equipment*
- [BOE-230-MC](#), *Construction Contractors - Partial Exemption Certificate for Manufacturing, Research and Development Equipment*

Any document may be regarded as a partial exemption certificate as long as it contains the following:

- The signature of the purchaser, the purchaser's agent, or the purchaser's employee;
- The name and address, and telephone number of the purchaser;
- The purchaser's seller's permit number, or if the purchaser is not required to hold a seller's permit, a notation to that effect and the reason;

- A statement that the property purchased is:
 - o To be used primarily for a qualifying activity, or
 - o For use by a contractor performing a construction contract for a qualified person.
- A statement that the purchaser is:
 - o A qualified person primarily engaged in manufacturing or research and development in biotechnology or physical, engineering, and life sciences, or
 - o A contractor performing a construction contract for a qualified person.
- A statement that the property purchased is qualified tangible personal property;
- A description of the property purchased, or
- The date of execution of the document.

Documenting the Exemption

The qualified person is responsible for issuing the [BOE-230-M](#) as evidence that the construction is for a qualified property. A prime or general contractor will be responsible for issuing a [BOE-230-MC](#) to a supplier of materials or fixtures if purchased tax-paid. In addition, if the person furnishing and installing the materials is a subcontractor, the prime or general contractor will also need to provide the subcontractor with a copy of the BOE-230-M issued by the qualified person in addition to a BOE-230-MC issued by the prime or general contractor. Subcontractors will need to also issue a BOE-230-MC to their suppliers of materials or fixtures if purchased tax-paid.

Documenting the Annual Limit

This partial exemption has an annual limit of \$200 million in qualifying purchases by a qualified person. All materials consumed by a contractor or subcontractor, or fixtures, machinery or equipment sold by a contractor or subcontractor in the performance of a contract to construct or modify a special purpose building count against the \$200 million annual limit of the qualified person. All construction contractors, including subcontractors, must make cost information regarding any and all items sold or used in performance of a qualifying construction contract available for purposes of tracking the qualified person's \$200 million yearly exemption limit.

FOR MORE INFORMATION

For additional information or assistance with how the Sales and Use Tax Law applies to your business operations, please take advantage of the resources listed below.

CUSTOMER SERVICE CENTER

1-800-400-7115

TTY:711

Customer service representatives are available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays. In addition to English, assistance is available in other languages.

FIELD OFFICES

City	Area Code	Number
Bakersfield	1-661	395-2880
Culver City	1-310	342-1000
El Centro	1-760	352-3431
Fairfield	1-707	427-4800
Fresno	1-559	440-5330
Glendale	1-818	543-4900
Irvine	1-949	440-3473
Norwalk	1-562	466-1694
Oakland	1-510	622-4100
Rancho Cucamonga	1-909	257-2900
Rancho Mirage	1-760	770-4828
Redding	1-530	224-4729
Riverside	1-951	680-6400
Sacramento	1-916	227-6700
Salinas	1-831	443-3003
San Diego	1-858	385-4700
San Francisco	1-415	356-6600
San Jose	1-408	277-1231
Santa Clarita	1-661	222-6000
Santa Rosa	1-707	576-2100
Ventura	1-805	677-2700
West Covina	1-626	480-7200

Out-of-State Field Offices

Chicago, IL	1-312	201-5300
Houston, TX	1-281	531-3450
New York, NY	1-212	697-4680
Sacramento, CA	1-916	227-6600

INTERNET

www.boe.ca.gov

You can log onto our website for additional information—such as laws, regulations, forms, publications, and policy manuals—that will help you understand how the law applies to your business.

You can also verify seller's permit numbers on the BOE website (look for "[Verify a Permit/License](#)") or call our toll-free automated verification service at 1-888-225-5263.

Multilingual versions of publications are available on our [website](#) at www.boe.ca.gov.

Another good resource—especially for starting businesses—is the California Tax Service Center at www.taxes.ca.gov.

TAX INFORMATION BULLETIN

The quarterly Tax Information Bulletin (TIB) includes articles on the application of law to specific types of transactions, announcements about new and revised publications, and other articles of interest. You can find current and archived TIBs on our website at www.boe.ca.gov/news/tibcont.htm. Sign up for our BOE updates email list and receive notification when the latest issue of the TIB has been posted to our website.

FREE CLASSES AND SEMINARS

Most of our statewide field offices offer free basic sales and use tax classes with some classes offered in other languages. Check the Sales and Use Tax Section on our website at 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 [online seminars](#) including the Basic Sales and Use Tax tutorial and how to file your tax return that you can access on our website at any time. Some online seminars are also offered in other languages.

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 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 visit our website at: www.boe.ca.gov/info/email.html to email your request. You may also send your request in a letter to: Audit and Information Section, MIC:44, State Board of Equalization, P.O. Box 942879, Sacramento, CA 94279-0044.

TAXPAYERS' RIGHTS ADVOCATE

If you would like to know more about your rights as a taxpayer or if you have not been able to resolve a problem through normal channels (for example, by speaking to a supervisor), please see [publication 70, Understanding Your Rights as a California Taxpayer](#), or contact the [Taxpayers' Rights Advocate Office](#) for help at 1-916-324-2798 (or toll-free, 1-888-324-2798). Their fax number is 1-916-323-3319.

If you prefer, you can write to: Taxpayers' Rights Advocate, MIC:70; State Board of Equalization; P.O. Box 942879; Sacramento, CA 94279-0070.

Regulations, forms, and publications

Lists vary by publication

Selected regulations, forms, and publications that may interest you are listed below. A complete listing of sales and use tax [regulations](#), [forms](#), and [publications](#) appears on our [website](#). Multilingual versions of our publications and other multilingual outreach materials are also available at www.boe.ca.gov/languages/menu.htm.

Sales and Use Tax Regulations

- 1503 *Hospitals and Other Medical Service Facilities, Institutions and Homes for the Care of Persons*
- 1528 *Photographers, Photocopiers, Photo Finishers, and X-Ray Laboratories*
- 1574 *Vending Machine Operators*
- 1591 *Medicines and Medical Devices*
- 1591.1 *Specific Medical Devices, Appliances, and Related Supplies*
- 1591.2 *Wheelchairs, Crutches, Canes, and Walkers*
- 1591.3 *Vehicles for Physically Handicapped Persons*
- 1591.4 *Medical Oxygen Delivery Systems*
- 1592 *Eyeglasses and Other Ophthalmic Materials*
- 1595 *Occasional Sales—Sale of a Business—Business Reorganization*
- 1602 *Food Products*
- 1603 *Taxable Sales of Food Products*
- 1614 *Sales to the United States Government and Its Instrumentalities*
- 1660 *Leases of Tangible Personal Property—In General*
- 1667 *Exemption Certificates*
- 1668 *Sales for Resale*
- 1698 *Records*
- 1700 *Reimbursement for Sales Tax*

Transactions (Sales) and Use Tax Regulations

- 1821 *Forward*

Publications

- 17 *Appeals Procedures: Sales and Use Taxes and Special Taxes (S)*
- 18 *Nonprofit Organizations (S)*
- 22 *Dining and Beverage Industry (K, S)*
- 27 *Drug Stores*
- 44 *District Taxes (S)*
- 46 *Leasing of Tangible Personal Property in California*
- 51 *Resource Guide to Free Tax Products and Services (C, K, S, V)*
- 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)*
- 76 *Audits (F, K, S)*
- 102 *Sales to the U.S. Government (S)*
- 110 *California Use Tax Basics (S)*
- 116 *Sales and Use Tax Records (S)*
- 118 *Vending Machine Food Sales*

Publicaciones disponibles en su idioma
以您的母語出版的出版物
Các Ấn Phẩm Có Sẵn Trong Ngôn Ngữ Của Quý Vị
귀하의 언어로 된 간행물이 있습니다

