



# NEWS FOR TAX PRACTITIONERS

WHAT YOU NEED TO KNOW TO HELP YOUR CLIENTS SUCCESSFULLY OPERATE THEIR BUSINESSES

This semiannual newsletter helps you stay current on the latest developments regarding the taxes and fees administered by the California Department of Tax and Fee Administration (CDTFA) and other taxes that affect your clients' businesses, and to help you advise them and prepare their returns more accurately and effectively.

## New Online Services Coming May 2018



The CDTFA's online services for the following tax and fee programs will be available through a new online services portal beginning May 7, 2018:

- Sales and Use Tax
- Lumber Products Assessment
- Prepaid Mobile Telephony Services Surcharge
- Cigarette Retailer License Fee
- Covered Electronic Waste Recycling (eWaste) Fee
- California Tire Fee
- Cigarette and Tobacco Internet Purchases

There will be a new login page to access the accounts under these program types. The online services portal will provide tax and fee account information and online services to individuals, business representatives, and tax professionals. As a tax professional, you can use the online services portal to access additional features and account details when you log in with a User ID and Password. On behalf of your clients, you will have the ability to view financial information, account balance, detailed return filing information, and correspondence.

New online features will provide you the ability to:

- Correspond with agency staff through secure online messaging
- File all returns and schedules
- File an amended return for periods beginning May 2018
- Perform account updates
- Verify use tax payments
- File a claim for refund
- Respond to CDTFA inquiry letters and submit requested documentation
- File a petition for redetermination

Please help us ensure your clients are aware of the upcoming changes. Encourage your clients to update their email address with us so that they may take advantage of the new online features and to look for any correspondence sent to them that is related to this transition. We will discontinue mailing paper returns for the period(s) beginning May 2018 for accounts that will be eligible to file online. The remaining tax and fee programs that we administer will transition to the new online services portal in the spring of 2019 and the spring of 2020. During the transition, our existing online services system will be available and our website will direct you to the correct login page based on the account type. For more information, please visit us at [www.cdtfa.ca.gov/services/cros.htm](http://www.cdtfa.ca.gov/services/cros.htm).



## Cannabis Tax Updates

Online registration is now available for a cannabis tax permit. To register a cannabis business for the proper permit(s), select *Register* on our homepage at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov) and then choose *Register a business activity with CDTFA*, box number 3, *Cannabis business activities*, and follow the prompts.

Additionally, the CDTFA's emergency regulations 3700, *Cannabis Excise and Cultivation Taxes*, and 3701, *Collection and Remittance of the Cannabis Excise Tax*, for the cannabis tax program were approved and became effective December 21, 2017, and December 28, 2017, respectively. The final emergency regulations are available on our website at [www.cdtfa.ca.gov/taxes-and-fees/regscont.htm](http://www.cdtfa.ca.gov/taxes-and-fees/regscont.htm) Included in the emergency regulations is a new cultivation tax category and rate for fresh cannabis plants. For the current cannabis tax rates, visit our website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov), select *Tax & Fee Rates*, and then choose *Special Taxes and Fee Rates*, and *Cannabis Taxes*.

For more information on how the cannabis taxes and the sales and use tax apply to your client's business activities, along with how to calculate the cannabis taxes due, invoicing requirements, tax exemptions, and recordkeeping, read our *Tax Guide for Cannabis Businesses* at [www.cdtfa.ca.gov/industry/cannabis.htm](http://www.cdtfa.ca.gov/industry/cannabis.htm). To ensure you receive the latest news on cannabis tax compliance and related issues like CDTFA-issued special notices and news releases, sign up for the CDTFA *Cannabis Outreach* email listserv at [www.cdtfa.ca.gov/subscribe/cannabis.aspx](http://www.cdtfa.ca.gov/subscribe/cannabis.aspx).

## Changes to Use Tax Reporting on Income Tax Returns



Every year individual taxpayers have the option to report and pay their use tax obligations on their Franchise Tax Board (FTB) individual income tax returns by either calculating it based on the actual purchase amounts, or using a table based on income. Beginning with the 2017 calendar year FTB individual income tax returns, the use tax line can no longer be left blank. Taxpayers must enter an amount, even if that amount is zero use tax due. However, if zero amount due is entered, taxpayers must check a box stating either "No use tax is owed" or "You paid your use tax obligation directly to CDTFA." This change was implemented due to the passage of *Assembly Bill 1593*.

## Revised and New Cigarette and Tobacco Products Tax Regulations Expected in 2018



The voters of California enacted Proposition 56 in 2016. Effective April 1, 2017, Proposition 56 expanded the definition of “tobacco product” (for taxation purposes) to include any type of tobacco, nicotine, little cigars, electronic cigarettes sold in combination with nicotine, and vape liquids containing nicotine. Since the passage of Proposition 56, we have been working with the tobacco products industry to clarify the taxation, licensing and registration requirements of entities that manufacture/import, distribute, wholesale, or make retail sales of products containing nicotine for human consumption.

Amendments to Regulation 4076, *Wholesale Cost of Tobacco Products*, will clarify how to determine the wholesale cost of taxable distributions of tobacco products, particularly eCigarettes and vape products containing nicotine, sold with or without accessories. The revised regulation will provide examples of taxable and nontaxable transactions relating to the tobacco products industry. Additionally, the promulgation of Regulation 4077, *Tobacco Product Manufacturer*, will clarify which activities involving tobacco products manufacturing require a California entity to obtain a manufacturer-importer license and account for licensing and taxation purposes. We expect these regulatory changes to become effective by July 1, 2018. For additional information, you may view the proposed regulation information on our website at <http://www.cdtfa.ca.gov/taxes-and-fees/business-taxes-committee.htm>.

### Subscribe to FTB’s Tax News Today!



Tax News is the Franchise Tax Board’s (FTB) monthly online publication designed to inform tax professionals about state income tax laws; FTB’s regulations, policies, and procedures; and events that affect the tax professional community. To subscribe to FTB’s Tax News:

1. Go to [ftb.ca.gov](http://ftb.ca.gov)
2. Click **News & Events** tab
3. Under Subscription Services select **Subscribe** and then choose **New Subscriber**
4. Finally, fill out your email and select **Tax Professionals** to check **Tax News**
5. Hit **Subscribe**
6. Lastly, to **activate**, respond to the confirmation email

## Partial Tax Exemption Available for Certain CA Manufacturers or R&D Businesses



Did you know that certain California manufacturers and research and development businesses can purchase or lease qualifying machinery and equipment at a reduced tax rate?

Revenue and Taxation Code (R&TC) section 6377.1, signed into law July 1, 2014, allows for a partial sales and use tax exemption on qualifying purchases or leases (see the article on page 3 *Amendments to the Manufacturing and R&D Partial Exemption* for details on the July 2017 amendments to this law). Generally, all of the following conditions must apply to qualify for the partial exemption:

- Be primarily (50 percent or more of the time) engaged in specified types of business, referred to as a “qualified person”
- Purchase or lease “qualified tangible personal property”
- Primarily use the “qualified tangible personal property” in a qualified manner

Qualified persons do not need to apply for the reduced tax rate. Instead, qualified persons should provide their vendor a completed CDTFA-230-M, *Partial Exemption Certificate for Manufacturing, Research and Development Equipment*, which can be found at [www.cdtfa.ca.gov/formspubs/cdtfa230m.pdf](http://www.cdtfa.ca.gov/formspubs/cdtfa230m.pdf).

If a person qualified for the partial exemption but failed to take advantage of the exemption on their prior qualifying purchases, the qualified person may be eligible for a refund as follows:

- If the qualified person self-reported tax on their sales and use tax return at the full tax rate for purchases or leases of property that may have qualified for the exemption, the qualified person may file a claim for refund with the CDTFA. Generally, qualified persons must file a claim for refund by the *later* of:
  - Three years from the due date of the return on which the tax was overpaid
  - Six months from the date the tax was overpaid
- If a qualified person paid *use tax* to their vendor (for example, the vendor is located outside of California and required to collect the use tax on purchases made to purchasers in this state) or the qualified person reported and paid the use tax directly to the CDTFA, the qualified person may file a claim for refund with the CDTFA.
- If a qualified person paid *sales tax* to their vendor who reported and paid the tax to the CDTFA, the vendor must file the claim for refund with the CDTFA. Upon refund by the CDTFA to the vendor, the vendor is then required to refund the tax to the qualified person.

For information on filing a claim for refund with the CDTFA, please visit [www.cdtfa.ca.gov/taxes-and-fees/refund-general.htm](http://www.cdtfa.ca.gov/taxes-and-fees/refund-general.htm). For more information on the partial exemption, including the specific qualifications for the partial exemption, please see our online guide, *Manufacturing and Research & Development Exemption*, at [www.cdtfa.ca.gov/industry/manufacturing-exemptions.htm](http://www.cdtfa.ca.gov/industry/manufacturing-exemptions.htm).



## Amendments to the Manufacturing and R&D Partial Exemption

A recent assembly bill ([Assembly Bill 398](#), Chapter 135, Stats 2017) signed into law on July 25, 2017, changed the sales and use tax partial exemption on qualifying purchases or leases of manufacturing or research and development equipment by certain businesses as follows:

- Expands the partial exemption to qualified tangible personal property purchased for use by a qualified person to be used primarily in the generation or production, or storage and distribution, of electric power.
- Expands the definition of a “qualified person” to include businesses primarily engaged in operating electric power generation facilities or primarily engaged in electric power distribution, as described in specific NAICS codes, beginning January 1, 2018.
- Expands the definition of “qualified tangible personal property” to include special purpose buildings and foundations used as an integral part of the generation or production, or storage and distribution, of electric power beginning January 1, 2018.
- Removes the exclusion from the definition of a “qualified person” for certain persons engaged in agricultural business activities that were previously excluded as an apportioning trade or business under R&TC [section 25128](#) beginning January 1, 2018.
- Amends the definition of “useful life” to state that tangible personal property that is deducted on the California state franchise or income tax return under R&TC sections [17201](#) and [17255](#) or [section 24356](#), is deemed to have a useful life of one or more years.
- Extends the sunset date from July 1, 2022, to July 1, 2030.

Due to the amended definition of useful life, qualified persons that received a billing (referred to as a notice of determination or NOD) for qualified property that was purchased or leased on or after July 1, 2014, and before January 1, 2018, on the basis that the partial exemption does not apply because the property was deducted under R&TC sections 17201 and 17255 or section 24356, may be eligible to have the NOD cancelled and a refund of payments made under the NOD. Qualified persons must make a request for the cancellation or refund to the CDTFA by June 30, 2018.

For more information on the partial exemption, amendments to the law, and instructions on requesting a cancellation or a refund, please see our online *Manufacturing and Research & Development Equipment Exemption* guide at [www.cdtfa.ca.gov/industry/manufacturing-exemptions.htm](http://www.cdtfa.ca.gov/industry/manufacturing-exemptions.htm).



## Contact Us

Tell the CDTFA what topics you would like to see covered in your newsletter. You can mail your comments to the CDTFA, call the Customer Service Center at 1-800-400-7115 (TTY:711), or send a message through the CDTFA website.

**California Department of  
Tax and Fee Administration**  
PO Box 942879  
Sacramento, CA 94279-0044

**Website:**  
[www.cdtfa.ca.gov/contact.htm](http://www.cdtfa.ca.gov/contact.htm)

**Tax Practitioner Hotline:**  
1-800-401-3661  
Representatives are available  
weekdays from 8:00 a.m. to  
5:00 p.m. (Pacific time),  
except state holidays.



## FTB's New Power of Attorney and Tax Information Authorization Forms

As of January 1, 2018, the Franchise Tax Board (FTB) requires new Power of Attorney and Tax Information Authorization forms.

### Power of Attorney

The Power of Attorney (POA) declaration gives you authority to receive information and act on behalf of your client for the year(s) listed on the declaration.

#### New Power of Attorney Forms

- FTB 3520 PIT, *Individual or Fiduciary Power of Attorney Declaration*
- FTB 3520 BE, *Business Entity or Group Nonresident Power of Attorney Declaration*
- FTB 3520 RVK, *Power of Attorney Declaration Revocation*

The FTB will no longer process non-FTB POA declaration forms or prior versions of the FTB 3520.

### Tax Information Authorization

The Tax Information Authorization (TIA) is a new formal relationship recognized by FTB. It allows a taxpayer to grant a representative permission to obtain the taxpayer's confidential tax information.

#### New Tax Information Authorization Forms

- FTB 3534, *Tax Information Authorization*
- FTB 3535, *Tax Information Authorization Revocation*

For more information about these forms and how to submit them to the FTB, visit [www.ftb.ca.gov](http://www.ftb.ca.gov) and search for **POA** or **TIA**.

## Sign Up for MyFTB Today!



MyFTB provides tax account information and online services to individuals, business representatives, and tax professionals. Professional ID numbers valid for registration include:

- Preparer Tax Identification Number (PTIN)
- California Certified Public Accountant (CPA)
- California State Bar Number
- Enrolled Agent (EA)

Electric Filing Identification Numbers (EFIN) and California Tax Education Council (CTEC) will no longer be allowed as registration numbers.

As a tax professional, you can use MyFTB to access tax account information and online services for your individual and business clients. On behalf of your clients, you can access:

### Account information

- View account balance and tax year details.
- View estimated payments and credits before filing a return.
- Verify the exact business entity name to use when filing a return.
- View payment history.
- View a list of tax returns.
- View images of tax returns.\*
- View a list and images of notices and correspondence.
- Update contact information.\*
- View proposed assessments.
- View California wage and withholding information – individual clients only.
- View FTB-issued 1099 information – individual clients only.

### Online services

- Calculate a balance due for a date in the future.
- File a power of attorney (POA).
- File a nonresident withholding waiver request.
- Protest a proposed assessment.\*
- Respond to a proposed assessment to request a 30-day deferral to file a tax return.\*

### Options to communicate with us

- Chat with an FTB representative about confidential matters.
- Send a secure message with attachments to FTB.

\*Tax professionals must have an active POA declaration on file to access these services. **POA Tip:** To receive email notifications when your clients receive a notice, the POA declaration must contain your email address.

## Rate Change for Prepaid Mobile Telephony Services Surcharge

The prepaid MTS surcharge rate increased to 6.30 percent on January 1, 2018 (plus any local charges that may apply in the city or county where the sale occurs). The rate is effective January 1 through December 31, 2018, and is subject to change annually.

PREPAID MTS SURCHARGE RATE CHANGES	
Previous Rate	Current Rate
January 1, 2017, through December 31, 2017	January 1, 2018, through December 31, 2018
5.90% plus any local charges	6.30% plus any local charges

The rate may be higher in certain areas due to local charges. You may find the combined prepaid MTS surcharge rate in each city and county, as well as a detailed breakdown of the prepaid MTS surcharge rate, on our webpage at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov); simply select *Tax & Fee Rates*, and then choose *Prepaid Mobile Telephony Services Surcharge Rates*.

For more information regarding prepaid MTS, see our online *Prepaid Mobile Telephony Services (MTS) Surcharge* guide at [www.cdtfa.ca.gov/industry/prepaid-mts-surcharge.htm](http://www.cdtfa.ca.gov/industry/prepaid-mts-surcharge.htm). If you have any questions, you may call our Customer Service Center at 1-800-400-7115 (TTY:711). Representatives are available to assist you Monday through Friday from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.

## New Lead-Acid Battery Fees Regulations



## LEAD-ACID BATTERY FEES

The Lead-Acid Battery Recycling Act was signed into law and established two lead-acid battery fees in 2016. The CDTFA is actively drafting proposed regulations to interpret, clarify, and make specific the new program. We held public interested parties meetings in 2017 and plan to submit final draft regulations to the Office of Administrative Law in 2018. We will post updates as they become available for these regulations online at [www.cdtfa.ca.gov/taxes-and-fees/regscont.htm](http://www.cdtfa.ca.gov/taxes-and-fees/regscont.htm).

## Claim Amount on Claim for Refund/Credit Requests

If your clients have overpaid taxes, fees, surcharges, interest, or penalties to the CDTFA, it is important that they file a claim for refund timely to be eligible to receive a refund. They can submit the request in writing by using CDTFA-101, *Claims for Refund or Credit*, or CDTFA-101-DMV, *Claim for Refund or Credit for Tax Paid to DMV* (if the claim pertains to a vehicle or vessel). They have the option of specifying one dollar or nothing at all on the claim, but we highly recommend that an actual amount be entered on the claim. We want to encourage them to provide us with the actual amount of their claim along with the specific reason for the claim as this information assists us with processing the claims for refund. We will contact them if we need more information.

For additional information on how to file a claim for refund, please visit [www.cdtfa.ca.gov/taxes-and-fees/refund-general.htm](http://www.cdtfa.ca.gov/taxes-and-fees/refund-general.htm).