

Tax Allocation Guidelines for Local Sales and Use Tax

Since the birth of digital retail in the 1990's, both retailers and consumers have had to adapt to new and evolving ways to interact. These changes also present challenges when applying Sales & Use Tax Laws and allocation rules. Sales tax laws adopted in the 1950's could not have anticipated the complexity of today's wide range of consumer shopping options.

The guideline below outlines the necessary steps to determine the proper local tax allocation for a variety of retail transactions.

SALES TAX OR USE TAX

In order to determine the correct allocation of the local 1% Bradley-Burns tax, we must first determine if sales or use tax applies to the transaction.

- Sales tax applies when the goods are located in California at the time the sales occur. This includes a stock of goods held in a California warehouse, fulfillment center or retail stores.
- Use tax applies when title to the goods passes to the purchaser at a point outside of California. Goods that ship to a customer from outside the state are generally subject to use tax.

ALLOCATION OF TAX

SALES TAX: Local 1% sales tax is allocated to the retailer's place of business in California. This is the place where the transaction occurs, or the order is taken. Per Regulation 1802(a)1, in order for a local jurisdiction to receive a direct allocation of local 1% sales tax, the facility must be the **retailer's** place of business in this state. Drop-ship facilities, a supplier warehouse, or facilities operated by a separate legal entity do not qualify for a seller's permit and would not be eligible for a direct allocation of local 1% tax.

USE TAX: Use tax generally is allocated to the countywide pool based on the place of first functional use. Orders that ship from out of state that explicitly state title passes upon delivery are an exception to this general rule.

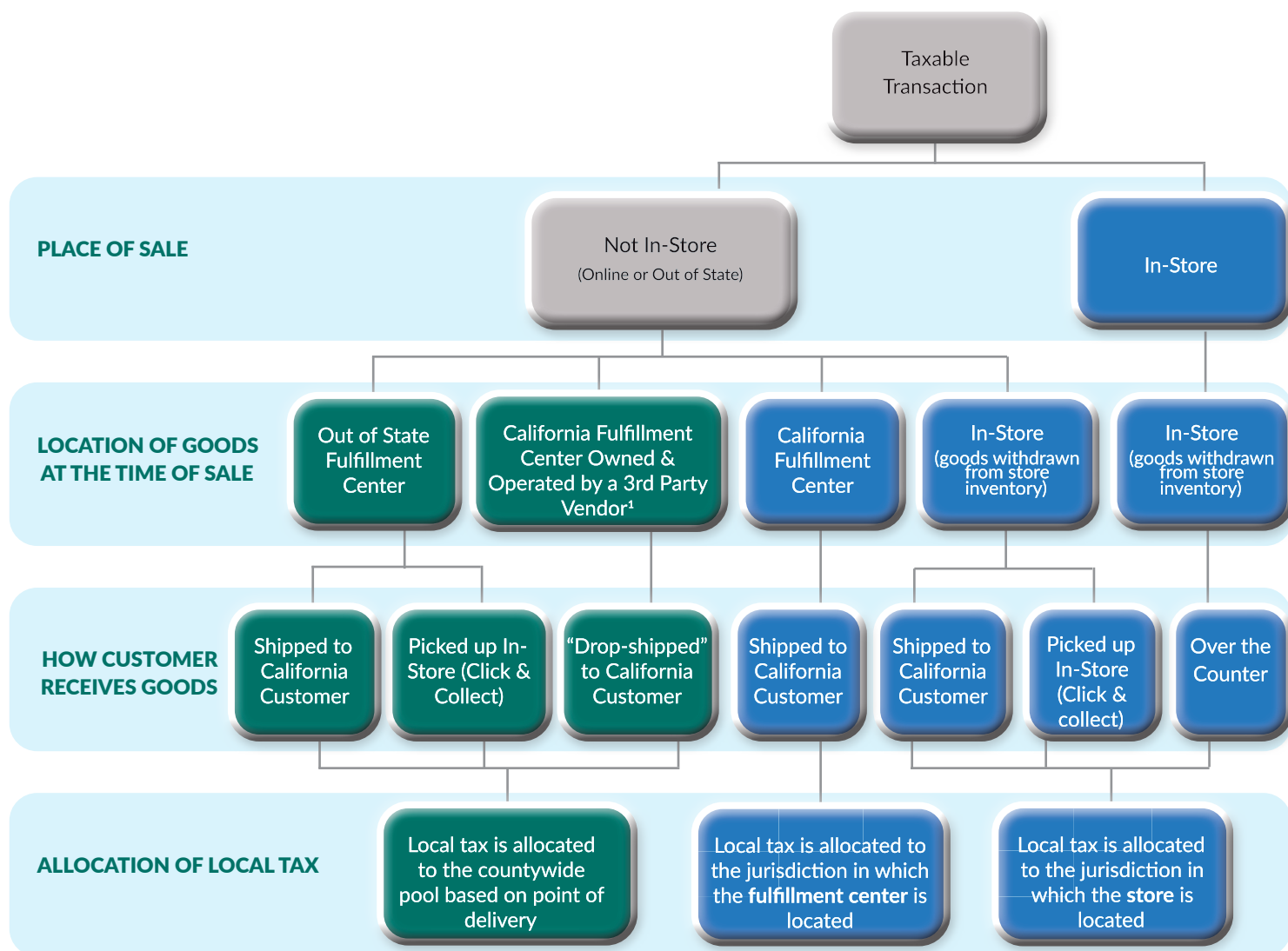
	If Sales Tax Applies	If Use Tax Applies
Regulation 1802: Place of Sale and Use	In general, the place of sale is the place of business where the principal negotiations are carried on, in other words where the order is taken If an out of state retailer does not have a permanent place of business in this state other than a stock of tangible personal property, then local tax will be distributed to the jurisdiction where the inventory is located at the time of sale	The place of use is the jurisdiction where the property is put to its first functional use. Generally regarded as the location of delivery
Regulation 1699: Permits	Retailers are required to hold a seller's permit for each place of business in this state at which sales are customarily negotiated Permits are required for warehouses or other places at which merchandise is stored and from which retail sales of such merchandise negotiated out of state are delivered or fulfilled	Permit analysis is not required
Local Tax Allocation	Local tax is allocated directly if the place of sale is required to hold a seller's permit. If the place of sale is not required to hold a seller's permit then local tax will be allocated indirectly through the countywide pools	Local tax is allocated indirectly through the countywide pools (local use tax can be allocated directly under certain circumstances)

The above table applies to the majority of transactions subject to sales and use taxes in California. For additional information on the place of sale in specific instances please review Regulation 1802 in depth.

CALIFORNIA SALES & USE TAX:

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This chart is designed to show general scenarios that can impact the California local (1%) sales and use tax allocation. This chart does not exhaust all the sales and use tax law nuances that may determine a taxpayers filing status but rather focuses on the most common processes from sale to delivery.



¹ In this scenario the retailer does not own a stock of goods in California and sales orders are negotiated/processed out of state. An out of state company is not required to hold a seller's permit for an in-state third party warehouse if they do not own a stock of goods at the time of sale.

Source: California Department of Tax & Fee Administration Regulations 1802 & 1699

As e-commerce retail develops alternative ways for consumers to purchase taxable goods it becomes more important for local government leaders to understand the proper reporting and distribution of sales taxes. How retailers handle orders, inventory, and delivery of taxable goods continues to evolve which impacts current and future sales tax revenues for California's cities and counties.