

SALT BUZZ_{HF}

CALIFORNIA PROVIDES TAX RELIEF

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On July 1, 2019, the California Department of Tax and Fee Administration (CDTFA) issued Special Notice L-681 that discusses the use tax relief that may be available for a “qualifying retailer” (a marketplace seller that meets certain requirements).

If a business is a qualifying retailer, then the CDTFA will not assess such retailer for periods prior to April 1, 2016 and relieve all penalties for sales made for periods from April 1, 2016 to March 31, 2019.

A business is a qualifying retailer if the business meets the following conditions:

- The business was “engaged in business” in California solely because it used a marketplace facilitator (as defined in section 6041) to facilitate sales for delivery in this state and the marketplace facilitator stored the business’ inventory in California;
- The business was not registered with the CDTFA under the Sales and Use Tax Law prior to December 1, 2018;

- The business did not file sales and use tax returns, or make any sales or use tax payments prior to being contacted by the CDTFA;
- The business voluntarily registers with the CDTFA, and by September 25, 2019, files completed tax returns for all tax reporting periods for which a determination may be issued under section 6487.07 (that is, for periods on and after April 1, 2016), and either
 - Pays the tax due in full, or
 - Applies for a payment plan, but only if the final payment under the plan is paid no later than December 31, 2021 (qualifying installment payment agreement).

ZHF Observations

Businesses should strongly consider taking advantage of this use tax relief opportunity because the CDTFA is authorized to issue a notice of deficiency determination for a period of up to 8 years if a retailer has failed to file a return. The CDTFA can also impose various penalties, including a penalty for failure to make a return and pay taxes when that failure results in the CDTFA's issuance of a deficiency determination.

Keep in mind that if you are allowing a marketplace facilitator to store your inventory throughout the United States, such activity can provide a physical presence in those states where the inventory is being stored. Businesses should analyze such activity to address whether nexus has been created for periods prior to [Wayfair v. South Dakota](#). If nexus has been created, you may want to consider voluntary disclosures in those states.

If you are interested in learning more about California's new use tax relief opportunity or [any other state's voluntary disclosure programs](#), please contact [John Trippier](#) or [any other ZHF state and local tax professional](#).

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