CHAPTER 4

USE TAX

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CHAPTER 4

USE TAX

4.000 Introduction (CVC §§4000(d), 4300.5, 5600, 9928, and 38211 and CR&TC §§6275, 6291, and 6294)

Use tax is collected on original registration and transfer applications for vehicles/vessels purchased from someone other than a licensed California dealer, manufacturer, or dismantler unless the transaction is specifically exempted from payment of use tax or the California Board of Equalization (BOE) issues the applicant a Certificate of Vehicle, Mobilehome, or Commercial Coach Use Tax Clearance (BOE 111) form or Certificate of Vessel Use Tax Clearance (BOE 111B) form (CR&TC §6422.1).

Use tax rates vary by county and city. The use tax rate is the same rate as for sales tax and is determined by the address where the vehicle is registered or the vessel is moored.

**Special District** taxes are taxes that apply to the registered owner’s county and/or city where they reside or the situs county and city.

Refer to Appendix 1A for use tax rates.

4.005 Board of Equalization Review Request (CR&TC §6422.1)

Refer applicants who do not want to pay California use tax to the BOE to determine if use tax is due. A list of BOE offices is available at www.boe.ca.gov.

**Note:** The BOE Kearny Mesa District Office does not issue BOE 111 or BOE 111B certificates. Provide customers in this area with the following BOE resources:

- Taxpayer Information Section: 1-800-400-7115.
- Consumer Use Tax Section in Sacramento: (916) 445-9524.

If applicable, the BOE will issue the BOE 111/BOE 111B or a Certificate of Excise Tax Clearance (BOE 1138) form for commercial vehicles subject to fuel tax to present to the Department of Motor Vehicles (DMV) with their registration/transfer application.

4.010 Calculating Use Tax Amount

Each application subject to use tax must show the purchase price on the back of the Certificate of Title or include a bill of sale. A BOE 1138 is required for commercial vehicles, as specified under the Use Fuel Tax Law, showing the amount of use tax due. Applications subject to use tax received in the mail without a purchase price must be returned to the applicant for the purchase price on the certificate of title.
4.010 Calculating Use Tax Amount, continued

The applicant must complete a Statement of Facts (REG 256) form explaining any purchase price discrepancies in the application or the use tax will be based on the higher amount. If a selling price is not expressed between the seller and buyer and the buyer is unsure of the value, the midpoint between the low and high values shown in a current vehicle value guide book may be used only to establish the taxable value for the vehicle.

Commercial Vehicles—Do not include the federal retail excise tax in the purchase price to calculate any use tax due on the first retail sale of a truck or truck chassis with a gross vehicle weight (GVW) of 33,001 pounds or more or a trailer or trailer chassis with a GVW of 26,001 pounds or more.

Disabled Person Vehicles—Do not include the cost of any items or materials used to modify a vehicle for a physically disabled person to calculate any use tax due (CR&TC §6369.4).

Trailer Coaches (CCH)—Do not include the value of the in-place location, awning(s), skirting, carport, patio, landscaping, shrubs, or unattached furnishings in the taxable price. If these values are not readily known to the new owner, the owner may pay the use tax on the known total and request a refund or contact the nearest BOE office to clarify the amount of use tax due.

Specially Constructed Vehicles (SPCNS) —Use tax is due on the complete vehicle. Include the value from new or used parts, a combination of new and used parts, including the cost of labor to reconstruct the vehicle.

Vehicle Purchased as Cab/Chassis or Chassis/Cowl—Calculate use tax as follows:

<table>
<thead>
<tr>
<th>If</th>
<th>And</th>
<th>Then Calculate the Use Tax on the</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales tax was paid on the items installed as a</td>
<td>Evidence of payment is presented</td>
<td>Value of only the cab/chassis or the</td>
</tr>
<tr>
<td>body</td>
<td>Evidence of payment is not presented</td>
<td>chassis/cowl, as appropriate.</td>
</tr>
<tr>
<td>The cab/chassis or chassis/cowl was purchased</td>
<td>The body was purchased separately from</td>
<td>Entire vehicle and instruct the applicant</td>
</tr>
<tr>
<td>from an out-of-state dealer</td>
<td>someone other than a dealer</td>
<td>to apply for a refund of sales tax from</td>
</tr>
<tr>
<td></td>
<td></td>
<td>BOE.</td>
</tr>
</tbody>
</table>

Vessel and Trailer Combinations—Determine use tax as follows:

<table>
<thead>
<tr>
<th>If the Applicant Knows the</th>
<th>Then Calculate the Use Tax on the</th>
</tr>
</thead>
<tbody>
<tr>
<td>Separate values of the vessel and the trailer</td>
<td>Separate values</td>
</tr>
<tr>
<td>Total combined price only for both the</td>
<td>$1 cost/value on the trailer application</td>
</tr>
<tr>
<td>vessel and the trailer</td>
<td>(for $1 use tax) and the remaining</td>
</tr>
<tr>
<td></td>
<td>cost/value on the vessel application</td>
</tr>
</tbody>
</table>
4.015 Credit for Tax Paid to Another State

An applicant who purchases a vehicle/vessel out of state may receive credit towards the California use tax due for sales/use tax paid to another state, political subdivision, or the District of Columbia prior to entering California. The tax credit shall not exceed the California tax that is due.

**Note:** Credit is not given for taxes paid to foreign countries and territories of the United States, such as Guam or Puerto Rico.

The following must be submitted:

- A completed REG 256 for credit of tax paid to another state. If the applicant:
  - **Cannot** certify that tax was paid to another state, process the application as outlined in the Transactions Subject to Use Tax in this chapter.
  - **Did not** pay tax to another state or does not want to apply for a tax credit, collect the use tax due in the usual manner.

Collect the use tax due after deducting the credit amount from the calculated amount. The tax credit cannot exceed the California use tax due.

4.020 Definitions

**Allocation or Situs County and City**—County and city, other than the residence county and city, where the vehicle/vessel is principally used or kept.

**Application for Registration**—The original California registration application for any vehicle/vessel.

**Application for Transfer**—An application for transfer of the:

- Registered owner of a vehicle/vessel presently registered in California on a regular registration basis. For vehicles, this includes conversion from a no title issued (goldenrod) basis.
- Apportioned registration basis where the transferee is applying for full California registration.

**Date of Purchase/Date of Sale**—The date on which the seller, for consideration, surrenders physical possession of the vehicle/vessel to the buyer or the buyer’s agent.

**In this State/In the State**—Within the jurisdiction of California.

**Person**—Includes any:

- Individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, the United States, this state, any county, city and county, municipality, or district.
- Other political subdivision of the state.
- Group or combination acting as a unit.
4.020 Definitions, continued

**Residence County**—The address reflected on or by DMV records unless the owner establishes to DMV’s satisfaction that the place of residence is otherwise (CR&TC §11108).

**Retail Sale/Sale at Retail**—Any transfer for consideration of the registered ownership of a vehicle or vessel to any person other than a bona fide dealer or dismantler.

**Retailer**—Any person, other than a dealer or dismantler, making a retail sale of any vehicle or vessel required to be registered under the *California Vehicle Code* (CVC).

**Sales Price**—The total amount paid, as shown on the reverse side of the certificate of title signed by the buyer or a bill of sale. The sales price for a:

- Vehicle/vessel purchased from a manufacturer, out-of-state dealer, or acquired outside the country **must** be the total consideration/purchase amount in U.S. dollars.
- Cab and chassis, cowl and chassis, or chassis only purchased from other than a licensed California dealer or manufacturer **must** include the cost of the body, equipment, and other attachments required to complete the vehicle.

The sales price **shall** include:

- The value of any trade-in and manufacturer’s rebate. A rebate is **not** deducted from the sales price, even if collected directly from the manufacturer by either the consumer or the dealer.
- Transportation charges for shipment from the factory.
- Transportation charges for delivery by the seller when title does **not** pass to the purchaser until delivery is made.

The sales price **shall not** include:

- State and local taxes or cash discounts such as factory-to-dealer incentives (generally passed on to the selling price, thus reducing the amount subject to tax).
- Insurance premiums or finance charges.
- Registration, license, and other related motor vehicle fees, including document fees.

**Storage**—Any keeping or retention of personal property in this state for any purpose except for sale in the regular course of business or for subsequent use solely outside this state.

**Use**—The exercise of any right or power over a vehicle or vessel incidental to its ownership. Vessel use includes any time the vessel is in or on the water, whether operated or stored.

**Vehicle (CVC §670)**—A device by which any person or property may be propelled, moved, or drawn upon a highway. For use tax purposes, this includes an off-highway motor vehicle subject to identification (CR&TC §6272). This **does not** include a device moved exclusively by human power or used exclusively upon stationary rails or tracks.
4.020 Definitions, continued

Vessel (CVC §9840 and CR&TC §6273)—Includes every description of watercraft used or capable of being used as a means of transportation on water, except a:

• Seaplane on the water.
• Watercraft of a type designed to be propelled solely by oars or paddles.
• Watercraft eight feet or less in length of a type designed to be propelled by sail.
• Watercraft specifically designed to operate on a permanently-fixed course, the movement of which is restricted to or guided by means of a mechanical device on a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled, or by means of a mechanical device attached to the watercraft itself.
• Floating home designed and built to be used as a stationary waterborne residential dwelling that is tethered to land and with no mode of power. A floating home is dependent on utilities on shore and has a permanent, continuous hookup to a shore-side sewage system.

A vessel includes the motor and all integral component parts of the vessel when in use, including property attached to the structure during use necessary for:

• Navigation and operation of the vessel.
• The comfort and convenience of the passengers and crew.

(Examples: Radio/radar equipment, anchors, lifeboats, built-in bunks, window shades.)

Vessel Agent—Any vessel dealer, manufacturer, or registration service authorized by DMV to accept vessel registration applications and fees.

Vessel Broker—See Yacht and Ship Broker.

Vessel Dealer—For purposes of sales and use tax laws, a person holding a seller’s permit issued by BOE who is regularly engaged in the business of selling vessels.

Vessel Manufacturer—For purposes of sales and use tax laws, a person holding a permit issued by BOE who is regularly engaged in the business of manufacturing and/or distributing vessels.

Vessel/Trailer Combination—Vessel and boat trailer registration applications submitted at the same time.

Yacht and Ship Broker—A person licensed by the California State Parks Division of Boating and Waterways who, for compensation, negotiates the purchase, sale, or exchange of yachts, but does not own such yachts.
4.025 Partial Use Tax Exemption

Qualified sales and purchases of specified vehicles, including certain leases of new or used equipment, may be eligible for partial use tax exemption. The partial use tax exemption applies to machinery and parts designed primarily for off-highway use.

**Example:** All terrain vehicles (ATVs), farm equipment and machinery, agricultural equipment, and special equipment (SE) when used primarily in commercial agricultural and harvesting (50 percent or more of the time), and registered on September 1, 2001, or after.

DMV will not determine eligibility for partial use tax exemption. Refer customers to the BOE for a determination of partial use tax eligibility. The applicant may pay DMV the use tax and apply to BOE for a refund or provide DMV with a BOE 111.

4.030 Refund of Use Tax

**Headquarters or Cash Refund—Counter Transaction**

- If it is determined that the use tax previously paid on a report of deposit of fees (RDF) is not due, the use tax may be refunded to the person who paid it in accordance with the Accounting Manual. Refer to the Transactions Not Subject to Use Tax section in this chapter.

**Important:** Never apply use tax paid by one person to fees/use tax due for another person.

- If it is determined that use tax was paid in error, a refund may be issued as provided in the Accounting Manual.

- If an applicant claims an exemption other than one noted in the Transactions Not Subject to Use Tax section, process the application in accordance with the Transaction Subject to Use Tax section in this chapter. If an applicant pays use tax and submits a Statement of Facts (REG 256) form requesting a refund, suspense the application to the appropriate Registration Processing Unit (RPU) in DMV headquarters for review.

**Application for Refund**—If a refund is requested after the application has cleared:

- The applicant may complete a REG 256, with the complete vehicle/vessel description, the date use tax was paid (include the office and cashier number, if available), and why the refund is requested.

- Forward the REG 256 to DMV headquarters with the field office miscellaneous work for referral to the BOE or the applicant may mail the application directly to:

  State Board of Equalization
  Consumer Use Tax Section, MIC: 37
  PO Box 942879
  Sacramento, CA 94279-0037
4.035 Transactions Not Subject to Use Tax

There are two general types of transactions not subject to use tax, those considered to be a retail sale and retail sales exempted from payment of use tax.

Transactions Not Considered a Retail Sale—The following transactions are not subject to use tax:

- **Court Orders**—Transfer of a vehicle/vessel made pursuant to any court order, such as a divorce decree or quiet title judgement.

- **Dealer or Dismantler Vehicles**—Transfer or original registration of a vehicle to a licensed dealer or dismantler, whether or not the vehicle is purchased for resale. The application must contain the dealer or dismantler occupational license (OL) number issued to the applicant by DMV.

- **Dealer Out of State**—Transfer of title into an out-of-state dealership’s name for a used vehicle purchased at an auto auction when their home state will not accept an Application for Duplicate or Paperless Title (REG 227) form.

- **Dealer Vessels**—Transfer or registration of a vessel to a licensed vehicle dealer authorized as a vessel dealer, whether or not the vessel is purchased for resale. The application must show the BOE seller’s permit number issued which identifies the applicant as a vessel dealer.

- **Dismantled Vehicle/Vessel**—A vehicle/vessel reported as dismantled by a licensed dismantler.

  **Note**: Use tax is due for a vehicle/vessel dismantled by other than a licensed dismantler.

- **Gifts**—Transfer or registration of a vehicle/vessel acquired by the applicant as a gift. The word “gift” must be entered on the back of the title (in lieu of a purchase price) and a REG 256 must be completed by the applicant.

  **Note**: This does not apply to a transfer of contract as explained in the Transactions Subject to Use Tax section in this chapter.

- **Inheritance**—An application for transfer or registration of a vehicle/vessel bequeathed to the applicant must include either:
  - An Affidavit For Transfer Without Probate California Titled Vehicle Or Vessels Only (REG 5) form completed by the applicant. A REG 5 is not acceptable for nonresident vehicles. The out-of-state title must be transferred in the state of origin before California registration may be obtained.
  - A REG 256 from a surviving co-owner stating the vehicle/vessel was bequeathed to the applicant.

  **Note**: Use tax exemption may not apply to a trust transfer. See the Transactions Not Subject to Use Tax section in this chapter.
4.035 Transactions Not Subject to Use Tax, continued

- **Legal Owner Transfers**—Transfer of the legal owner lienholder only.

- **Transfer on Death (TOD) Beneficiary**—Transfer of a vehicle/vessel to the person named as the TOD beneficiary on the title.

- **Vehicle Moved on a One-Trip Permit**—New or used trailers or semitrailers moved on a Ten Day Trip Permit (REG 43) form issued by DMV (CR&TC §6410).

**Retail Sales Transactions**—The following transactions are not subject to use tax:

- **American National Red Cross Vehicles**—Registration or transfer to the American National Red Cross (aka American Red Cross), its chapters, or branches.

- **Business to Sole Owner of the Business**—Transfers from a business name to the name of the individual or an individual to a business name who is the sole owner of the business.

  **Note:** This does not apply if the business is a corporation.

- **California Vehicle Dealer Sales**—Sales that include the appropriate dealer report of sale and sales of American-made vehicles to foreign residents who obtain a Foreign Resident In-Transit 30-Day Permit. Sales tax is paid under the seller’s permit number (CR&TC §6366.2 and CVC §6700.1).

- **California Vessel Dealer or Manufacturer Sales**—Sales by California vessel dealers or manufacturers. The dealer/manufacturer must submit a Vessel Dealer or Manufacturer’s Sales Tax Certification (BOAT 110) form with the application which is forwarded to BOE for review.

- **California Dismantler Sales**—Sales by licensed California dismantlers. The bill of sale must identify the seller as a licensed dismantler and show the acquisition number.

- **Domestic Partner Transfers**—Transfer of a vehicle/vessel between domestic partners and/or a natural or legally-adopted parent, grandparent, child, grandchild, or sibling (if the sale is between two minors related by blood or adoption).

  The application must include a REG 256 showing the relationship of the buyer to the seller. Do not request any documentation of the domestic partnership (CR&TC §6285 and California Family Code §297.5).

- **Family Transfers**—Transfer of a vehicle/vessel between spouses and/or a natural or legally-adopted parent, grandparent, child, grandchild, or sibling (if the sale is between two minors related by blood or adoption).
4.035 Transactions Not Subject to Use Tax, continued

The application must include a REG 256 showing the relationship of the buyer to the seller (CR&TC §6285).

NOTE: Domestic partner/family transfer exemptions cannot be claimed if the seller is engaged in the business of selling the type of property being transferred/registered.

- **Federal Government Sales**—Sales of vehicles by the federal government under *California Government Code* (CGC) §§201C or 481C. The Certificate of Release of a Motor Vehicle (Standard 97) form must show CGC §§201C or 481C or must be accompanied by a letter from the General Services Administration verifying the sale was made under one of these CGC sections.

  NOTE: Use tax is due on all other government vehicle sales unless a BOE 111 is submitted.

- **Foreign Consuls**—Consular officers of foreign nations are exempt from tax pursuant to treaties and other diplomatic agreements with the United States. The U.S. Department of State issues tax exemption cards and a letter from the Office of Foreign Missions to foreign diplomatic personnel who are exempt from taxes.

- **Government Agencies**—Transfer or registration to a United States Government agency or an agency of the United States.

- **Indian-Owned Trailer Coach or Vessel**—A vehicle, vessel, or trailer coach delivered to an Indian owner on an Indian reservation. Delivery may be by a licensed transporter or dealer on the dealer license plate. A REG 256 must accompany the application.

- **Insurance Company Vehicles**—Vehicles purchased by, and registered to, an insurance company for business use. Refer the applicant to BOE for review of the application. BOE will issue a BOE 111, BOE 111B, or exemption letter, as appropriate. An exemption letter must be part of the application and cannot be accepted for registration to other than the insurance company.

- **Leased Vehicles**—Includes
  - Registration or transfer of a leased vehicle/vessel on which the lessor pays use tax directly to BOE based on the rental receipts. The application must include a REG 256 from the lessor stating use tax is paid to the BOE on rental receipts and the lessor’s BOE seller’s permit number.
  - Transfer from a lessor/lessee to the same lessor and a different lessee or to the lessor as the sole registered owner.
4.035 Transactions Not Subject to Use Tax, continued

— Rental vehicles when the vehicle rental company pays use tax directly to BOE based on the vehicle’s rental receipts. The vehicle rental company registration name does not have to include “rent-a-car” or “rental” in its name to use this tax payment option. Applications must include a REG 256 stating use tax will be paid to BOE based on rental receipts and the vehicle rental company’s BOE seller’s permit number.

Refer customers requiring more information on rental vehicles to BOE at www.boe.ca.gov or the Taxpayer Information Section at 1-800-400-7115.

• Minibikes—Minibikes sold by a minibike business. Payment of sales tax must be verified from an invoice or sales receipt showing the minibike’s vehicle identification number (VIN). Remember to return the original invoice or sales receipt to the applicant.

• Out-of-State Purchases Brought into California—Refer to the Transactions Subject to Use Tax section in this chapter.

• School Districts—An application for registration or transfer of a vehicle/vessel acquired by a school district from the Surplus Property Division of the State Board of Education.

• State Agencies—An application for registration or transfer of a vehicle/vessel acquired by a state agency from another state agency.

• Stolen Vehicle/Vessel—Transfer of an unrecovered stolen vehicle/vessel to the insurance company that was the insurer.

• Title Only—An application for “title only” of a vehicle.

• Transfer Only—An application for transfer of a “title only” or “transfer only” vehicle not currently licensed or registered at the time of purchase by the applicant and not subject to registration renewal.

[Note: Use tax is due if the purchase date is before the registration expiration date.]

• U.S. Marshal Sales—Sales by a U.S. Marshal pursuant to a federal court order or CGC §§201C or 481C (CR&TC §6402).

• Unincorporated Area City Use Tax—An application for registration or transfer of a vehicle/vessel for residents and businesses in unincorporated areas of certain cities may be exempt from paying a special city use tax approved by registered voters.

One of the following must be submitted:

• A REG 256 from the owner stating the residence address at the time of purchase, the address is outside city limits, and he/she is exempt from the special sales and use tax imposed on that city.
4.035 **Transactions Not Subject to Use Tax, continued**

- A letter on city letterhead stating the city use tax is not due.
- A BOE 111 or BOE 111B from BOE.
  — Regular use tax is still due, unless the owner or vehicle/vessel is otherwise exempt.

**Note:** Although the zip code of a city and an unincorporated area may be the same, the city use tax applies only to residents living within the city limits.

- Attach the appropriate document to the application. If either a letter on city letterhead or a BOE 111 is submitted, a separate REG 256 is **not** required.
- If the application is a report of deposit of fees (RDF), verify that the appropriate document is with the application before clearing the transaction.
- If the customer states the city use tax was paid on a completed transaction, refer the customer to BOE online at [www.boe.ca.gov](http://www.boe.ca.gov), by telephone at 1-800-400-7115, or by mail at:
  State Board of Equalization
  PO Box 942879
  Sacramento, CA 94279-0037

**Vehicle/Vessel Purchased Out of State by Military Personnel (CR&TC §6249)**—A member of the armed services on active duty and their nonresident spouse who purchase a **vehicle** prior to the effective date of their reassignment to a military installation in California **shall not** be subject to use tax.

The applicant must present BOE with evidence, such as a copy of the orders to be issued a BOE exemption certificate. There **is no** a military tax exemption for **vessels**.

**Vessels Used in Interstate Commerce**—Vessels engaged in transporting persons or property in interstate commerce for compensation. The applicant **must** complete a REG 256 certifying the vessel:
  — Was delivered outside California to the purchaser.
  — Entered California while engaged in interstate commerce.
  — Will be used thereafter exclusively in interstate commerce.
4.040 Transactions Subject to Use Tax (CR&TC §6001 and CVC §§4300.5, 4750.5, 9858.5, and 9928)

Use tax **is due** on all original registration and/or transfer applications for vehicles/vessels purchased from someone other than a licensed California dealer, manufacturer, or dismantler, **unless** the:

- Transaction is specifically exempted from payment of use tax.
- BOE issues the applicant a BOE 111 or a BOE 111B form (CR&TC §6422.1).

DMV must withhold registration and/or transfer if the applicant does not pay the required use tax or submits a BOE 111 or BOE 111B.

**Applicant Claims Use Tax is Not Due**—Follow the procedures below when it appears use tax is due but the applicant claims use tax is **not due**:

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<thead>
<tr>
<th>If the Applicant</th>
<th>Then</th>
</tr>
</thead>
</table>
| Requests the application processed immediately | • Collect the use tax and any other fees due.  
• Have the applicant complete a REG 256, explaining why a refund is requested.  
Refer to the Refund of Use Tax section in this chapter. |
| **Does not** want to pay the use tax due | • Collect any other fees due on a report of deposit of fees (RDF) to avoid penalties.  
• Advise the applicant to contact BOE for a BOE 111 or BOE 111B. |
| **Does not** want to pay any fees | • Return the application to the applicant.  
• Advise them of the last penalty-free date to pay the fees due. |
| Requires further information | Refer them to the BOE Taxpayer Information Section at 1-800-400-7115. |
| Resides in an unincorporated area and is exempt from additional city use tax | Accept a:  
• REG 256 with their residence address.  
• Letter on city letterhead stating city use tax is not due.  
• BOE 111 or BOE 111B. |

**Exempt and Government Exempt Vehicles/Vessels**—Use tax is:

- **Due** on vehicles/vessels purchased by the state or an exempt agency from someone other than a California dealer or dismantler unless an exemption is established.
- **Not** due on sales of exempt vehicles/vessels between state agencies.
4.040 Transactions Subject to Use Tax, continued

Gifts From or To a Corporation or Partnership—An applicant who gives or acquires a vehicle/vessel as a gift to or from a corporation or partnership must pay use tax or submit a BOE 111 or a BOE 111B.

Inheritance

- If an application for transfer of a vehicle/vessel contains Letters Testamentary or Letters of Administration:
  - Use tax or a BOE 111 or BOE 111B is due.
- If the co-owners are joined by “or” or “and/or,” the vehicle/vessel may be transferred to the surviving co-owner(s) with:
  - The signature of one surviving co-owners.
  - Affidavit of Transfer Without Probate California Titled Vehicle Vessels Only (REG 5) form.
  - Use tax is not due.
- If the co-owner(s) is joined by “and,” the vehicle/vessel may be transferred to the surviving co-owners with:
  - REG 5 (use tax is not due), Letters Testamentary, or Letters of Administration (use tax or a BOE 111/BOE 111B is due for either types of letters).
  - The signature for the deceased co-owner from the:
    - Heir (with a REG 5).
    - Administrator (with Letters of Administration).
    - Executor (with Letters Testamentary).
- If “Tenants in Common” follows the names of the co-owners, the interest of the deceased co-owner reverts to their estate. The vehicle/vessel may be transferred with one of the following:
  - REG 5 (use tax is not due).
  - Letters Testamentary (use tax or a BOE 111/BOE 111B is due).
  - Letter of Administration (use tax or a BOE 111/BOE 111B is due).
- If “COMPRO” (Community Property) follows the names of co-owners, the interest of the deceased co-owner passes to the:
  - Heir (use tax is not due with a REG 5).
  - Administrator (use tax or a BOE 111/BOE 111B is due with Letters of Administration).
  - Executor (use tax or a BOE 111/BOE 111B is due with Letters Testamentary).
4.040 Transactions Subject to Use Tax, continued

- If the vehicle/vessel is transferred to someone other than the surviving/bequeathed co-owner(s), use tax or a BOE 111/BOE 111B is due.

**Leased Vehicles (CR&TC §6277)—**When the lessee buys the vehicle from the lessor:

- At the end of the lease agreement, use tax is due on the balance owed.
- And sells it to a third party within 10 days from the date the lessee acquired title from the lessor, use tax is due only from the third party.
- And sells it to a third party after 10 days from the date the lessee acquired title from the lessor, use tax is due from the lessee and the third party.

**Note:** Transfer dates are important. The lessee may be contacted by the BOE.

**Lien Sales**—Use tax is due on a vehicle/vessel sold at lien sale. If the applicant:

- Purchased the vehicle/vessel at lien sale, use tax is due based on the purchase price shown on the registration application or bill of sale.
- Conducted the lien sale and retained ownership, use tax is due based on the amount shown on the Certification of Lien Sale for Vehicle Valued over $4000 or From a Self-Service Storage Facility (REG 168) or Certificate of Lien Sale for Vehicle Valued $4000 or Less (REG 168 A) form.

**Note:** Use tax is not due when the buyer:

- Is a licensed retailer.
- Completes the application as a title only or transfer only
- Submits a BOE 111 or BOE 111B.

**Multiple Transfers**—DMV only collects use tax on the last transfer. However, BOE may request payment of unpaid use tax from the previous owner(s).

**Note:** Never apply the use tax paid by another owner to fees due for the current owner.

**Repossessions**—Use tax is due upon sale of a repossessed vehicle/vessel unless the repossession (legal owner) can furnish an exemption or the vehicle/vessel is being registered to the repossession.

**Trades**—Use tax is due when a vehicle/vessel is traded to anyone other than a licensed dealer or dismantler for anything of value (labor, goods, etc.), even though no money exchanges hands, unless an exemption is established.

**Transfer of Contract**—Use tax is due when a registered owner’s equity in a vehicle/vessel financed under a conditional sales contract or mortgaged under a chattel mortgage is transferred to another unless an exemption is established.
4.040 Transactions Subject to Use Tax, continued

Trust Transfers (CR&TC §6285)—Use tax is not due when the current registered owner is transferring the vehicle/vessel into or out of their own trust or a vehicle/vessel is being transferred into or out of a trust as a gift.

When use tax is not due on a vehicle/vessel being transferred into or out of a trust, the application must contain:

- A Statement of Facts (REG 256) form for use tax exemption from the current registered owner stating they are transferring their own vehicle into or out of their own trust.
- The word “gift” or “0” (zero) entered on the back of the title when a vehicle/vessel is being transferred into or out of a trust as a gift.

Do not refer applicants to BOE for a use tax clearance.

Trust Transfer Business Entities—Use tax is due for transfer of a vehicle/vessel into or out of a trust when a legal entity is the current registered owner or will be the new owner. A legal entity may include, but is not limited to a:

- Sole proprietor.
- DBA (doing business as).
- Company or partnership.
- Inc (corporation).
- LTD (limited company status).

If use tax is being paid for the transfer, use tax clearance is not required. Accept the use tax payment and clear as normal.

If the applicant believes the transfer is exempt from use tax, refer the applicant to BOE for a BOE 111 or BOE 111B. Use tax cannot be waived with a REG 256 form for a transfer into or out of a trust when a legal entity is involved.

Vehicle/Vessel Purchased Out of State (CR&TC §6248)—Use tax or a BOE 111/BOE 111B is required for vehicles or vessels purchased outside California on or after October 1, 2008, and brought into California within 365 days from the purchase date.

For previous use tax collection periods, see the BOE website at www.boe.ca.gov/sutax/faq90day.htm.

Refer to the Credit For Tax Paid To Another State section in this chapter.

**IMPORTANT:** Strict adherence to the “date of purchase” definition in this chapter is required. The applicant must write the date of entry into California, date of delivery to them, and all similar data on the application. A REG 256 completed and signed by the applicant is required for any alteration to the date of entry or date of purchase.
4.040 Transactions Subject to Use Tax, continued

**Note:** Referral to BOE is required if:
- The vehicle/vessel was purchased out of state and stored for a period of time before entering California.
- The applicant maintains the application date is different from their date of actual physical possession.

Vehicle Purchased Out of State—California Resident—When a California resident purchases a vehicle from an out-of-state dealer and finances the use tax amount with the purchase price of the vehicle, the out-of-state dealer issues a check payable to California DMV for the use tax amount.
- Complete a REG 256, signed by the registered owner and forward to DMV with the vehicle information and “Payment of use tax, please allocate to BOE,” written in Section G.
- Forward the REG 256 to the Accounting Special Funds Unit, MS E 107.

Yacht and Ship Broker Vessel Sales (CVC §9858.5)—All yacht and ship broker sales are subject to use tax.

Brokers who are not authorized vessel agents must give the documents to the buyer. DMV will collect any use tax due when the buyer presents the application.

Brokers who are authorized vessel agents may collect the use tax and registration fees from the buyer and transmit those fees to the DMV with the registration application or they may submit the registration application with the registration fees only to the DMV headquarters for collection of use tax.

**Note:** If an applicant states use tax was paid to the broker, accept a REG 256 completed by the applicant and send the application to the Registration Processing Unit (RPU) II—Vessel Section in DMV headquarters. The RPU determines if a copy of the application will be sent to BOE.

Youth Group Vessels—Use tax is due on a vessel purchased by a youth group organization. Use tax is not due on a vessel received as a gift by the organization.

4.045 Use Tax Basis

Use the following information to determine the use tax basis.

**Trailer Coaches and Vessels**—Use tax is based on the situs county and city or, if there is no situs, based on the registered owner’s residence county and city.

**Military Addresses (APO or FPO)**—An applicant with a military address must complete a REG 256 giving their residence county and city in order to determine the appropriate use tax rate.

An applicant who protests the application of use tax on this basis must file a claim for refund with BOE. When this occurs:
- The applicant must complete a REG 256 requesting a refund from BOE. Attach the REG 256 to the application as the last document.
- Collect the use tax due.
4.045 Use Tax Basis, continued

Vehicles—Use tax is based on the registered owner’s residence county and city, unless an allocation county is shown.

**Note:** An applicant may present a use tax exemption claim to BOE prior to paying use tax to DMV. If the claim is approved, BOE gives the applicant a BOE 111 to submit with their registration application. Use tax is not collected in this case.

4.050 Use Tax Penalties (CR&TC §§6292, 6294, and 6591)

The use tax penalty is assessed at 10 percent of the use tax amount due to the nearest even dollar according to CVC §§9559 and 9928 and is due whenever:

- A transfer penalty is due on a transfer application.
- Registration penalties are due on an original registration application.

4.055 Vehicles or Vessels Purchased Outside the United States

California use tax is due on vehicles/vessels purchased and delivered outside the United States for use in California subject to the 12-month or 90-day rule, as appropriate. Refer to the Transactions Subject to Use Tax section in this chapter.

The following must be submitted:

- A REG 256 completed by the applicant for use tax credit.
- The balance of use tax due after the use tax credit, if any, has been applied.

The following procedures must be followed:

- Determine if the transaction is subject to use tax by verifying the:
  - Owner’s date of actual physical possession out of state.
  - Date of delivery to a shipping agent or placement in storage for shipment to California.
- Collect the balance of use tax after the use tax credit, if any, has been applied.
- Refer applicants who object to pay the use tax due to BOE for review.
  - Applicants may also pay the use tax due and request a refund from BOE.
- **Do not** make exceptions to these procedures.