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Should You Register For California's Amazon Tax?

Californians are waking up to a new and harsher sales tax regime from Sacramento designed to capture sorely needed [sales tax on online purchases](#). The mechanics are likely to be tested in court. Meanwhile, they are worth noting if you are doing—or want to do—business in the golden state.

Register Here! Some are comparing California's new registration rule to signing up for an audit. Not fun, and arguably counter-intuitive. Amazon has already said no dice, drawing a line in the Ethernet sand insisting [it isn't required](#) to collect California's tax.

Like so many other “clarifications” of the law, this one arguably charts new territory. Governor Brown signed [ABx1 28](#) on June 28, 2011. It is intended to “clarify” the obligations of out-of-state retailers to collect and remit use tax on sales of tangible personal property to California residents. The new provisions took effect immediately.

Of course, sales and use tax are almost always paid by the buyer. Yet the only effective collection mechanism is getting the seller to collect it. That's where Amazon, Overstock and the like come in. The idea is to amp up use tax registration.

Because the U.S. Constitution prevents states taxing “interstate commerce,” no state can force an out-of-state merchant to collect or pay sales/use tax unless it has a “nexus” in the state. But California's new

“We Need Money” Law may test this concept. The key “clarification” is to expand California use tax registration to large out-of-state retailers previously not required to collect use tax on sales to California customers.

The new law specifically provides that a “retailer engaged in business in this state” includes:

- Any retailer that is a member of a commonly-controlled group and is a member of a combined reporting group that includes another member of the retailer’s commonly controlled group that, pursuant to an agreement with or in cooperation with the retailer, performs services in this state in connection with tangible personal property to be sold by the retailer, including, but not limited to, design and development of tangible personal property sold by the retailer, or the solicitation of sales of tangible personal property on behalf of the retailer.
- Any retailer entering into an agreement under which a person in this state, for a commission or other consideration, refers potential purchasers of tangible personal property to the retailer, whether by an Internet-based link or an Internet website, or otherwise provided that both of the following conditions are met:
 1. The retailer’s total sales of tangible personal property to California consumers that are referred pursuant to all of those agreements with a person(s) in California in the preceding 12 months must be in excess of \$10,000.
 2. The retailer’s total sales of tangible personal property to California consumers in the preceding 12 months must be in excess of \$500,000.

What if your business meets these requirements and is not registered with the California State Board of Equalization? California asks you to fill out and submit an application for a [California Certificate of Registration — Use Tax](#) to your nearest [district office](#). You may want to consult a tax adviser first and during this process.

Q&A? The SBE is trying to field questions related to this new regime, and has said if you have questions regarding these registration requirements, you can call 916-227-6600.

For more, see:

[Californians Prepare to Pay Amazon Sales Tax](#)

[Amazon Tax Attacks](#)

[California Lawmakers Approve Online Sales Tax](#)

[Amazon Drops California Associates To Avoid Sales Tax](#)

[Sales And Use Tax in California](#)

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