

Chapter 3574 - Taxes

3574.1 FEDERAL EXCISE TAX

(REVISED 1/59)

State purchases are normally exempt from Federal Excise Tax, but an Exemption Certificate, STD. 802, must be attached to the Sub-Purchase Order. See SAM Section 3585 for further detail.

3574.2 SALES AND USE TAX

(REVISED 2/94)

In addition to the State sales tax, the State is subject to the Bradley-Burns Uniform Local Sales and Use Tax. A space is provided, on the Sub-Purchase Order form, for sales tax. If applicable, the following should be indicated on the Sub-Purchase Order.

"Sales tax included in price," or "Sales tax not applicable."

3574.3 TRANSACTIONS (SALES) AND USE TAX

(REVISED 12/90)

In addition to the local sales and use tax described in SAM Section 3574.2, numerous counties have enacted ordinances establishing special taxing districts that impose one or two-and-one-half percent transactions and use taxes. The tax is imposed on the retailers and applies to sales to State agencies. State agencies taking deliveries of tangible personal property for use within the counties that have imposed these district taxes will pay this tax when such tax is added to the sales price by the retailers.

Effective January 1, 1988, sellers or lessors of vehicles, aircraft or undocumented vessels are required to collect the district tax imposed in the county of registration. If the tangible personal property is purchased in a county that does not have a district tax and is brought into a county that does impose a district tax the agency should report and pay the district use tax unless the property is a vehicle, vessel or aircraft and the tax has been collected by the seller.

This tax does not apply to contracts of sale for a fixed price agreed to and executed prior to the effective date of the district tax if neither party has the unconditional right to terminate the contract.

3574.5 SALES AND USE TAX ON TRANSPORTATION CHARGES

(RENUMBERED 8/70)

California sales and use tax does not apply to separately-stated charges for transportation of property from the retailer's place of business or other point from which shipment is made directly to a place specified by the purchaser, except: (1) where the property is sold for a delivered price, or (2) where the property is delivered by facilities of the retailer.

The tax applies in the latter two circumstances unless the transportation occurs after title to property has passed to the purchaser and the charges for transportation are separately stated. In order to show that title passes prior to the transportation of goods, the intention of the parties in this regard must be expressed in some writing which constitutes a part of the contract of sale; otherwise, it will be assumed that title passes after the transportation is completed.

3574.6 PERSONAL PROPERTY TAX EXEMPTION

(NEW 8/76)

The State is exempt from property taxation under California Constitution, Article XIII, Section 3(a). Any

obligation for property tax on State leased equipment would exist, if at all, only as a result of an express provision of the lease agreement. If the lease obligation existed, payment would not be made directly to taxing authorities, but would be limited to reimbursing the lessor for actual tax payments which the lessor could prove had been made.

Provisions in a lease adding "applicable State and local taxes" to the monthly rental relate to sales and use taxes and do not encompass personal property tax. Any lease clause which requires the State to reimburse the lessor for personal property tax must be contained within the approved contract before the State would make any payments to reimburse the vendor for this tax. However, clauses requiring the State to reimburse for personal property tax should be avoided whenever possible.

If a copy of a personal property tax bill is received, the bill should be forwarded for payment to the lessor named in the bill by a letter per 3574.6 Illustration. No payment should be made by the State. If, after payment of the taxes, the lessor submits a properly documented claim for reimbursement and the lease so provides, the lessor can be reimbursed for the taxes applicable to the lease term.

In some instances, personal property tax bills will be received on equipment which was on lease but which was purchased by the State prior to the tax lien date of March 1st. In such a case, the property would be tax exempt and the bill should be returned to the taxing authority with a letter notifying it of the change in ownership. Such notice should include the date on which the State's purchase was made.

Questions regarding contracts or exemptions should be directed to the Department of General Services' Legal Office at (916) 445-4084 or ATSS 485-4084.
