Text of Proposed Amendments to California Code of Regulations

Title 18. Public Revenues

Division 2. California Department of Tax and Fee Administration – Business Taxes

Section 1600.2. Digital Products Purchased for Multiple-Points of Use.

(*A new regulation to be added to the California Code of Regulations.*)

Regulation 1600.2. Digital Products Purchased for Multiple Points of Use.

(a) Definitions. For purposes of this regulation, the following terms have the following meanings:

(1) "Computer" has the same meaning as defined in Revenue and Taxation Code section 6010.9.

(2) "Department" or "CDTFA" means the California Department of Tax and Fee Administration.

(3) "Multiple points of use" or "MPU" means a digital product that is sold or purchased for use by users in one or more locations within this state and one or more locations outside this state, including licenses of digital products concurrently available for use in multiple locations.

(4) "Users" means employees or agents of the purchaser that are authorized by the purchaser to use the digital product in the performance of their duties as employees or other agents of the purchaser.

(b) Application of Tax. Tax applies to the calculated measure of tax based on the sale or use of a digital product in this state. Tax does not apply to the calculated non-taxable measure based on the sale or use of a digital product outside of this state.

(c) Methods for Calculating the Amount of Sales or Use Tax Due.

(1) If a method set forth below is used to calculate the sales or use tax due, Revenue and Taxation Code section 6406 shall not apply.

(2) A purchaser of a digital product for multiple points of use may use any reasonable method that is consistent and uniform to calculate the measure of tax that fairly reflects the use of the digital product, including non-optional charges (e.g., mandatory maintenance contracts), inside this state and outside this state that is supported by the purchaser's available books and records at the time the transaction is reported for sales or use tax purposes.

(A) A reasonable method to calculate the measure of tax that is consistent and uniform includes, but is not limited to, a method based on the number of users or computers upon which the digital product is used inside this state and outside this state.

(B) It shall be presumed that calculating the measure of tax based on the number of users or computers upon which the digital product is used inside this state and outside this state is a reasonable method.

(C) A method of calculating the measure of tax based on the location of the servers where the digital product is installed is not considered reasonable.

(3) A purchaser of a digital product that knows at the time of its purchase that the digital product will be available for multiple points of use may issue an MPU certificate to the seller in conjunction with its purchase.

(d) Seller Liability.

(1) MPU Certificate. A seller of a digital product for multiple points of use that timely obtains in good faith from the purchaser a written MPU certificate, as described in subdivision (e), is relieved of the obligation to pay sales tax or collect and remit the use tax on the calculated non-taxable measure based on the use of the digital product outside this state. A seller remains liable for the payment of the sales tax or collection and remittance of the use tax on the calculated measure of tax based on the use of the digital product in this state.

(2) Blanket MPU Certificate. A seller of a digital product for multiple points of use that timely obtains in good faith from the purchaser a written blanket MPU certificate, as described in subdivision (f), is relieved of the obligation to pay sales tax or collect and remit the use tax on any sales or purchases of digital products for multiple points of use from that individual purchaser.

A blanket MPU certificate shall remain effective until revised or withdrawn by the purchaser who issued the blanket MPU certificate. The purchaser shall bear the burden of establishing that a revised or withdrawn blanket MPU certificate was sent to and received by the seller within the seller's billing cycle or prior to the transfer of the digital products to the purchaser, whichever is later, or that the tax or tax reimbursement was paid to the seller.

Except as provided in Regulation 1600.1, if a purchaser who issued a blanket MPU certificate subsequently issues a purchase order indicating that the transaction covered by the purchase order is a purchase of digital products entirely for use in California, the blanket MPU certificate does not apply to that transaction. The purchaser will bear the burden of establishing either that the purchase order was sent to and received by the seller within the seller's billing cycle or prior to the transfer of the digital products to the purchaser, whichever is later, or that the tax or tax reimbursement was paid to the seller.

(3) Timeliness. An MPU certificate or blanket MPU certificate will be considered timely if it is obtained by the seller at any time before the seller bills the purchaser for the digital

product, any time within the seller's normal billing and payment cycle, or any time at or prior to the digital product being transferred electronically or remotely accessed by the purchaser.

(4) Good Faith. In the absence of evidence to the contrary, a seller will be presumed to have taken an MPU certificate or blanket MPU certificate in good faith if the certificate contains all of the elements, as described in subdivisions (e) or (f), respectively, and otherwise appears to be valid on its face. However, an MPU certificate or blanket MPU certificate cannot be accepted in good faith where the seller has knowledge that the digital product is being purchased solely for use in this state.

(e) Form of an MPU Certificate. Any document, such as a letter or purchase order, timely provided by the purchaser to the seller, will be regarded as an MPU certificate with respect to the sale of a digital product for multiple points of use if it contains all of the following elements:

(1) The signature of the purchaser, the purchaser's agent, or the purchaser's authorized employee;

(2) Date of execution of document;

(3) The name, address, and telephone number of the purchaser;

(4) The number of the purchaser's seller's permit, Certificate of Registration-Use Tax, or Use Tax Account. If the purchaser is not required to hold any of these, a notation to that effect and the reason;

(5) A description of the digital product purchased for multiple points of use under the certificate;

(6) A clear identification of the calculated measure of tax based on the use of the digital product in this state and the calculated non-taxable measure based on the use of the digital product outside this state, and a statement describing the method of determining the calculated measure as supported by the purchaser's books and records; and

(7) The following certification statement by the purchaser: I agree to self-assess and pay directly to CDTFA any use tax liability incurred pursuant to my use of any digital product in California.

(f) Form of a Blanket MPU Certificate. A purchaser must be registered with the Department in order to issue a blanket MPU certificate, and once issued, the purchaser is liable for use tax on the calculated taxable measure based on the use of any digital product in this state purchased from a seller to which the purchaser issued a blanket MPU certificate.

Any document, such as a letter or purchase order, timely provided by the purchaser to the seller, will be regarded as a blanket MPU certificate for that individual purchaser with respect to the sales of a digital product for multiple points of use from that individual seller, if it contains all of the following elements:

(1) The signature of the purchaser, the purchaser's agent, or the purchaser's authorized employee;

(2) Date of execution of document;

(3) The name, address, and telephone number of the purchaser;

(4) The number of the purchaser's seller's permit, Certificate of Registration-Use Tax, or Use Tax Account; and

(5) The following certification statement by the purchaser: I agree to self-assess and pay directly to CDTFA any use tax liability incurred pursuant to my use of any digital product in California.

(g) Use Tax Direct Payment Permit Holders. A holder of a use tax direct payment permit that issues a use tax direct payment permit exemption certificate to the seller, is not required to deliver an MPU certificate or blanket MPU certificate to the seller. A use tax direct payment permit holder may follow the provisions of subdivision (c) in calculating the measure of tax due on a digital product that will be available for multiple points of use and is responsible for reporting and paying the tax due on the use of the digital products in this state.

(h) Records. Adequate and complete records must be maintained in accordance with Regulation 1698 to substantiate any claim for digital products sold or purchased for multiple points of use. Such records must include, but are not limited to, MPU certificates completed as specified in subdivision (e) and blanket MPU certificates completed as specified in subdivision (f), as relevant. In addition, the invoices on sales or purchases of digital products for multiple points of use must specify the names of the purchasers in order to relate them to MPU certificates or blanket MPU certificates. Purchasers that issue an MPU certificate or blanket MPU certificate are responsible for maintaining records to substantiate the calculation of the taxable and non-taxable measure used at the time of purchase.

(i) Digital Products Purchased Solely for Use Outside this State or in Interstate or Foreign Commerce. For the application of tax to digital products purchased solely for use outside this state or in interstate or foreign commerce, see Regulation 1600.3.

(j) Operative Date. This regulation is operative as of January 1, 2027.

NOTE: Authority cited: Sections 15570.22 and 15570.24, Government Code; Statutes 2026, chapter 23 (Sen. Bill No. 122), Section 34; and Section 7051, Revenue and Taxation Code. Reference: Section 6372 and 6406, Revenue and Taxation Code.