



May 5, 2010

## Turmoil in Paying California Use Tax

If you are a taxpayer in California who owns a business that has made in excess of \$100,000 in gross receipts in the last calendar year, you are liable to pay use tax. This makes you a 'qualified purchaser' who is required by Section 6225 of the Revenue and Taxation Code to register with the Board of Equalization (BOE) to whom you must pay the use tax.

In fact, the state government has automatically registered every business in California that earns revenue of \$100,000 or more and given them an account number and password. Use tax is the tax that is applied where you purchase some tangible merchandise like supplies or equipment for your business from another state where California state tax is not charged. Most merchandise purchased ranging from books to millions of dollars worth of equipment are not reported or registered and thus not taxed. On the other hand, sales tax is the tax that is paid on purchases made within California. Both these taxes are calculated based on the same rates. For California, Publication 71 gives the breakdown of the rates applied to each county and city.

But the process of collecting the use tax is not without problems. For one thing, all qualified purchasers are required to file returns for the last 3 years even if you have no purchases to report. There have been complaints that the 180,000 qualified purchasers were not given enough time to compile their records from 3 years back since the letter from the BOE informing them of their automatic registration was only sent on March 1 onwards. What's more, it is virtually impossible for any business owner to track whether every website from which they purchased merchandise in 2007 paid California taxes.

Furthermore, the use tax must be filed by April 15 and no extensions are allowed even if the qualified purchaser's income tax is filed at a later date due to an extension. In addition, the use tax filing can only be done online. What inconveniences and complicates the matter is that some of the information required in filing the use tax is the same as that for filing income tax.

Failure to comply with paying the use tax results in a 10% penalty plus interest consistent with the law. The BOE has the authority to waive the penalty but not change the deadline. That can only be accomplished by a change in legislation. Even tax preparers are not spared. They will be fined \$50 for each client they fail to ask about purchases made outside California unless they check every invoice because credit card statements do not give this information.

Darrin T. Mish is a veteran, nationally recognized tax attorney who has focused on providing IRS help to taxpayers for over a decade. He regularly travels the country training other attorneys,

CPAs and enrolled agents on how to handle their toughest cases with the IRS. He is highly ranked among the top attorneys in the country, with an AV rating from Martindale-Hubbell and a perfect 10 on Avvo.com. Martindale-Hubbell has also honored him with a listing in their Bar Register of Preeminent Lawyers. He is a member of the American Society of IRS Problem Solvers and the Tax Freedom Institute. With clients on every continent but Antarctica, he has what it takes to solve your IRS problems no matter where you live in the world. If you would like more information about his practice and how he can help you, please call his office at (813) 229-7100 or toll free at 1-888-GET-MISH.